

CODIFIED ORDINANCES

OF THE CITY OF

GALION, OHIO

Local current through November 23, 2020

State current through June 19, 2020

DISCLAIMER

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For further information regarding the official version of any portion of the Codified Ordinances in this FOLIO Infobase, please contact the Municipality directly.

CERTIFICATION

We, Thomas M. O'Leary, Mayor, and Julie L. Bell, Clerk of Council, of Galion, Ohio, pursuant to Ohio R.C. 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of Galion, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of the City of Galion, Ohio, 1993, as amended to November 23, 2020.

/s/ Thomas M. O'Leary
Mayor

/s/ Julie L. Bell
Clerk of Council

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publication by
THE WALTER H. DRANE COMPANY
Cleveland, Ohio
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CITY OF GALION

ROSTER OF OFFICIALS

(2020)

COUNCIL

Carl W. Watt	Council President
Ken Bodkins	First Ward Councilmember
Richard "Aaron" Ivy	Second Ward Councilmember
Michael Richart	Third Ward Councilmember
Tammy Siclair-Erlsten	Fourth Ward Councilmember
Thomas G. Fellner	Councilmember-At-Large
Mark Triplett	Councilmember-At-Large
Vacant	Councilmember-At-Large
Julie L. Bell, Clerk of Council	

ADMINISTRATION

Thomas M. O'Leary	Mayor
Gail Baldinger	Auditor
Rodney Sparks	Treasurer
Thomas Palmer	Law Director

The publisher
expresses his appreciation
to
all City officials
who gave their time and counsel
to this 1993 codification.

ADOPTING ORDINANCE 93-6020

ENTITLED AN ORDINANCE TO APPROVE, ADOPTED AND ENACT THE RECODIFICATION OF THE CITY ORDINANCES; TO REPEAL ORDINANCES IN CONFLICT THEREWITH; TO PUBLISH THE ENACTMENT OF NEW MATTER, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Galion, Ohio, has had the matter of recodification and general revision of the City ordinances before it

for some time, and

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

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of such ordinances, together with the new matter to be adopted, the matters to be amended and those to be repealed are before the Council,

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GALION, STATE OF OHIO, that:

Section 1. The ordinances of the City of Galion, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections are hereby approved, adopted and enacted as the Codified Ordinances of Galion, Ohio, 1993.

One book-form copy of the Codified Ordinances shall be certified as correct by the President of Council and the Clerk of Council, attached to this ordinance as a part hereof, and filed with the permanent ordinance records of the City of Galion, Ohio.

Section 2. All ordinances and resolutions or parts thereof which are inconsistent or in conflict with any provision of the Codified Ordinances are hereby repealed as of the effective date of this ordinance, except as follows:

(a) The enactment of the Codified Ordinances shall not be construed to affect a right or liability accrued or incurred under any legislative provisions prior to the effective date of such enactment, or an action or proceeding for the enforcement of such right or liability. Such enactment shall not be construed to relieve any person from punishment for an act committed in violation of any such legislative provision, nor to affect an indictment or prosecution therefor. For such purposes, any such legislative provision shall continue in full force notwithstanding its repeal for the purpose of revision and recodification.

(b) The repeal provided above shall not affect:

- (1) The grant or creation of a franchise, license, right, easement or privilege.
- (2) The purchase, sale, lease or transfer of property.
- (3) The appropriation or expenditure of money or promise or guarantee of payment.
- (4) The assumption of any contract or obligation.
- (5) The issuance and delivery of any bonds, obligations or other instruments of indebtedness.
- (6) The levy or imposition of taxes, assessments or charges.
- (7) The establishment, naming, vacating or grade level of any street or public way.
- (8) The dedication of property or plat approval.
- (9) The annexation or detachment of territory.
- (10) Any legislation enacted subsequent to January 26, 1993.

Section 3. Pursuant to Section 4.11B of the Codified Ordinances, the Clerk of Council shall publish a copy of this Adopting Ordinance along with a copy of the Codified Ordinances in the manner required by law.

Section 4. This ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the City of Galion, Ohio for the reason that there exists an imperative necessity for the earliest publication and distribution of the Codified Ordinances to the officials and citizens of the City, so as to facilitate administration, daily operation and avoid practical and legal entanglements, and therefore, this ordinance shall take effect and be in force immediately upon its passage and signature.

Paul Lee Shade
PRESIDENT OF COUNCIL

ATTEST: _____

Garland Gledhill
CLERK OF COUNCIL

APPROVED AS TO FORM: Reese F. Mills
LAW DIRECTOR

ADOPTED ON FIRST READING April 27, 1993

ADOPTED ON FINAL READING _____

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EDITOR'S NOTE

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

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

Section histories enable a user to trace the origin of the law contained in the section. The history indicates the derivation by reference to either

its passage date and the ordinance number originally assigned to it at that time, or to its inclusion in any prior code. Sections without histories indicate that the section contains new matter which was ordained by the Adopting Ordinance which enacts the Codified Ordinances.

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

COMPARATIVE SECTION TABLE

EDITOR'S NOTE: Source material for the Galion, Ohio Codified Ordinances was either ordinances or resolutions enacted by Council, or new matter ordained by the Adopting Ordinance. Sections of the Codified Ordinances without any history indicate that such sections contain new matter ordained by the Adopting Ordinance. In the following table, the disposition of all source material in the Galion, Ohio Codified Ordinances is indicated.

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2008-50	9-9-08	Ch. 161 Editor's Note
2008-68	10-28-08	1335.01 to 1335.06
2008-70	11-18-08	565.08
2008-71	11-18-08	935.01 to 935.23
2008-81	1-13-09	Ch. 933 Editor's Note
2009-6	1-13-09	1315.01 to 1315.07, 1315.99
2009-7	1-27-09	1335.01(f)(1), 1335.02, 1335.06 (c)
2009-10	1-13-09	191.03.3, 191.04, 191.13
2009-32	4-14-09	1301.01 to 1301.09
2009-33	4-14-09	1305.01 to 1305.09
2009-34	4-14-09	135.02
2009-39	4-14-09	301.19, 333.01, 335.031, 335.05, 335.072, 337.26, 339.11, 341.03, 373.02, 501.06, 509.06, 513.01, 513.03, 525.02, 525.05, 529.07, 533.06, 537.02, 537.03, 537.14, 537.15, 545.01, 545.05, 549.01, 549.02, 549.04, 549.07, 1511.01, 1511.03, 1511.04
2009-85	12-8-09	1101.01 to 1101.05, 1103.01, 1103.02, 1107.01 to 1107.04, 1109.01 to 1109.08, 1111.01 to 1111.17, 1113.01 to 1113.08, 1115.01 to 1115.07, 1117.01 to 1117.06, 1119.01, 1119.02, 1121.01 to 1121.04, 1127.01, 1127.02, 1129.01 to 1129.04, 1131.01 to 1131.05, 1133.01 to 1133.05, 1135.01 to 1135.05, 1139.01 to 1139.06, 1141.01 to 1141.05, 1145.01 to 1145.06, 1147.01 to 1147.04, 1149.01 to 1149.04, 1151.01 to 1151.04, 1153.01 to 1153.08, 1157.01 to 1157.05, 1159.01 to 1159.04, 1163.01 to 1163.21, 1165.01 to 1165.04, 1167.01 to 1167.04, 1173.01 to 1173.08, 1175.01 to 1175.07, 1177.01 to 1177.04, 1179.01 to 1179.04, 1181.01 to 1181.12, 1181.99, 1183.01 to 1183.04, 1191.01 to 1191.03, 1193.01 to 1193.14, 1195.01 to 1195.06, 1197.01, 1197.02, Appendix A
2010-12	6-22-10	145.03
2010-14	3-23-10	301.04, 301.321, 303.082, 331.38, 333.01, 333.031, 335.01, 335.02, 335.07, 335.072, 335.10, 337.02 to 337.06, 337.08, 337.10 to 337.17, 337.19 to 337.22, 337.24, 337.26, 337.27, 351.04, 375.05, 517.01, 525.02, 525.03, 541.05, 549.04
2010-18	6-22-10	1337.01 to 1337.10, 1337.99
2010-32	6-22-10	719.02
2010-50	10-26-10	741.01 to 741.13
2010-51	10-26-10	535.01 to 535.04, 535.99
2010-63	12-14-10	1335.01(f), 1335.03(d), 1335.05(d)(1)
2011-9	2-8-11	Ch. 161 Editors Note
2011-22	3-22-11	333.01, 333.031, 335.01, 335.02, 335.07, 335.072, 335.10, 335.12, 335.13, 337.28, 337.29, 501.01, 501.13, 501.99, 517.01, 517.02, 517.06, 517.07, 529.07, 537.10, 537.11, 537.14, 537.15
2011-29	4-26-11	903.10
2011-43	6-28-11	513.17
2011-68	9-27-11	1139.05, 1149.03, 1153.04, 1157.03
2011-69	9-27-11	1181.07
2011-70	9-27-11	1113.09, 1181.13
2012-7	2-14-12	1311.03
2012-21	4-10-12	333.01, 335.01, 335.02, 335.05 to 335.074, 335.12 to 335.14, 337.22, 351.04, 373.02, 501.99, 509.06, 517.05, 525.02, 537.10, 541.02, 545.02, 545.04, 545.05, 545.07 to 545.10, 545.13 to 545.15, 545.17, 545.18, 549.04
2012-30	5-8-12	949.01, 949.02
2012-39	6-12-12	1515.01 to 1515.04, 1515.99
2012-42	6-12-12	943.01
2012-52	7-10-12	1181.08
2012-53	7-24-12	725.05
2012-54	8-14-12	929.02
2012-92	12-11-12	1149.03
2012-93	12-11-12	1103.02, 1175.08
2013-5	2-12-13	1148.01 to 1148.04
2013-19	3-12-13	303.01, 303.99, 313.03 to 313.06, 331.12, 333.11, 335.032, 335.07, 335.072, 335.074, 337.01, 337.09, 337.18, 337.23, 337.29, 339.01, 339.03, 339.06 to 339.08, 341.05, 505.13, 505.14, 513.12, 513.121, 529.021, 529.04, 529.07, 533.08, 533.09, 1511.05
2013-21	4-9-13	1301.01 to 1301.20, 1301.99
2013-22	4-9-13	1305.01 to 1305.20, 1305.99
2013-39	5-28-13	1181.01 to 1181.14, 1181.99; Repeals Ch. 1353
2013-60	8-27-13	135.03
2013-66	8-27-13	Repeals 135.01
2013-68	8-27-13	513.17
2013-71	10-1-13	Repeals 1107.02, 1107.03
2014-6	1-17-14	121.02
2014-36	4-22-14	355.02

2014-43 6-10-14 1181.06(b)
 2014-44 5-13-14 1107.03
 2014-45 5-13-14 1107.02
 2014-49 5-13-14 943.01
 2014-56 7-8-14 549.08
 2014-57 8-12-14 549.09
 2014-83 10-28-14 1148.04
 2014-84 11-25-14 1103.02, 1135.05, 1139.06, 1141.05
 2015-7 5-26-15 1365.01 to 1365.07, 1365.99
 2015-15 3-24-15 1113.05
 2015-16 2-24-15 1147.03
 2015-66 8-11-15 1151.02, 1151.03
 2015-76 9-22-15 1175.01
 2015-85 11-24-15 559.01, 559.02
 2015-91 11-24-15 191.01 to 191.26, 191.99
 2015-95 11-10-15 921.14
 2016-1 1-4-16 121.02
 2016-7 2-9-16 195.02
 2016-14 4-5-16 Repeals Ch. 769
 2016-31 6-14-16 529.09
 2016-32 6-14-16 1151.02, 1151.05
 2016-62 8-9-16 529.08
 2016-75 10-11-16 933.08
 2016-81 10-25-16 1175.02
 2017-23 6-13-17 1111.02
 2018-1 1-9-18 121.02
 2018-3 1-9-18 1155.01 to 1155.05
 2018-5 3-13-18 729.09, 1151.05(c)
 (3), 1311.03,
 1311.04, 1311.10
 2018-7 2-13-18 131.02
 2018-17 3-27-18 135.01
 2018-22 4-24-18 191.03
 2018-26 5-22-18 521.14; Repeals 1361.06
 2018-27 5-22-18 731.01 to 731.08, 731.99
 2018-35 6-12-18 191.02 to 191.05, 191.07, 191.27
 2018-58 10-9-18 945.01
 2019-23 4-23-19 1137.01 to 1137.06
 2019-30 6-11-19 163.01 to 163.05
 2019-48 9-10-19 501.13
 2019-51 9-24-19 157.01 to 157.05
 2019-61 10-8-19 1149.03
 2019-62 10-8-19 1157.03
 2019-64 10-8-19 719.01 to 719.09, 719.99
 2019-76 11-28-19 301.12, 375.03,
 505.11, 509.10,
 517.01, 549.01
 to 549.07;
 Repeals 947.03
 2019-87 12-10-19 1127.02(b)
 2020-1 1-7-20 121.02
 2020-15 3-24-20 135.04
 2020-23 4-14-20 919.01 to 919.04
 2020-47 7-14-20 1511.05(b),
 1511.06
 2020-54 9-8-20 1193.06(c)
 2020-65 11-10-20 1137.01,
 1137.05

TABLES OF SPECIAL ORDINANCES

EDITOR'S NOTE: The Codified Ordinances of Galion cover all ordinances of a general and permanent nature. The provisions of such general and permanent ordinances are set forth in full in the Codified Ordinances.

References must be made frequently to many special ordinances-particularly those related to property, such as dedications, vacating, easements, purchase, sale, etc. In the following Tables A through I, all such ordinances are listed. These tables list ordinances chronologically by subject, and include both a citation to and a brief description of each ordinance.

TABLE A - Franchises

TABLE B - Easements

TABLE C - Vacations

TABLE D - Dedications

TABLE E - Purchase of Property for City Use

TABLE F - Lease of Property to City

TABLE G - Grade Levels and Curb Lines

TABLE H - Sale of Property

TABLE I - Annexation of Territory

TABLE J - Change of Street Names

TABLE A - FRANCHISES

and Page Ord. No. Date Description

I-213	7-20-76	To Miller and Kuhn to supply gas.
II-57	11-5-80	To George T. Ristine and Company to operate a telephone service.
II-114	3-24-82	To Galion Water Works Company to furnish water
II-155	7-13-82	Amends Ord. of 3-24-82.
II-306	11-5-83	Amends an Ord. of 3-24-82.
II-389	12-7-85	To George T. Ristine to furnish electricity.
II-387	12-7-85	To J.W. Coulter et al. to furnish gas.
II-455	2-21-87	Repeals an Ord. of 12-7-85 that furnished gas.
II-544	6-19-89	To Zanesville, Mt. Vernon and Marion Railway Company to amend an Ord. of 3-23-87.
III-133	6-6-92	To Suburban Electric Railway Company to provide transportation.
III-160	2-19-94	To Galion Water Works Company to furnish water.
III-192	4-15-95	To Walter Marlatt to furnish telephone and telegraph service.
III-239	1-17-98	To Peoples Telephone Company to supply telephone service.
III-242	3-28-98	To Wm. E. Haycox to operate a street railroad.
III-338	3-6-01	To W.H. Helmuth, C.H. Ness, Ferd Unckrich and H.L. Sponhaur to supply steam or hot water for heating and power purposes.
III-377	528	5-10-01 To Ohio Central Traction Company to supply transportation.
III-395	529	6-7-01 To L.M. Coe and F.D. Carpenter to operate a street railway.
III-423	541	11-19-01 To Wm. L. Bloomer and B.B. Gill to supply heat by means of hot water or steam.
III-428	542	11-19-01 To Logan Natural Gas and Fuel Company to supply gas.
III-457	550	8-5-02 To Logan Natural Gas and Fuel Company to supply gas.
III-515	570	4-7-03 To Charles H. Brumfield to operate a street railroad.
III-682	628	8-15-05 To Crawford County Gas and Electric Company to supply electricity.
IV-95	677	3-5-08 To Galion Water Works Company to furnish water service.
IV-333	730	11-4-09 To Western Union Telegraph Company to supply telegraph service.
IV-581	774	9-6-10 To Western Union Telegraph Company to provide telegraph service.
VIII-157	2060	8-16-27 To Cleveland Southwestern Railway and Light Company to operate an electric interurban railway.
VII-218	2078	4-17-28 To Cleveland Southwestern Railway and Light Company to operate an electric interurban railway.
2796	10-5-48	Authorizes Ohio Public Service Company to furnish electrical service.
2891	6-20-50	Establishes rates charged by Ohio Edison Company.
2939	3-20-51	Establishes rates charged by Galion Municipal Electric Plant.
3188	8-7-54	Establishes rates and service terms for Ohio Fuel Gas Company.
3241	5-12-55	Amends Ord. 2891.
3325	3-19-57	Amends Ord. 2939.
3411	10-7-58	Regulates rates charged by Ohio Fuel Gas Company for four years.
3729	2-19-63	Regulates rates charged by Ohio Fuel Gas Company for four years.
3993	4-4-67	Authorizes Northern Ohio Telephone Company to furnish television and radio service.
3994	4-18-67	Authorizes Continental Cablevision Corporation to furnish CATV service.
73-4463	3-6-73	Regulates rates charged by Columbia Gas of Ohio, Inc., for four years.
76-4740	9-21-76	Provisions and conditions for Continental Cablevision service for 12 years.
77-4774	3-1-77	Authorizes contract with Ohio Edison Co. for electric service for five years.
77-4780	4-19-77	Authorizes increase in rates charged by continental Cablevision Corporation.
77-4781	6-21-77	Regulates rates charged by Columbia Gas of Ohio, Inc. for two years; repeals Ord. 73-4463.
79-4994	12-4-79	Amends Ordinance 77-4781 re Columbia Gas of Ohio Inc., gas rates for two years.
80-5030	5-20-80	Amends Ordinance 76-4740 re Continental Cablevision Corporation rates.
80-5040	6-17-80	Fixes Columbia Gas of Ohio, Inc. gas rates for 3 years.
82-5199	8-3-82	Amends Ord. 76-4740 re Continental Cablevision, extending franchise period.
83-5263	7-5-83	Increases rates charged by Continental Cablevision of Ohio, Inc.
83-5295		Fixes price of gas from Columbia Gas of Ohio, Inc. for 3 years.
84-5350	6-19-84	Increase rates charged by Continental Cablevision of Ohio, Inc.
86-5543	5-20-86	Authorizes an increase in the rates being charged by Continental Cablevision of Ohio Inc.
90-5849	9-11-91	To Geyer Sanitation for the curbside collection of recyclable materials.
99-6381	6-24-99	Denies the transfer of the cable television franchise from Media One of Ohio, Inc. to Massachusetts Cablevision Systems.
99-6385	7-27-99	Approves the transfer of the cable television franchise from Media One of Ohio, Inc. to Massachusetts Cablevision Systems.

TABLE B - EASEMENTS

Ord. Book

and Page Ord. No. Date Description

II-462	3-23-87	To the Zanesville, Mount Vernon, and Marion Railway Company to lay down tracks across certain streets.
IV-585	788	9-27-10 To Cleveland, Cincinnati, Chicago and St. Louis Railroad to construct a sidetrack across West Railroad Street.
<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
1074	2-18-19	To Cleveland, Cincinnati, Chicago to St. Louis Railroad to rearrange tracks across certain streets.
2453	4-1-41	To Galion Iron Works Manufacturing Company to build a fence across a sidewalk.
2609	6-6-44	To Maude T. and Arthur Flannery to permit the construction of a stairway encroaching on an alley and the construction of walk running along the south side of the alley.
2676	12-4-45	To Galion Equity Exchange Company across an alley adjoining the Company's premises on South Liberty Street.
2910	9-5-50	To Northern Ohio Telephone Company to erect poles on certain property.
2935	2-20-51	From Cleveland, Cincinnati, Chicago and St. Louis Railway Company and New York Central Railroad Company to lay a water pipe underneath tracks.
2938	2-20-51	For water line across land of Gledhill Lumber Company.
3088	3-10-53	To Galion Iron Works to construct a bridge across South Street.
3625	8-1-61	Accept utility easements from McNeal and Hopkins over lots in Park Place Allotment.

3742	4-2-63	Authorizes agreements for core drillings in vicinity of Powers Reservoir.
3772	10-1-63	From New York Central Railroad for highway purposes.
4043	12-19-67	Purchases from Trease and Chartier for S.E. interceptor trunk storm sewer.
4044	12-19-67	Purchases from Carter, Flannery Ketterman and Hill jointly for water lines.
68-4106	9-24-68	Conveys to Richland County for highway improvements as Galion Municipal Airport.
70-4212	3-17-70	Authorizes purchase of Lucille Miller's lands in glidepath at Municipal Airport.
Res.		
75-1895	5-3-75	Intends to acquire easements for East Church Street Overpass, Issue One Project.
75-4646	5-13-75	Appropriates easements for East Church Street Overpass, Issue One Project.
75-4650	5-24-75	Appropriates easements for East Church Street Overpass, Issue One Project.
76-4734	7-20-76	From R.B. and D.W. Stokely and R.G. and L.M. Hill for North Union Street Project.
77-4775	3-15-77	Authorizes expenditures for easements for the Southeast Interceptor Sewer Project.
77-4785	5-3-77	Authorizes appropriations for easements from R.W. and B.W. Pfleiderer, A.M. and F. Carter and A.H. Jr. and A.L. Sanders and the General Telephone Co. for the Southeast Interceptor Sewer.
77-4789	6-7-77	Granted by the City to Crawford County to improve East Hillgrove Road.
77-4812	10-22-77	With Consolidated Rail Corporation for installation of sewer system.
81-5130	9-15-81	From C.E. and J.A. Gordon for wastewater treatment plant expansion.
82-5152	2-2-82	From American Legion, Inc. for sewer easement.
82-5164	3-16-82	From C. and S.E. Slone for utility easement.
82-5178	4-20-82	Amends. Ord 82-5164.
82-5185	5-18-82	From Kenneth M. Petri, et al., for sewer easement.
83-5291	11-15-83	To Ohio Edison Co. for electric line on premises of Municipal Airport.
85-5457	5-7-85	Reserves utility easements on a vacated alley between Outlots Nos. 505 and 506.
85-5481	9-3-85	Reserves utility easements on a vacated alley between Inlots Nos. 378 and 379.
87-5658	11-3-87	On 0.676 acres for Galion Municipal Airport for \$1,352.
93-6003	1-26-93	Reserves utility easements on certain dedicated but unopened and unimproved streets and alleys in the City.
93-6015	3-23-93	Reserves utility easements on certain dedicated but unopened and unimproved streets and alleys in the City.
93-6016	3-23-93	Reserves utility easements on certain dedicated but unopened and unimproved streets and alleys in the City.
93-6031	8-10-93	Release of an easement pertaining to an electric easement which crosses part of Inlot 3115.
97-6275	7-8-97	Accepts an easement in a certain parcel of land located between South Market and South Boston Streets from Consolidated Rail Corp.
99-6383	7-27-99	Vacates a portion of a ten foot wide utility easement which extends along the rear lot line of Inlot No. 3768.
99-6396	9-28-99	Grants an easement across certain City owned land to Columbia Gas of Ohio Inc., for the installation of a pipeline.
00-28	4-11-00	Accepts an easement from Hire Reserve, Inc., for maintenance and repair of utility lines in the Aspen Terrace Condominium Development.
2003-23	3-11-03	Accepts the utility easement dedicated on the Orchard Woods Subdivision Plat.
2004-14	2-10-04	Authorizes an easement allowing Alltel to cross the unopened public right of way known as Willow Drive for access purposes.
2005-74	8-9-05	Authorizes the release of an electric easement across the north part of Inlot 1786.
2005-110	12-13-05	Vacates a 20 foot wide utility easement located on Outlots 741 and 742.
2006-58	9-12-06	Accepts an easement for waterline purposes through part of Outlot 540 from the Crawford County Board of Commissioners.
2008-7	2-12-08	Grants an easement to the Board of Commissioners of Crawford County, Ohio, containing 15,814 square feet of land, more or less, within outlot 685 for sanitary sewer purposes to be used in connection with the Westmoor Sanitary Sewer Project.
2010-13	3-23-10	Releases utility easements from the east half of the vacated portion of the East Railroad Street right-of-way west of Washington Street and adjacent to inlots 157, 158 and 159.
2011-54	7-26-11	Grants an easement to the Board of Commissioners of Crawford County, Ohio containing .061 acre of land, more or less, for right-of-way purposes to be used in connection with a bridge rehabilitation project on Taylor Road (TR 93) over the Olentangy River.
2013-41	5-28-13	Accepts certain easements and acquisitions of property relating to ten parcels adjacent to the State Route 598 Widening Project.
2013-49	7-23-13	Accepts certain easements and acquisitions of property relating to nine (9) parcels adjacent to the State Route 589 Widening Project.
2013-73	9-24-13	Accepts certain easements and acquisitions of property relating to five (5) parcels adjacent to the State Route 598 Widening Project.
2013-84	11-13-13	Accepts certain easements and acquisitions of property relating to eleven (11) parcels adjacent to the State Route 598 Widening Project.
2013-90	11-26-13	Accepts certain easements and acquisitions of property relating to one (1) parcel adjacent to the State Route 598 Widening Project.
2013-96	12-17-13	Accepts certain easements and acquisitions of property relating to one (1) parcel adjacent to the State Route 598 Widening Project.
2020-66	10-13-20	Accepts certain easements and acquisitions of property relating to ten (10) parcels adjacent to the State Route 598 Widening Project.
2020-67	10-27-20	Accepts certain easements and acquisitions of property relating to three (3) parcels adjacent to the State Route 598 Widening Project.
2020-74	11-24-20	Accepts certain easements and acquisitions of property relating to four (4) parcels adjacent to the State Route 598 Widening Project.

TABLE C - VACATIONS

Ord. Book

and Page Ord. No. Date Description

II-113 3-6-82 Alley between lots 425 and 424.

III-29 5-19-90 Certain alleys.

III-421 540 10-4-01 Narrowing a part of North Liberty Street.

III-605 594 2-16-04 Narrowing Gill Avenue.

IV-116 681 4-21-08 Clark Street.

IV-454 762 4-5-10 Part of East Walnut Street.

V-109 849 4-16-12 Alley between outlots 249 and 472.
V-105 849 4-16-12 Alley between outlots 249 and 472.
V-498 928 2-3-14 Part of Clark Street.
V-714 976 9-17-15 Narrowing Fellows Street.
1061 7-16-18 Union Green Cemetery.
1083 10-7-19 Part of East Street.
1195 12-2-24 First alley east of Orange Street.
VII-162 2058 6-24-27 Certain alleys.
VII-165 2059 6-24-27 Alley between inlots 1709 and 1710.
VII-267 2094 5-7-29 First alley south of Harding Way East.
VII-275 2099 7-16-29 Part of North Boston Street.
VII-276 2100 7-16-29 Part of Water Street.
VII-278 2102 7-16-29 First alley south of Harding Way East; amends Ord. 2094.
VII-369 2139 8-8-30 Alley beginning at a point of the extension of the west boundary line of inlot 1457.
VII-379 2147 7-24-30 Part of Wood Street.
VII-431 2168 3-17-31 Alley between inlots 839 and 840.
VII-460 2185B 7-7-31 Part of Wood Street.

Ord. No. Date Description

2372 1-3-39 Part of the first alley west of East Street.
2377 2-21-39 Part of the first alley east of East Street.
2388 9-19-39 Alley between inlots 754 and 755.
2395 12-5-39 Narrows North Union Street.
2397 12-19-39 Part of Flannery Street.
2424 9-17-40 First alley north of the high school.
2423 9-17-40 Alley between inlots 1575 and 1576.
2449 3-4-41 Alley between inlots 1288 and 1275 to 1277.
2483 11-18-41 Part of an alley along the west end of inlot 1798.
2482 11-18-41 Part of Guinther Court.
2508 4-7-42 First alley east of South Market Street, parts of two alleys running west from the first described alley.
2656 8-21-45 Alley south of Green Street.
2687 2-5-46 Part of Wood Street; amends Ord. 2185 of 7-9-31.
2689 3-19-46 Alley east of Fairview Avenue.
2795 10-5-48 Part of the first alley west of North Liberty Street.
3016 2-5-52 East Street.
3021 3-18-52 Part of East Grant Street.
3069 11-21-52 A strip of land adjacent to inlots 1900 to 1903 on the east side and part of outlot 78 on the west side.
3083 2-17-53 Alley west of Orange Street between inlots 426 and 427.
3221 2-15-55 Alley between inlots 96 and 98.
3228 3-15-55 Part of Clay Street.
3243 5-17-55 East Street and the first alley north of Smith Street.
3262 12-6-55 Five feet off the east side of Hensley Avenue.
3263 12-6-55 Five feet off north side of Miami Street.
3264 12-6-55 Five feet off the north side of Ottawa Street.
3297 6-5-56 Unnamed street.
3314 12-18-56 Eight feet north and south sides of West Street.
3346 8-20-57 Alley between inlots 1846 and 1847, running north from Grant Street.
3368 2-18-58 Part of Carmel Avenue, west of North Market Street.
3511 4-19-60 Alley running south of Kroft Street between inlots 1076 and outlot 218.
3512 4-19-60 Alley running south of Kroft Street between inlots 1072 and 1074.
3532 6-21-60 Green Street from South Pierce Street to South Riblet Street.
3533 6-21-60 South Pierce Street between Richardson Avenue and Dawsett Road.
3547 9-6-60 Clark Street from South Street to east line of inlot 1226 and all east-west and north-south alleys within an area near South Street.
3565 11-15-60 Two alleys in the vicinity of McClure Street.
3579 2-21-61 Four alleys in vicinity of Galion Iron Works property.
3624 9-5-61 Three alleys in vicinity of Sherman Street.
3627 9-5-61 Five-foot strip on McClure Street.
3634 8-29-61 Portions of Westwood Street and Monroe Drive.
3670 4-3-62 Alley in vicinity of Second Avenue.
3673 3-6-62 Alley in vicinity of North Electric Company.
3699 8-7-62 Alley in vicinity of Fairview Avenue.
3711 10-16-62 Alley in vicinity of South Market Street.
3714 12-4-62 Alley in vicinity of Andrews Dairy.
3739 4-2-63 Alley in vicinity of Dawsett Road and Green Avenue.
3758 7-16-63 Alley in vicinity of Crew Avenue.
3766 9-17-63 Alley running south off Kroft Street.
3768 9-17-63 Alley running off East Church Street.
3842 11-10-64 Portion of West Railroad Street from Walnut Street to the first east-west alley.
3880 8-3-65 Alley which reverted to North Electric Company by Ord. 3673.
3896 9-21-65 16.5 ft. north-south alley abutting inlots 2305 and 2306; 16.5 ft. north-south alley abutting inlots 2297, 2298, 2299, 2303 and part of 2300; Lynn Avenue abutting inlots 2303 through 2307, part of inlot 2297 and outlot 312.
3952 7-19-66 Alley between inlots 851 and 852 from Boyd Boulevard 165 feet south to Frazier Court.
71-4326 7-6-71 Alley surrounded by inlots 856, 857, 860, Clymer Avenue and a north-south alley.
71-4364 12-7-71 Alley surrounded by inlots 858, 859, 861, Homer Street and a north-south alley.

- 73-4504 7-17-73 Alley surrounded by inlots 1304, 1307, Clymer Avenue and a north-south alley.
- 76-4697 2-3-76 Alley between inlots 549 and 550, running north off Harding Way East.
- 76-4735 9-7-76 Alley between inlots 76 and 79 on the south and 137 on the north, running east from North Washington Street to the Penn-Central railroad tracks.
- 78-4868 6-20-78 Sara Ave. between Seventh and Sixth Aves.; alley running between S. Pierce St. on the west and Outlot 360 on the east lying between inlots 1176 and 1177.
- 78-4911 12-5-78 Alley lying between inlots 1252 and 1255 extending from Richardson to Green Aves.
- 79-4964 7-3-79 Alley lying between inlots 1118 and 1119 extending from Kelly St. to first alley north of and parallel to Kelly St.
- 79-4984 11-20-79 Alley lying between inlots 1063 and 1065 extending from Kroft St. to first alley north of Kroft St.
- 79-4985 11-20-79 Alley lying between Outlot 627 and inlots 2517 to 2525 extending from Bucyrus Rd. to Wagner Ave.
- 81-5115 6-2-81 Alley between Inlots 1059 and 1061 extending from Kroft St. to first alley north to Kroft St.
- 84-5351 7-3-84 Alley between Inlots 1660 and 1661, from W. Summit St. to first alley south of W. Summit St.
- 85-5429 3-5-85 Portion of alley between Outlots 123 and 124 and 1188, from Payne Ave. north 82 ft.
- 85-5457 5-7-85 An alley between Outlots Nos. 505 and 506 and extending from Market St., East a distance of 193 feet to another 16.5 foot existing alley.
- 85-5481 9-3-85 An alley between Inlots No. 378 and 379 and extending from Riblet St., to the first alley west of Riblet St.
- 86-5546 7-15-86 An alley between Inlots No. 1351 and 1353 and between Inlots No. 1350 and 1352 and extending from Crew Ave., to the west side of the first alley east of Crew Ave.
- 86-5586 11-25-86 A fifteen foot alley lying to the west of Inlot No. 1258 and extending from Dawsett St., to Green St.
- 87-5631 1-16-87 An alley lying between N. Liberty St., and the first alley west of North Liberty St.
- 87-5632 1-16-87 A portion of Green St., from the west side of Inlots No. 1246 and 1247 to the east side of Inlots No. 1258 and 1259
- 87-5642 7-21-87 An alley lying between Inlots No. 1601 and 1604.
- 87-5651 9-1-87 An alley extending from Sherman St., to the first alley north of Sherman St.
- 88-5693 7-5-88 An alley extending from Harding Way East for 198 feet to the south corners of Inlots 393 and 394.
- 88-5695 7-19-88 A 15 foot alley lying to the west of Inlot No. 1695; a 15 foot alley lying to the west of Inlot No. 1696; a 16 1/2 foot alley lying to the south of Inlot No. 1696, 1693 and 1692; a portion of Summit St., and Gill Ave.
- 89-5745 6-6-89 An unnamed 16 1/2 foot wide alley situated on Outlot 116 and extending from Sherman St., to the first alley north of Sherman St.
- 89-5746 6-6-89 A portion of an unnamed 16 1/2 foot wide alley north of Inlot 268 from Boston St., to a 16 1/2 foot wide north-south alley situated to the west of Inlot No. 268.
- 89-5760 9-5-89 Those portions of an unnamed 16 1/2 foot wide alley immediately south of Inlot Nos. 842 and 845.
- 90-5852 10-9-90 The dead end portion of S. Columbus St., between Inlot 124 and Inlot 145 and abutting Outlot 375.
- 90-5860 2-26-91 A 16.5 foot wide alley from an unnamed 16.5 foot alley on the north to its terminus on the south abutting Outlot 15.
- 91-5899 6-25-91 An unnamed 16.5 foot wide north-south alley abutting, Inlots 662 and 663.
- 91-5903 9-10-91 Burgert St., from East St. to Riblet St.
- 91-5904 8-27-91 An unnamed 16.5 foot wide alley from Boston St., to the south of Inlot 1354.
- 91-5913 10-8-91 An unnamed 16.5 foot wide north-south alley from Parson St., to its northern terminus.
- 91-5924 1-14-92 An unimproved and unnamed 16.5 foot wide alley extending easterly from Outlot 309 to Diamond Ave.
- 92-5953 5-12-92 An unnamed 16.5 foot wide north-south alley from Allen St., on the south to an unnamed 16.5 foot wide alley on the north.
- 92-5969 8-11-92 The east Railroad St., right of way from the north side of Atwood St., to the west side of Washington St., together with an unnamed 16.5 foot alley.
- 93-5998 1-26-93 An unnamed sixteen and one-half foot wide alley extending in an easterly direction from Fairview Ave., to the east Lot Line of Inlot 1439.
- 93-6003 1-26-93 Certain dedicated but unopened and unimproved streets and alleys in the City.
- 93-6012 3-9-93 An unnamed fifteen foot wide alley extending in an easterly direction from Union Street to an unnamed 16.5 foot wide alley and abutting Inlots 343 and 344.
- 93-6015 3-23-93 Certain dedicated but unopened and unimproved streets and alleys in the City.
- 93-6016 3-23-93 Certain dedicated but unopened and unimproved streets and alleys in the City.
- 96-6188 3-12-96 An unnamed fifteen foot wide alley extending easterly from Park Ave. to an unnamed fifteen foot wide north-south alley.
- 96-6189 3-12-96 An unnamed 16 1/2 foot wide alley extending westerly from Fairview Ave., to a previously vacated north-south alley.
- 96-6217 8-20-96 An unnamed 12 foot wide alley extending easterly from South Market St. to Con-Rail right of way.
- 97-6250 3-11-97 That portion of Chevy Chase Drive as extends from Bennington Ave., in a northerly direction for 200.1 feet.
- 97-6258 5-27-97 An unnamed 15 foot wide alley extending in a westerly direction from North Market St. to an unnamed 16 foot wide alley.
- 97-6297 1-6-98 An unnamed 16.5 foot wide east-west alley extending from First Ave. to Second Ave. and reserving utility easements therein.
- 98-6309 4-14-98 An unnamed 16.5 foot wide alley extending in a southerly direction from Atwood St. to a unnamed 16.5 foot wide east-west alley and reserving utility easements therein.
- 98-6327 7-28-98 An unnamed 16.5 foot wide alley extending in a northerly direction from Harding Way West a distance of 196 feet and reserving utility easements therein.
- 98-6328 8-25-98 An unnamed 16.5 foot wide alley extending in an easterly direction from Gill Ave. a distance of 121.44 feet and reserving utility easements therein.
- 98-6340 11-24-98 A portion of an unnamed north-south alley which extends in a northerly direction off Grove Ave.
- 98-6341 11-24-98 The portion of Hollywood Drive extending south from Briarwood Drive a distance of 160 feet and reserving utility easements therein.
- 99-6369 6-22-99 The portion of an unnamed alley which extends in a westerly direction off Clymer St. and abuts Inlots No. 822 through 827 and Outlot No. 441.
- 99-6370 6-22-99 The portion of an unnamed alley which extends in a northerly direction from Harding Way west a distance of 198 feet.
- 99-6378 8-10-99 The portion of an unnamed north-south alley which extends in a northerly direction off Bucyrus Road and abuts Inlots No. 2537, 2538 and 2540 and Outlot No. 625.
- 99-6379 7-13-99 An unnamed 16.5 foot wide alley extending in a northerly direction from Harding Way west for 196 feet and abutting Inlots 963 and 964.
- 99-6368 7-27-99 An unnamed 16.5 foot wide alley extending in a northerly direction from Harding Way west for 196 feet and abutting Inlots 963 and 964.
- 99-6398 10-12-99 Vacates an unnamed alley extending in a northerly direction from Parsons St. abutting Inlots No. 1082 and 1083 and a 20 foot

wide unnamed east-west alley abutting Inlots No. 1083, 1084 and 1085.

- 00-68 11-28-00 Vacates an unnamed alley extending in a southerly direction from Dawsett a distance of 179.50 feet to Green St.
- 00-76 11-14-00 Vacates an unnamed alley extending in a southerly direction from Harding Way West a distance of 198 feet to an unnamed east-west alley.
- 01-1 2-13-01 Vacates a portion of an unnamed 15 foot wide east-west alley in the area between Erie St. and Walker St. and parallel thereto.
- 01-6 2-27-01 Vacates a portion of an unnamed alley extending in a westerly direction from South Market St.
- 01-40 5-8-01 Vacates an unnamed alley in a northerly direction from Richardson Ave.
- 01-45 5-22-01 Vacates Gledhill Court from Gleddale Blvd. in a northerly direction to its terminus.
- 01-72 9-25-01 Vacates a portion of Summit St. extending in an easterly direction from vacated Gill Ave. a distance of 150 feet.
- 02-23 5-28-02 Vacates an unnamed alley extending in a northerly direction from Harding Way west a distance of 198 feet.
- 02-24 5-28-02 Vacates an unnamed street extending in a westerly direction from State Route 61 a distance of 180.49 feet.
- 02-45 8-13-02 Vacates an unnamed alley extending in an easterly direction from John Street a distance of 110 feet.
- 02-52 9-24-02 Vacates an unnamed alley extending in an easterly direction from Liberty St. a distance of 198 feet.
- 2003-35 5-13-03 Vacates an unnamed alley extending in a westerly direction from Second Ave. a distance of 198 feet.
- 2003-60 6-24-03 Vacates an unnamed alley extending in a northerly direction from Erie St. a distance of 239 feet.
- 2003-82 9-23-03 Vacates a portion of an unnamed alley extending in a westerly direction from Clymer St. a distance of 50 feet.
- 2005-57 6-28-05 Vacates an unnamed alley extending in a westerly direction from Liberty St. and abutting Outlot 315 and 453.
- 2005-86 10-25-05 Vacates an unnamed alley extending in a northerly direction from West Summit St. and abutting Inlots 1615 and 1619.
- 2008-57 10-14-08 Vacates an unnamed alley extending in an easterly direction from Columbus Street a distance of 199 feet, more or less, and abutting inlots 1725 and 1726, and reserving utility easements.
- 2010-29 7-27-10 Vacates unnamed alley extending in a northerly direction from Cherry Street a distance of 165 feet, more or less, and abutting Inlots 937 and 938.
- 2010-33 7-13-10 Vacates portion of Center Street extending in a northerly direction from Southern Avenue to Virginia Avenue a distance of 250 feet, more or less, and abutting lots 3302 and 3318 on the east and unplatted acreage on the west.
- 2014-7 1-28-14 Vacates a portion of an unnamed east-west alley running between 720 N. Columbus Street and 716 N. Columbus Street West to N. Market Street between 615 N. Market Street and 633 N. Market Street, extending a distance of 236 feet more or less, and abutting Inlots 1718, 1719, 1720 and 1721, and Reserving Utility Easements.
- 2014-25 2-25-14 Vacates an unimproved portion of Wagner Avenue running between 120 and 124 Arlington Avenue, extending a distance of 112 feet more or less, and abutting Inlots 2525, 2526, 2527 and Outlot 627, and reserving utility easements.
- 2014-26 2-25-14 Vacates a portion of unnamed unimproved north-south alley behind 124 Arlington Avenue extending a distance of 100 feet more or less, and abutting Inlot 2526 and 3230 and Outlot 627, and reserving utility easements.
- 2016-3 2-9-16 Vacates a portion of unnamed unimproved north-south alley extending south from Westwood Avenue a distance of 164.91 feet more or less, being a 0.062 acres of Outlot 918 and reserving utility easements.
- 2016-77 9-13-16 Vacates a portion of an unnamed east-west alley extending west from Portland Way South a distance of 117.11 feet more or less, being 0.041 acres and reserving utility easements.
- 2016-110 12-13-16 Vacating unimproved portions of Carpenter Avenue, Berry Street, Harmon Avenue, and Herbert Avenue and reserving utility easements.
- 2016-111 12-13-16 Vacating a portion of unnamed unimproved east west alleys.
- 2018-75 12-18-18 Vacating a portion of an unnamed east-west 15 foot wide alley adjacent to Lots 1934, 1935, 1936, 1937, 1938, 1939, 1955, 1956, 1957, 1958, 1959, and 1960 a distance of 300 feet being 0.103 acres more or less, and reserving utility easement.
- 2019-71 10-8-19 Vacating an unimproved 66 foot wide right of way of the east west portion of Green Avenue located south of Dawsett Avenue and north of Richardson Avenue, extending a distance of 104.60 feet more or less, and abutting Inlots 1242, 1243, 1244, 1245, 1246, and 1247, and reserving utility easements.

TABLE D - DEDICATIONS

Ord. Book

and Page Ord. No. Date Description

- I-318 12-15-79 Lot 17 in Burgerts Addition.
- II-55 Res. 11-5-80 Cook's Heirs Addition.
- II-308 11-5-83 Parts of outlots 283 and 284.
- II-312 7-24-84 Parts of outlots 231 and 232.
- II-320 2-16-85 Condemnation of property for Boston Street.
- II-328 3-2-85 Parts of outlots 15, 16, 61, 62, 75, 208 to 215, 455, 458, 459.
- II-348 6-15-85 Condemnation of land for street purposes.
- II-371 9-7-85 Alley through the north part of outlot 94.
- II-391 12-7-85 Land for alley purposes, commencing at a point at the intersection of outlot 94 with a public alley.
- II-432 8-16-86 Mary Haley's subdivision of the east part of outlot 434.
- II-461 3-24-87 Land for Jefferson Street.
- II-507 8-6-88 Condemnation of property for an electric light station.
- III-49 10-25-90 W.H. Raymond's First Addition.
- III-97 3-21-92 Land for Liberty Street.
- III-158 120 12-5-92 Land for Sherman Street.
- III-337 2-19-01 Plat of Herr and Sargels subdivision of outlots 429 and 430.
- III-433 11-19-01 Part of Sherman Street.
- III-607 Res. 4-5-04 Plat of Homer's subdivision of outlot 431.
- III-676 624 7-18-05 Plat of David Mackey's subdivision of outlots 484 and 477.
- IV-312 Res. 74 9-7-09 Plat of the subdivision of outlots 497 and 498 of the Home Realty Company.
- IV-556 772 8-2-10 Plat of the Home Realty Company, outlots 497 and 498.
- IV-709 812 10-17-11 An 8-1/4 foot strip of land off the east side of outlot 436.
- V-368 Res. 229 7-18-13 Part of inlot 115.
- 1084 10-7-19 Outlots 151 and 195.
- 1194 11-18-24 Plat of I.C. Guinther subdivision.
- 2018 7-12-25 Land for street purposes deeded to the City by Herbert Black and Minnie Mollott.
- VII-382 2149 8-19-30 Plat of W.M. King, Joseph King, R.J. Arnold, Ray Woodcock, Harry Badgley, E.H. Evans and the Galion Metallic

Vault Company of King's Addition.

Ord. No.	Date	Description
VII-443	2177	6-2-31 Plat of the Erie Railroad Company.
VII-751	2327	12-1-36 Part of outlots 443 and 444.
2351	10-19-31	Replat of inlots 995 to 1001, 1006 and 1007.
2355	11-8-37	Land from C.F. and Marguerite Unckrich for a street through outlots 491 and 492.
2408	5-21-40	Plat of Martha J. Smith, lots 11 to 13 and part of 14 of Krof's subdivision.
2442	2-4-41	Plat of Wade and Julia B. Stevens, inlots 2052 to 2058.
2459	5-6-41	Plat of C. J. Fortney, inlots 2059 to 2073.
2460	5-6-41	Plat of the subdivision of the west part of outlot 439 of inlots 2083 to 2086.
2468	6-3-41	Plat of Wade Stevens's subdivision of outlot 591.
2473	8-19-41	Plat of R. Evelyn Chandler and Donald Chandler of inlots 2074 to 2082.
2474	8-19-41	Plat of E.C. Gledhill of inlots 2129 to 2148.
2587	3-7-44	Plat of outlot 309.
2666	10-2-45	Plat of the Neumann subdivision of part of outlot 592.
2701	7-2-46	Appropriating lots in Park Place Addition for playground purposes and lots 284 and 294 for street purposes.
2711	1-7-47	Plat of the subdivision of parts of outlots 308 to 310 and inlot 1544; repeals Ord. 2587.
2789	8-3-48	Plat of the Maple Heights subdivision of outlot 490 and the south part of outlot 455.
2798	10-19-48	Appropriates land for playground purposes in Park Place Addition, for street purposes part of outlots 294 and 284.
2822	5-17-49	Plat of Wade Stevens subdivision.
2871	2-17-50	Land for municipal airport from the Galion-Crestline Airport, Inc.
2873	2-21-50	Plat of Jay G. Lee, Hary Ketterman and Charles Ketterman.
2875	3-7-50	Replat of inlots 2052, 2053, 2378, 2379 and outlot 615 of Stevens Addition.
2877	4-4-50	Plat of Keckler Addition.
2889	6-6-50	Plat of Malcolm E. Switzer and Jean Switzer Addition.
2894	6-20-50	Plat of J. Harold Bender.
3119	9-4-54	Property for Water Works purposes.
3159	2-16-54	Repeals Ord. 3119.
3163	3-16-54	Plat of Pfeifer's subdivision.
3229	3-15-55	Plat of Westbrook subdivision of outlots 170 to 173 and 176 to 184.
3230	3-15-55	Plat of Wade Stevens subdivision 2.
3249	7-12-55	Plat of Bender's subdivision 3.
3255	9-6-55	Replat of inlots 2419 to 2430.
3265	11-1-55	Replat of inlot 3125.
3266	11-1-55	Plat of the Richard Smith allotment.
3269	12-20-55	Replat of outlot 576.
3379	3-18-58	Plat of Harding Way allotment No. 2
3395	5-20-58	Plat of Henry Street.
3470	9-1-59	Plat of part of outlot 284.
3474	11-10-59	Plat of part of outlot 629.
3567	12-20-60	Plat of Timberlane Estates.
3626	9-5-61	Plat of Lottie Mae Grogg.
3645	12-5-61	Plat of C.L. Wilson's subdivision.
3646	12-5-61	Plat of Shadley subdivision.
3664	2-20-62	Plat of Timberlane Estates No. 3.
3682	5-15-62	Plat of Friendly Acres allotment No. 1.
3712	10-16-62	Plat of Walter P. Scott property.
3814	5-19-64	Dedication of Tidd Drive.
3884	7-20-65	Plat of Hessenauer Heights subdivision.
3891	9-21-65	Dedication of portion of Heise Park Lane.
4002	6-20-67	Plat of Timberlane Estates No. 4.
4036	12-5-67	Accepts part of outlot 595 known as Garverick Court from Klehm for street purposes.
71-4332	6-15-71	Streets in Harding Way allotment No. 3.
96-6207	5-28-96	Certain property in Heise Park as Veterans Memorial Triangle.
2003-24	3-11-03	Accepts the improvements in the Orchard Woods Subdivision.
2006-74	11-28-06	Accepts the public improvements in the Deer Run Subdivision.
2008-46	8-26-08	Accepts the public improvements in the shops of Galion Subdivision.

TABLE E - PURCHASE OF PROPERTY FOR CITY USE

Ord. Book

and Page	Ord. No.	Date	Description
III-40	Res.	8-4-90	Lots 148, 149 and 150.
III-537		5-21-03	Land for Wurtemberg Street.
IV-433	753	3-29-10	Land for sewage disposal from Anna B. and John D. Ely.
IV-706	811	8-15-11	Land for extending Kraft Street.
	1073	1-7-19	Additional Land for Electric Light Works.
VII-287	2107	9-17-29	Ten feet of land of the north side of outlot 494 for improving Walker Street.
VII-490	2200	10-20-31	Contract with Polk Township, granting the City a quit-claim deed to certain real property.

Ord. No. Date Description

2524	7-16-42	Hurley Farm for water purposes.
2572	11-9-43	Farm of Paul Jagers for enlarging City's Water System.
2579	11-23-43	An acre of land north of the City-owned dam.
2631	2-6-45	Land from T. Bechtel.
2641	4-17-45	Twenty-six lots in the eastern portion of the City for playground purposes.

2710 12-17-46 Part of outlot 310 from Joseph Kottyon.

3109 7-21-53 Erie Reservoir from Erie Railroad Company.

3136 11-24-53 Five parcels of land for water supply purposes.

3150 1-19-54 Land in Section 1, Township 15, Range 21, Polk Township.

3165 3-16-54 Amends Ord. 3136.

3166 3-16-54 Amends Ord. 3150.

3177 6-1-54 Land in Section 1, Township 15, Range 21.

3195 7-27-54 Land for an electric substation.

3199 9-7-54 Land for South State Circle.

3257 9-6-55 Repeals Ord. 3109.

3340 8-6-57 Property in outlot 5 for a fire station.

3365 1-9-58 Property in Sandusky Township, part of southeast quarter of Section 23, Township 20, Range 20.

3448 3-17-59 Inlot 11 located at the East Side Park for playground purposes.

3451 4-7-59 Property near the East Side Park for street and park purposes.

3461 7-7-59 Inlot 11 for playground purposes.

3486 12-1-59 Power Equipment Company real estate being part of inlot 52.

3490 12-15-59 Accepts gift of Cobey property.

3496 2-16-60 Part of outlot 439 from Pounder and Cramer.

3571 1-17-61 Authorizes acquisition from Plasencia of 6.8 acres immediately adjacent to City disposal property.

3576 1-3-61 Authorizes acquisition from McNeal and Hopkins of inlots 2633, 2616, 2599 and 2582 and parts of inlots 2634, 2617, 2600 and 2583.

3636 9-5-61 Authorizes acquisition from G.L. Smith of parcel 150 feet by 238 feet in vicinity of South Boston Street.

3656 12-19-61 Authorizes acceptance of gift from Cobey of three parcels.

3876 7-20-65 Authorizes obtaining options to purchase land for an upground reservoir.

3915 11-30-65 Authorizes option to purchase 70 acres in Morrow County from Sidwell.

3923 12-29-65 Authorizes purchase of 55 acres in Morrow County from Sidwell.

3930 2-1-66 Repeals Ord. 3923

3931 2-1-66 Authorizes purchase of 51.25 acres in Morrow County from Sidwell.

3941 4-5-66 Authorizes purchase of 2 parcels being parts of outlots 69 and 541.

3998 4-4-67 Part of outlot 63 from Laura Finical estate.

4017 7-18-67 Inlot 59 from Fisher.

4034 10-17-67 Land exchange with McKown for property at the Municipal Airport.

4045 12-19-67 0.571 acres from Carter for utility installation and maintenance.

4053 3-5-68 Accepts title to 3 parcels from Helen Ann Kelly, deceased, for purposes of Ohio R.C. 2105.09.

68-4102 8-20-68 Purchases 3 parcels of 0.08, 1.47 and 2.92 acres from Ralph E. Treisch et al.

69-4172 8-19-69 Authorizes purchase of part of outlot 313 from Atlantic Richfield Company.

69-4173 8-19-69 Authorizes purchase of southwest quarter of southwest quarter of Section 19, Township 20 North, Range 20 West from New North Electric Company.

Res.

75-1895 5-3-75 Intends to appropriate property for East Church Street Overpass, Issue One Project.

75-4646 5-13-75 Appropriates property for East Church Street Overpass, Issue One Project.

75-4650 5-24-75 Appropriates property for East Church Street Overpass, Issue One Project.

77-4797 8-2-77 Authorizes option to purchase most of Inlot 135, and Inlot 136 from Myron F. Stowe and Galion Motor Sales.

79-4998 12-18-79 Gift from Cobey of parts of Outlots 247, 276, 236, 233 and 232.

81-5129 9-15-81 Authorizes purchase of 10.99 acres from D.E. Cress for wastewater treatment plant expansion.

82-5172 4-6-82 Purchase of 9.15 acres from D. Cress.

85-5482 8-6-85 Appropriates fee simple title in connection with the improvements of Galion Municipal Airport.

85-5515 12-17-85 Purchase of two acres near Galion Municipal Airport from G.C.S. Air Service.

86-5592 11-25-86 Acquisition of 1.366 acres for Galion Municipal Airport for \$43,500.

87-5658 11-3-87 Acquisition of 2.553 acres for Galion Municipal Airport for \$6,383.

88-5690 5-3-88 55.7 acres from Galion Amco Inc., for use as an industrial park development.

90-5824 5-22-90 Amends lease agreement with the Galion Community Center.

91-5887 4-23-91 Purchase of 113-115 Harding Way East from Society Bank.

93-6004 5-25-93 Purchase of 5.027 acres on Dawsett Road in the vicinity of Dawsett Elementary School from Galion City Board of Education.

94-6054 2-8-94 Purchase of certain real property on North Columbus St.

96-6223 9-16-96 Authorizes purchase of the north east portion of Inlot No. 70 from Donald and Kathryn Christ for \$9,950.00

96-6227 9-24-96 Authorizes purchase of Inlot No. 69 of the replat of Southview Acres for \$2,500.00.

96-6242 11-26-96 Authorizes the purchase of south half of Outlot No. 71 for \$5,500.00.

99-6362 3-9-99 Appropriates the fee simple interest in and to certain parcels of land located generally between South Market St. and South Boston St.

99-6397 10-26-99 Authorizes the purchase of certain real estate on West Railroad St. in the vicinity of the Galion Water Filtration Plant for purposes of its improvement and expansion.

00-25 4-11-00 Authorizes the purchase of certain real estate on West Railroad Street and adjacent to the Galion Water Filtration Plant from James and Sharon Cole.

00-30 4-25-00 Authorizes the purchase of 545 Fairview Ave. for \$1.00.

01-34 3-27-01 Authorizes an option agreement relating to real estate known as 127 North East St.

02-15 3-12-02 Authorizes the purchase of 36.712 acres adjacent to the Galion Municipal Airport from Studer and Niese Corp. for \$81,400.00.

02-35 5-14-02 Authorizes the purchase of 19.47 acres adjacent to the Galion Municipal Airport from Mae Titschinger for \$42,834.00.

04-78 10-26-04 Authorize the purchase of 3.1656 acres adjacent to the Galion Municipal Airport for \$115,000.

04-92 11-9-04 Authorizes the purchase of 1.317 acres adjacent to the Galion Municipal Airport from Thomas and Constance Britton.

04-93 11-9-04 Authorizes the purchase of 2.929 acres adjacent to the Galion Municipal Airport from G.C.S. Air Service, Inc.

2008-8 2-12-08 Authorizes the City Manager to exercise an option to purchase Inlot No. 86.

2010-15 3-23-10 Authorizes real estate purchase contract for the purchase of the property known as 347 W. Atwood Street.

2019-58 9-24-19 Authorizes the purchase of 4.626 acres to begin construction of bike/walking path.

TABLE F - LEASE OF PROPERTY TO CITY

Ord. Book

and Page Ord. No. Date Description

II-107	2-6-82	Southwest corner of outlot 279 from Nicholas Rettig.
<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
3112	7-7-53	Two parcels of land.
3162	3-16-54	Inlots 2297 to 2299 and inlots 2300 and 2301.
3206	11-3-54	Authorizes lease of Galion City Hospital.
3542	9-6-60	Galion Municipal Airport to Fischer Brothers Aviation for fifteen years.
3592	3-21-61	With Norman Haslop and Associates and Metro-Municipal Products Company, a portion of Municipal light plant property for five years.
3620	6-27-61	Authorizes lease of part of outlot 440, Community Hospital Building, to be used for hospital and related health services.
3628	9-5-61	Second floor of building immediately east of City Building from the Power Equipment Company.
3641	11-7-61	Authorizes lease with City Engineer for rental of portion of first floor of the City Annex Building.
3812	6-16-64	City Dump, 22 acres, for one year for oil and gas exploration.
3868	5-18-65	City Dump lands to Hy-Vu Farms.
3903	10-5-65	Inlots 2303 through 2307 to Little League, Inc. for five years.
3959	7-19-66	Authorizes lease of 5.27 acres in Heise Park north of Erie Street.
3967	9-20-66	Authorizes lease of property north of Primrose Street for parking purposes.
4026	9-19-67	Part of outlots 72 and 73 to Little League for five years.
4078	4-2-68	Baseball diamond west of Heise Park Stadium with Board of Education.
70-4218	4-7-70	Eleven acres at Municipal Airport to Fischer Brothers Aviation, Inc.
70-4232	5-19-70	Amends 70-4218 to make G.C.S. Air Service, Inc. a joint lessee.
70-4247	7-7-70	Parking lot next to First Lutheran Church to First Lutheran Church and Uptowne Galion Associates.
70-4266	9-15-70	Amends 70-4247 to accept different commitment from Uptowne Galion Associates.
71-4291	1-5-71	Authorizes Mayor to enter lease with Board of County Commissioners of Crawford County for portion of Municipal Building.
71-4324	6-1-71	Option to renew lease with Galion Community Hospital, Inc.
72-4422	8-29-72	Authorizes lease with Galion Community Hospital, Inc.
73-4473	6-5-73	Authorizes lease with Galion Board of Education of baseball diamond west of Heise Park Stadium.
76-4695	2-3-76	Authorizes lease with Galion Community Hospital, Inc. for use by City Health Department.
76-4715	5-18-76	Amends Ord. 76-4695 above re sharing cost of utilities.
78-4834	3-7-78	Assignment of lease dated Sept. 15, 1966 for Community Center to Community Center - YMCA, covering parts of Outlots 496 and 587.
78-4857	5-16-78	0.86 acres at W. Church and Jefferson Sts. with Board of Education for 20 years as tennis courts and parking areas.
79-4934	2-20-79	With First Lutheran Church of Galion re a metered parking lot.
80-5060	8-26-80	Lease of 11 acres at Galion Municipal Airport to Fischer Bros. Aviation, Inc. and G.C.S. Air Service, Inc.
80-5069	10-7-80	7000 square feet at Galion West Shopping Center for use by utility billing office.
81-5108	5-19-81	With Galion National Little League, Inc. for Inlots 2303 to 2307, for 5 years.
82-5182	5-4-82	With First Lutheran Church of Galion for metered parking lot.
82-5213	9-21-82	West portion of First Buckeye Bank building for City department, office space, for 10 years.
83-5264	7-5-83	Agricultural lease of 36 acres of airport lands with E.V. Rinehart and S.H. Rinehart.
89-5785	10-17-89	Authorizes lease with Komatsu Dresser Co. to acquire certain lands for the construction and operation of an electrical substation.
2001-20	3-13-01	Consents to the assignment of leases for tracts A and B at the Galion Municipal Airport.
2003-19	2-18-03	Authorizes the lease of .67 acres from CSX Transportation for building extension and fencing.
2003-56	6-10-03	Authorizes a rental agreement with the Galion Bowhunters Club for use of 22 City-owned acres in Morrow County.
2003-73	7-22-03	Authorizes a lease agreement for the use of Inlot No. 86.
2004-4	1-13-04	Authorizes a lease agreement with G.C.S. Air Service, Inc. for certain premises at the Galion Municipal Airport.
2004-19	3-9-04	Authorizes a lease agreement with American Power Ohio, Inc for a 30 by 50 foot area on the northeast corner of 900 South St. for placement of a building to be used as a fiber optic hub.
2010-59	10-26-10	Authorizes extension of a farm land lease with Frank Keller-Keller Farms for 70.7 acres of land located at the Galion Municipal Airport.
2012-19	3-27-12	Authorizes the lease of 3.1656 acres known as 5710 State Route 309 to Ohio Medical Transportation, Inc.
2012-31	5-8-12	Authorizes the City Manager to execute a lease agreement with TRM Support LTD, for the use of an underground fuel tank at the Galion Municipal Airport.
2012-80	10-9-12	Authorizes the City Manager to execute a lease agreement with James Air Cargo, Inc. for the use of the loading dock at the Galion Municipal Airport.
2014-30	3-11-14	Authorizes the Safety-Service Director to consent to the assignments of Hangar Leases (2) at Galion Municipal Airport on behalf of the City.

TABLE G - GRADE LEVELS AND CURB LINES

Ord. Book

and Page Ord. No. Date Description

I-77	9-9-74	Part of East Main Street.
I-79	9-9-74	Part of West Main Street.
I-81	9-9-74	Part of North Market Street.
I-83	9-9-74	Part of South Market Street.
I-85	9-9-74	Part of North Columbus Street.
I-87	9-9-74	Part of South Street.
I-89	9-9-74	Part of Grove Avenue.
I-91	9-9-74	Part of Atwood Street.
I-93	9-9-74	Part of Boston Street.
I-95	9-9-74	Part of Cherry Street.

I-97	9-9-74	Part of Smith Street.
I-99	9-9-74	Part of Atwood Street.
I-101	9-9-74	Part of North Liberty Street.
I-103	9-9-74	Part of North Washington Street.
I-113	9-23-74	Part of South Columbus Street.
I-115	9-23-74	Part of First Avenue.
I-117	9-23-74	Part of Pierce Street.
I-119	9-23-74	Part of South Washington Street.
I-121	9-23-74	Part of Liberty Street.
I-123	9-23-74	Part of Union Street.
I-325	3-25-80	Reestablishes grade on part of East Main Street.
II-233	5-13-83	Part of North Liberty Street.
II-340	5-4-85	Part of North Columbus Street.
II-342	5-4-85	Part of Church Street.
II-353	7-7-85	Cherry Street, Jefferson Street, Grove Avenue, Heidelberg Street, North Union Street, North Columbus Street, Pierce Street extension, Erie Street, Gill Street, Payne Avenue, Clymer Avenue, Orange Street, Church Street, South Street, Green's Avenue, first alley south Main Street and first alley north of Main Street.
II-492	6-4-88	Edwards Street and the first alley west of North Market Street.
II-499	7-2-88	Riblet Street.
II-528	2-4-89	Part of Boston Street.
II-546	6-19-89	Part of South Columbus Street.
III-4	9-2-89	Smith Street.
III-27	4-9-90	Part of East Main Street.
III-64	4-21-91	Part of Pierce Street and Primrose Street.
III-80		Part of Third Avenue.
III-128	5-16-92	Part of Fairview Avenue.
III-129	5-11-92	Part of Payne Avenue.
III-135	6-20-92	Part of Mansfield Street.
III-138	9-5-92	Part of Sherman Street.
III-203	8-5-95	East Mansfield Street.
III-207	1-6-96	East Street.
III-238	10-18-97	Walker Street.
III-322	8-24-00	Part of West Church Street.
III-463	551 8-5-02	Reestablishes grade of part of Sherman Street.
III-465	552 8-6-02	Part of West Church Street.
IV-220	702 12-15-08	Summit Avenue.
IV-301	723 9-7-09	Part of Columbus Street.
IV-351	733 11-9-09	Part of Jefferson Street.
IV-377	738 12-27-09	Part of Walnut Street.
IV-384	740 12-27-09	Part of Third Avenue.
IV-452	761 4-5-10	Reestablishes grade of part of East Church Street.

TABLE H - SALE OF PROPERTY

Ord. Book

and Page Ord. No. Date Description

II-504		8-6-88	Lot one.
III-147	Res.	5-1-93	Certain lands to New York, Pennsylvania and Ohio Railroad.
III-152	Res.	8-7-93	Certain lands to New York, Pennsylvania and Ohio Railroad.
V-369	Res. 230	7-8-13	Donates to State certain lands for erection of an armory.
	1039	5-15-17	Outlot 106.
	1075	3-18-19	South part of outlot 325.
VII-283	2105	9-17-29	Inlot 163.

Ord. No. Date Description

3015	2-5-52	Land in Section 32, Township 20 North, Range 20 West.
3491	12-15-59	Parts of outlots 232, 233 and 236 to the A.M. Castle Company.
3493	1-5-60	Light plant property. Repeals Ord. 3469 and 3473.
3619	6-27-61	Authorizes sale of part of outlot 440 to be used for hospital and related health services.
3657	12-19-61	Authorizes sale to Cobey of triangular parcel in southwest corner of outlot 277.
3760	8-20-63	Part of outlot 164 to J.M. Hoekstra.
3765	8-20-63	Freight House on West Railroad Street.
3819	7-7-64	Light plant property on Primrose Street, part of outlots 473 and 474 and outlots 472, 249, 248.
3916	12-7-65	Authorizes sale to Harsco Corporation of parts of outlots 277, 276, 236, 233 and southwest corner of outlot 232.
3968	9-20-66	Authorizes sale of part of outlot 440.
4067	3-5-68	Three parcels acquired from estate of Helen Ann Kelly, deceased, pursuant to Ord. 4053.
68-4107	9-24-68	Conveys to Polk Township 0.08, 0.42, 1.47 and 0.78 acres for airport improvements.
92-5937	2-25-92	Authorize sale of vacant land, being a part of Outlot No. 629, also known as the Wagner Ave., Extension.
93-6036	9-22-93	Authorizes sale of vacant land, being a part of Outlot No. 252.
94-6068	4-12-94	Transfers a parcel of City owned land to the Galion Community Improvement Corporation.
94-6069	4-12-94	Transfers a parcel of City owned land to the Galion Board of Education.
2006-28		Authorizes the sale of 11.20 acres on N. Market Street to Crawford County Shared Health Services, Inc.
2006-51	7-25-06	Sale of .085 acres of City-owned land off of Fairview Avenue.
2016-105	11-22-16	Authorizing sale of certain real property owned by the City of Galion Police Department located at 362 South Washington.
2020-17	3-24-20	Transfers City owned Outlot 930 to the Galion Port Authority.

TABLE I - ANNEXATION OF TERRITORY

Ord. Book

and Page Ord. No. Date Description

III-280	1-16-00	Land beginning at the northeast corner of Section 32, Township 20, Range 20.
III-619	598 5-3-04	Land beginning at the northeast corner of Section 32, Township 20 North, Range 20 West.
III-650	614 4-7-05	Land in Polk Township on the north and west sides of the City, land on the north and east sides, on the south sides, on the east and south sides.
2020	11-17-25	Certain contiguous territory.
VII-249	2090 2-19-29	Land beginning at a point on the then north corporate line at the intersection of Knorr Road No. 19 with the north corporate line.

Ord. No. Date Description

2391	10-17-39	Nine tracts of land.
2405	4-16-40	Nine tracts of land.
2881	4-4-50	Land in Polk Township, being a part of the northeast and northwest quarters of Section 36, Township 16 North, Range 21 West.
3011	2-5-52	Land in Polk Township, the southeast part of the southeast quarter of Section 32, Township 20, Range 20.
3317	2-5-57	Land in Polk Township, part of the west half of the northwest quarter of Section 5, Township 19, Range 20.
3419	11-4-58	Part of Section 25, Township 16 North, Range 21 West, and part of Section 30, Township 20 North, Range 20 West.
3442	3-17-59	Hessenauer property.
3478	12-1-59	Timberlane Estates.
3737	10-15-63	Accepts application of Hessenauer et al. for annexation of 133.58 acres.
3901	10-5-65	Accepts application of Grubaugh and Weaver for 0.26 acres, 7.15 acres and 7.41 acres being part of Polk Township, northwest quarter of Section 33, Township 20 North, Range 20 West.
3973	12-6-66	Accepts application of Wires for 101 acres in Polk Township, being part of northeast quarter of Section 36, Township 16 South, Range 21 West.
3986	2-21-67	Accepts application of Park et al. for 9.928 acres in Polk Township, being part of northwest quarter of Section 36, Township 16 North, Range 21 West.
4037	12-5-67	Accepts application of Wert and Zeger for 3.37 acres in Polk Township, being part of northwest quarter of Section 36, Township 16 North, Range 21 West.
4056	3-5-68	19.55 acres in Polk Township, being part of northwest quarter of Section 1, Township 15 North, Range 21 West.
4057	3-5-68	29.95 acres in Polk and North Bloomfield Townships, Crawford and Morrow Counties.
4068	3-5-68	Amends Ord. 4057.
69-4163	8-5-69	Accepts application of Isabelle A., Earle A. and Margaret Wiener for property in Crawford County.
70-4236	6-2-70	Accepts application of Galion Iron Works and Manufacturing Company, Charles L. and Martha Cole and Penn-Central Railroad for four parcels in Crawford County.
70-4249	7-7-70	Accepts application of Harry I. and Dorothy J. Weirs and other for property in Crawford County.
71-4342	7-20-71	Approves inclusion of property in Crawford County to petition of Adolf Pfeifer et al.
71-4373	12-28-71	Approves inclusion of property in Crawford County to petition of Adolf Pfeifer et al.
72-4421	8-15-72	Approves inclusion of property in Crawford County to petition of Adolf Pfeifer et al.
72-4427	9-19-72	Accepts application of National Homes Development Company of Ohio, Inc. for property in Crawford County.
73-4498	6-5-73	Accepts application of Adolf Pfeifer, et al. for property in Crawford County.
73-4519	10-2-73	Accepts application of Willis A. Horton and Donatus F. Weitham for property in Crawford County.
74-4559	6-4-74	Accepts application of Annette Stidd, Dale O. Albright, Bessie Albright, Rolan C. West, I.W. Reid, Mildred Reid and Richard F. Geier for property in Crawford County.
75-4662	8-5-75	Accepts application of JAN-MAR, Inc. for 7.19 acres in vicinity of Winchester Rd. and Rensch Ave.
76-4720	6-1-76	Accepts application of D. Hathaway et al for 27.871 acres in the vicinity of Hosford Rd., Olentangy River, the corporation line and State Routes 61 and 309.
78-4886	8-15-78	Annexation application of Fleiner, Lamb and Finical for 18.61 acres at intersection of Township Highway 224 and County Highway 89.
81-5135	10-20-81	Annexation application of Galion Industrial Park for 26.91 acres of Knorr Rd.
82-5210	9-21-82	Authorizes annexation of 9.15 acres, part of NW quarter of Sec. 1, Twp. 15 North, Range 21 West, in the vicinity of Hosford Rd.
88-5691	6-7-88	Annexation of 58.26 acres in Polk Twp.
88-5715	11-15-88	Annexation of 58.26 acres upon the application of the Knights of Columbus Building Corp., and Fisher Real Estate Corp.
89-5761	8-1-89	Annexation of 3.61 acres upon application of Charles and Eileene Quaintance and Robert and Vera Ash.
90-5856	12-11-90	Original Polk Township zoning classification of Agricultural to R-3.
92-5978	9-8-92	Annexation of 3.68 acres of land adjacent to the north part of the City in the vicinity of State Highway 598.
94-6053	1-25-94	Annexation of 26.85 acres in the vicinity of State Highway 598.
94-6082	6-14-94	Annexation of 28.324 acres adjacent to the South part of the City being 23.071 acres from North Bloomfield Township and 5.253 acres from Polk Township.
95-6143	5-23-95	Annexation of 2.58 acres adjacent to the north boundary of the City on the east side of North Market Street.
97-6267	6-24-97	Annexation of 23.694 acres of City owned land located contiguous to a portion of the northwest corporate limits.
00-74	11-14-00	Accepts annexation of 1362.471 acres of land adjacent generally to the northeast part of the City and located in Polk and Jackson Townships in Crawford County and Sandusky Township in Richland County.
01-42	5-22-01	Annexation of 83.355 acres adjacent generally to the northwest part of the City and having frontage on the west side of State Route 598.
01-43	5-22-01	Annexation of 70.150 acres adjacent generally to the northwest part of the City and generally known as Cheshire Estates.
02-13	3-12-02	Amends Ord. 00-74 to reduce the accepted annexation territory from 1362.471 to 1315.741.
02-50	8-27-02	Annexation agreement with Polk Township to adjust the existing Galion Township Boundary to include 794.034 acres of land and to exclude same from Polk Township.
03-11	1-28-03	Annexation of 6.20 acres located on the north side of State Route 309 in Polk Township.
03-14	1-28-03	Annexation of 1.54 acres located on the south side of State Route 309 in Polk Township.
2003-33	4-22-03	Annexation of 6.20 acres located on the north side of State Route 309 in Polk Township.
2003-34	4-22-03	Annexation of 1.54 acres located generally on the south side of State Route 309 in Polk Township.
2003-99	10-28-03	Annexation of 76.196 acres located on the north and south sides of Brandt Road, west of State Route 598.
2003-101	11-25-03	Annexation of 2.025 acres located generally east of North Market St. between Bennett Ave. and Buckeye Road.

- 2003-102 11-25-03 Annexation of 54.20 acres located on the east side of State Route 598 in Polk Township.
- 2004-7 1-27-04 Annexation of 3.26 acres located generally east of Nazor Road and north of State Route 309 in Polk Township.
- 2004-8 1-27-04 Annexation of 4.75 acres located west of Fairview Ave. and south of Buckeye Road in Polk Township.
- 2004-11 2-10-04 Annexation of 6.450 acres located generally north of Crawford- Morrow County Line Road and west of Castleton Drive in Polk Township.
- 2004-12 2-10-04 Annexation of 76.196 acres located generally on the north and south sides of Brandt Road, west of State Route 598.
- 2004-33 4-27-04 Annexation of 1.744 acres generally known as Lots 2,3 and 4 of Westmoor Village Subdivision No. 3 in Polk Township.
- 2004-34 4-27-04 Annexation of 26.320 acres located on State Route 61 North in Jackson Township.
- 2004-35 4-27-04 Annexation of 1.018 acres located on State Route 61 North in Polk Township.
- 2009-21 3-10-09 Annexation of 4.762 acres of land, located generally south of Dawsett Avenue and being a part of the northeast quarter of Section 5, Township 19 North, Range 20 West in Polk Township.
- 2009-61 9-8-09 Annexation of 9.148 acres of land, located generally on the north side of Hosford Road west of Portland Way South and being a part of the northwest quarter of Section 1 in Township 15 North, Range 21 West in Polk Township.
- 2012-17 2-29-12 Annexation of 3.1656 acres of City-owned land located in Sandusky Township, Richland County, Ohio.
- 2014-39 3-25-14 Annexation of 2.00 acres of land, more or less, located at 812 Portland Way north in Polk Township.
- 2014-59 7-22-14 Annexation of 2.00 acres, more or less, in Polk Township to the City.
- 2014-100 11-25-14 Annexation of 5.80 acres of land, more or less, located on Portland Way North in Polk Township.
- 2015-13 3-4-15 Annexation of 5.80 acres, more or less, in Polk Township.
- 2017-58 9-26-17 Annexation of 4.012 acres of land, more or less, located on State Route 598 in Jefferson Township.
- 2018-21 4-24-18 Annexation of 15.395 acres of land, more or less, located on State Route 598 in Polk Township.
- 2018-47 8-14-18 Annexation of 15.395 acres of land, more or less, located on State Route 598 in Polk Township.

TABLE J - CHANGE OF STREET NAMES

Ord. Book

and Page Ord. No. Date Description

II-496 6-4-88 Warren Street to Riblet Street.

III-221 10-22-96 Gill Street to Gill Avenue.

V-588 952 1-19-15 East Main Street to Lincoln Way East and West Main Street to Lincoln Way West.

Ord. No. Date Description

1054 2-19-18 Berlin Street to Crew Avenue.

1071 11-19-18 Mannheim Street to Wilson Avenue; Heidelberg Street to East Parsons Street and Wurtemberg Street to Pershing Street.

1164 12-18-23 Lincoln Way East and Lincoln Way West to Harding Way East and Harding Way West.

2368 12-6-38 Part of West Atwood Street to Westwood Street.

2472 8-5-41 Allen Street to High Street.

3209 12-7-54 Township Road to Rosewood Drive.

3289 5-1-56 County Line Road to Rensch Avenue.

3420 12-2-58 Park Drive to Heise Park Lane; Park Street to Park Avenue; High Street to Wagner Avenue; Park Avenue to Fifth Avenue; Cronenwett Road to Sixth Avenue; Flannery Street to Dawsett Avenue; Mackey Lane to Richardson Avenue.

3430 1-20-59 A right of way to Guinther Court.

3454 5-5-59 North and South State Road to Portland Way.

3457 6-16-59 A right of way to Jan Court.

3509 4-19-60 A right of way to Lee Court.

3548 9-6-60 Gledhill Court to Gledhill Drive.

3584 3-21-61 Names Ritchey Drive.

3632 9-19-61 Names Wisterman Court.

3635 10-3-61 Names Nichols Drive.

3650 12-5-61 South Boston Street to South Market Street.

3963 9-20-66 Names two alleys as Finley Drive and Koppe Court.

3979 1-3-67 Names an alley Booth Drive.

70-4229 6-2-70 Names an alley Lehigh Place.

70-4248 7-7-70 Names a public thoroughfare Trachsel Place.

71-4370 12-7-71 Renames part of McClure Street to Eighth Avenue.

94-6059 3-8-94 Fredrick Ave., to Goldenrod Ave.

95-6147 5-23-95 Defiance Drive to Freese Works Place.

CODIFIED ORDINANCES OF GALION

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

Chap. 101. Codified Ordinances.

Chap. 103. Official Standards.

Chap. 105. Wards and Boundaries.

Chap. 107. Open Meetings.

TITLE THREE - Legislative

Chap. 121. Council.

Chap. 123. Ordinances and Resolutions.

TITLE FIVE - Administrative

Chap. 131. Mayor.

Chap. 133. Law Director.

Chap. 135. Auditor.

Chap. 136. Treasurer.

Chap. 137. Department of Public Works.

Chap. 139. Department of Police Protection.

Chap. 141. Department of Fire Protection.

Chap. 143. Airport Commission.

- Chap. 145. Civil Service Commission.
- Chap. 147. Planning Commission.
- Chap. 149. Board of Zoning Appeals.
- Chap. 153. Employment Provisions.
- Chap. 155. Street Tree Commission.
- Chap. 159. Veterans Memorial Commission.
- Chap. 161. Fees for Permits, Services and Licenses.
- Chap. 163. Galion Port Authority.

TITLE SEVEN - Judicial

- Chap. 171. Municipal Court.

TITLE NINE - Taxation

- Chap. 191. Income Tax Effective January 1, 2016.
- Chap. 191A. Income Tax Through December 31, 2015.
- Chap. 193. Motor Vehicle License Tax.
- Chap. 195. Transient Occupancy Tax.

**CODIFIED ORDINANCES OF GALION
PART ONE - ADMINISTRATIVE CODE
TITLE ONE - General Provisions**

- Chap. 101. Codified Ordinances.
- Chap. 103. Official Standards.
- Chap. 105. Wards and Boundaries.
- Chap. 107. Open Meetings.

CHAPTER 101

Codified Ordinances

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

CROSS REFERENCES

See sectional histories for similar State law
 Statute of limitations on prosecutions - see Ohio R.C. 718.06; GEN. OFF. 501.06
 Codification in book form - see Ohio R.C. 731.23
 Imprisonment until fine and costs are paid - see Ohio R.C. 1905.30, 2947.14
 Citation issuance for minor misdemeanors - see Ohio R.C. 2935.26 et seq.
 Ordinances and resolutions - see ADM. Ch. 123
 Rules of construction for offenses and penalties - see GEN. OFF. 501.04

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Galion, Ohio, 1993 for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances.

(ORC 1.01)

(b) All references to codes, titles, chapters and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 101.01".

101.02 GENERAL DEFINITIONS.

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

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

(ORC 1.02(F))

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

(ORC 1.02(B))

(c) "Bond" includes an undertaking and "undertaking" includes a bond.

(ORC 1.02(D), (E))

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

(e) "County" means Crawford County.

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

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

(ORC 701.01(F))

(h) "Municipality" or "City" means Galion, Ohio.

(i) "Oath" includes affirmation and "swear" includes affirm.

(ORC 1.59(B))

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

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

(ORC 1.59(C))

(l) "Premises", as applied to property, includes land and buildings.

(m) "Property" means real and personal property.

(ORC 1.59(E))

"Personal property" includes all property except real.

"Real property" includes lands, tenements and hereditaments.

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

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

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

(ORC 1.02(G))

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

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

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

(ORC 1.59(G))

(t) "Street" includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.

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

(v) "Whoever" includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private.

(ORC 1.02(A))

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

(ORC 1.59(J))

101.03 RULES OF CONSTRUCTION.

(a) Common and Technical Usage. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

(ORC 1.42)

(b) Singular and Plural; Gender; Tense. As used in the Codified Ordinances, unless the context otherwise requires:

(1) The singular includes the plural, and the plural includes the singular.

(2) Words of one gender include the other genders.

(3) Words in the present tense include the future.

(ORC 1.43)

(c) Calendar; Computation of Time.

(1) Definitions.

A. "Week" means seven consecutive days.

B. "Year" means twelve consecutive months.

(ORC 1.44)

(2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

(ORC 1.45)

(3) The time within which an act is required by law to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday.

When a public office, in which an act required by law is to be performed, is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday.

(ORC 1.14)

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

(ORC 1.15)

(5) In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(d) Authority. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(e) Joint Authority. All words purporting to give joint authority to three or more municipal officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority or inconsistent with State statute.

(f) Exceptions. The rules of construction shall not apply to any law which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

(a) The repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving clause therein.

(ORC 1.57)

(b) An ordinance which is re-enacted or amended is intended to be a continuation of the prior ordinance and not a new enactment, so far as it is the same as the prior ordinance.

(ORC 1.54)

(c) The re-enactment, amendment or repeal of an ordinance does not, except as provided in subsection (d) hereof:

(1) Affect the prior operation of the ordinance or any prior action taken thereunder;

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

(3) Affect any violation thereof or penalty, forfeiture or punishment incurred in respect thereto, prior to the amendment or repeal;

(4) Affect any investigation, proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment; and the investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the ordinance had not been repealed or amended.

(d) If the penalty, forfeiture or punishment for any offense is reduced by a re-enactment or amendment of an ordinance, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the ordinance as amended.
(ORC 1.58)

101.05 CONSTRUCTION OF SECTION REFERENCES.

(a) A reference to any portion of the Codified Ordinances applies to all re-enactments or amendments thereof.
(ORC 1.55)

(b) If a section refers to a series of numbers or letters, the first and the last numbers or letters are included.
(ORC 1.56)

(c) Wherever in a penalty section reference is made to a violation of a series of sections or of subsections of a section, such reference shall be construed to mean a violation of any section or subsection included in such reference.

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

101.06 CONFLICTING PROVISIONS.

(a) If there is a conflict between figures and words in expressing a number, the words govern.
(ORC 1.46)

(b) If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.
(ORC 1.51)

(c) (1) If ordinances enacted at different meetings of Council are irreconcilable, the ordinance latest in date of enactment prevails.

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

101.07 DETERMINATION OF LEGISLATIVE INTENT.

(a) In enacting an ordinance, it is presumed that:

- (1) Compliance with the constitutions of the State and of the United States is intended;
- (2) The entire ordinance is intended to be effective;
- (3) A just and reasonable result is intended;
- (4) A result feasible of execution is intended.

(ORC 1.47)

(b) An ordinance is presumed to be prospective in its operation unless expressly made retrospective.
(ORC 1.48)

(c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:

- (1) The object sought to be attained;
- (2) The circumstances under which the ordinance was enacted;
- (3) The legislative history;
- (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
- (5) The consequences of a particular construction;
- (6) The administrative construction of the ordinance.

(ORC 1.49)

101.08 SEVERABILITY.

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

101.99 GENERAL PENALTY.

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

CHAPTER 103

Official Standards

103.01 Benchmarks.

CROSS REFERENCES

State standard of time - see Ohio R.C. 1.04

State legal holidays - see Ohio R.C. 1.14, 5.20 et seq.

103.01 BENCHMARKS.

The following benchmarks are established for the City:

(a) On the Cleveland, Cincinnati, Chicago and St. Louis Railway, in the east face of the station, 2 feet north of the southeast corner, in the water table, and 2.5 feet above the platform, a standard disk, stamped "K 11 1934" and set vertically, (357,320 meters or 1,172.307 feet);

(b) At the post office, 24 feet northwest of the main entrance, in the southwest window sill, and 18 inches above the sidewalk, a standard disk, stamped "GALION 1934," (355.411 meters or 1,166.044 feet);

(c) At top of east rail of the east track opposite Cleveland, Cincinnati, Chicago and St. Louis Railway milepost CLE 80, (1,169.3 feet);

(d) At the crossing of the Cleveland, Cincinnati, Chicago and St. Louis Railway and the Erie Railroad, 51 feet north of the northeast corner of

the interlocking tower, 38 feet east of the east rail of the Cleveland, Cincinnati, Chicago and St. Louis Railway track, 15 feet north of the north rail of the north track of the Erie Railroad, and about six inches lower than the top of the rail, a United States Geological Survey standard cap, stamped "1171" and riveted on the top of a 3 1/2 inch iron pipe, (356.242 meters or 1,168.771 feet).

(Ord. 3308. Passed 9-18-56.)

CHAPTER 105

Wards and Boundaries

105.01 Four wards established.

105.02 First Ward.

105.03 Second Ward.

105.04 Third Ward.

105.05 Fourth Ward.

CROSS REFERENCES

Division into wards - see Ohio R.C. 731.06

Voting precincts - see Ohio R.C. 3501.18

105.01 FOUR WARDS ESTABLISHED.

The City is hereby subdivided into four wards, which are equal in number to the members of Council who are hereafter to be elected from wards according to law. The four wards are hereby created and established in the City. The boundaries thereof shall be hereinafter set forth, which boundaries are fixed so that each ward shall contain as nearly as practicable an equal number of inhabitants.

(Ord. 3308. Passed 9-18-56.)

105.02 FIRST WARD.

The First Ward shall contain all that territory lying west of North Market Street and north of Harding Way West and Winchester Road.

(Ord. 2001-69. Passed 8-28-01.)

105.03 SECOND WARD.

The Second Ward shall contain all that territory lying north of Harding Way East and east of North Market Street. (Ord. 2001-69. Passed 8-28-01.)

105.04 THIRD WARD.

The Third Ward shall contain all that territory lying south of Harding Way East and east of South Market Street. (Ord. 2001-69. Passed 8-28-01.)

105.05 FOURTH WARD.

The Fourth Ward shall contain all that territory lying west of South Market Street and south of Harding Way West and Winchester Road.

(Ord. 2001-69. Passed 8-28-01.)

CHAPTER 107

Open Meetings.

107.01 Compliance.

107.02 Notification of regular meetings.

107.03 Notification of special meetings; emergency meetings.

107.04 Notification of discussion of specific type of business.

107.05 Timing of notification.

107.06 Phoning for information.

CROSS REFERENCES

Open meetings - see Ohio R.C. 121.22

107.01 COMPLIANCE.

In order to comply with Ohio R.C. 121.22 the following rules are hereby established.

(Ord. 75-4690. Passed 12-2-75.)

107.02 NOTIFICATION OF REGULAR MEETINGS.

Notification of the time, date and place of the holding of all regular meetings of Council shall be posted on the bulletin board in the lobby of the Municipal Building and shall also be published at least twenty-four hours prior to each such regular meeting in a newspaper of general circulation in the City. Notification by either of the foregoing methods shall be deemed sufficient compliance with the requirements of Ohio R.C. 121.22.

(Ord. 75-4690. Passed 12-2-75.)

107.03 NOTIFICATION OF SPECIAL MEETINGS; EMERGENCY MEETINGS.

Notification of the time, date, place and purpose of the holding of all special meetings of Council shall be posted on the bulletin board in the lobby of the Municipal Building at least twenty-four hours prior to such special meeting. In addition, twenty-four hours advance notice of such special meeting shall be given to news media that have requested notification.

The foregoing notice requirements for special meetings shall not apply in the event of an emergency requiring immediate official action in which case the notice shall be posted and the notification to news media shall be given by the official or members calling the meeting immediately upon the calling thereof. Any news media requesting notification shall provide a telephone number at which notification may be made to it, and an address to which any mail notification may be made. The type of notification shall be at the discretion of the Clerk of Council.

(Ord. 75-4690. Passed 12-2-75.)

107.04 NOTIFICATION OF DISCUSSION OF SPECIFIC TYPE OF BUSINESS.

Any person may request advance notification of any meeting at which the specific business for which notification has been requested is to be discussed. Each request and the payment of the aforesaid fee shall apply to only one specific type of business. If a person wishes to be notified of more than one type of business he shall make separate requests therefor. Any person requesting advance notification shall provide an address to which notification may be made, and shall provide the Clerk of Council with an adequate supply (at least ten) of self-addressed stamped envelopes.

107.05 TIMING OF NOTIFICATION.

Any mail notice required by this chapter shall be deemed complete when such notice is deposited in the United States mail, properly addressed, with adequate postage affixed, at least two days prior to the day of the meeting, if the intervening day is a day on which mail delivery is made. (Ord. 75-4690. Passed 12-2-75.)

107.06 PHONING FOR INFORMATION.

Any person desiring information concerning the time, date and place of any meeting or the purpose of any special meeting, may obtain the same by calling the office of Clerk of Council.

TITLE THREE - Legislative

Chap. 121. Council.

Chap. 123. Ordinances and Resolutions.

CHAPTER 121

Council

121.01 Rules of procedure.

121.02 Clerk of Council.

CROSS REFERENCES

Adoption and style of ordinances and resolutions - see Ohio R.C. 715.03, 731.17 et seq.

Qualifications - see Ohio R.C. 731.02, 731.44

Election and term - see Ohio R.C. 731.03, 733.09

President pro tempore - see Ohio R.C. 731.04, 733.08

Legislative powers - see Ohio R.C. 731.05

Powers as to salaries and bonds - see Ohio R.C. 731.07 et seq., 731.49 et seq.

Vacancy - see Ohio R.C. 731.43

President - see Ohio R.C. 733.07 et seq.

Hearings against delinquent officers - see Ohio R.C. 733.35 et seq.

Contract interest - see Ohio R.C. 733.78; GEN. OFF. 525.10

121.01 RULES OF PROCEDURE.

Following each election, Council at its first regular meeting shall adopt its rules and procedures by resolution. (Ord. 86-5554. Passed 7-1-86.)

121.02 CLERK OF COUNCIL.

(a) The Clerk of Council elected under Section 731.04 of the Ohio Revised Code, an unclassified employee, shall have the following duties and responsibilities to perform during his or her term of office:

- (1) The Clerk of Council, and in his/her absence the Clerk Pro Tempore, shall be responsible to City Council for the completion of all paperwork; attend, record, and transcribe City Council meetings, regular and special; prepare minutes of Council Meetings and preserve meetings by use of audio/video medium; post all meeting dates; record, index, and publish all signed Ordinances and Resolutions, and sign as Attester for approved legislation; initiate notification of vacancies of elected officials; attend to all correspondence; attend to the codification of the ordinances and update the Codified Ordinance Book on an annual basis; responsible for recording all documents passed by Ordinance or Resolution with the appropriate authorities; file all documents related to Council business and make such records available to the public; keep fiscal records, prepare purchase requisitions; prepare and certify transcript of all annexation proceedings; follow notices pertaining to notices to property owners, publications, and objections; serves as the Secretary for the Financial Planning and Supervision Committee, forwarding information and legislation on to the City Council; assist in the preparation of the annual budget for City Council and Clerk of Council; report to Council the reason for members absence from Council meetings; and performs other duties as assigned by a majority vote of Council. Further, the Clerk of Council shall prepare ordinances and resolutions to come before Council in conjunction with and in coordination with the Director of Law, and shall have such additional duties and roles as outlined in the Ohio Revised Code for the clerk of the legislative authority elected pursuant to Ohio R.C. Section 731.04.

(b) Said Clerk elected at the first meeting of a new Council term under Ohio R.C. 731.04 shall be employed on a full-time (40 hours per week) basis throughout his or her term of office at the rate of pay consistent with AFSCME Contract pay category 7, currently in force, and will be subject to the benefits ordinance passed pertaining to other non-union employees.

(Ord. 2020-1. Passed 1-7-20.)

CHAPTER 123

Ordinances and Resolutions

EDITOR'S NOTE: There are no sections in Chapter 123. This chapter has been established to provide a place for future legislation and for cross references.

CROSS REFERENCES

Newspaper publication - see Ohio R.C. 7.12, 701.04, 731.21 et seq.

Adoption and style - see Ohio R.C. 715.03, 731.17 et seq.

Subject and amendment - see Ohio R.C. 731.19

Authentication and recording - see Ohio R.C. 731.20

Adoption of technical codes - see Ohio R.C. 731.231

Certification as to publication - see Ohio R.C. 731.24 et seq.

Initiative and referendum - see Ohio R.C. 731.28 et seq.

Emergency measures - see Ohio R.C. 731.30

Certified copies as evidence - see Ohio R.C. 731.42

TITLE FIVE - Administrative

Chap. 131. Mayor.

Chap. 133. Law Director.

Chap. 135. Auditor.

- Chap. 136. Treasurer.
- Chap. 137. Department of Public Works.
- Chap. 139. Department of Police Protection.
- Chap. 141. Department of Fire Protection.
- Chap. 143. Airport Commission.
- Chap. 145. Civil Service Commission.
- Chap. 147. Planning Commission.
- Chap. 149. Board of Zoning Appeals.
- Chap. 153. Employment Provisions.
- Chap. 155. Street Tree Commission.
- Chap. 159. Veterans Memorial Commission.
- Chap. 161. Fees for Permits, Services and Licenses.
- Chap. 163. Galion Port Authority.

CHAPTER 131

Mayor

- 131.01 **Powers and duties.**
- 131.02 **Indigent burial or cremation costs.**

CROSS REFERENCES

- Removal from office - see Ohio R.C. 3.07 et seq.
- Veto power - see Ohio R.C. 731.27
- Election and term - see Ohio R.C. 733.02
- General powers - see Ohio R.C. 733.03
- Appointment of municipal officers - see Ohio R.C. 733.05
- Acting Mayor - see Ohio R.C. 733.07
- Vacancy - see Ohio R.C. 733.08
- General duties - see Ohio R.C. 733.30

131.01 POWERS AND DUTIES.

The Mayor is the chief administrative officer and chief executive officer of the City.

The Mayor shall:

- (a) Appoint and remove all officers and employees.
 - (b) The Mayor or his designee shall execute on behalf of the City all contracts, conveyances, evidence of indebtedness and all other instruments to which the City is party.
 - (c) Appoint, with approval of Council, such citizen advisory committees, commissions and boards, as seem to him desirable and discharge them when in his judgment their function has been completely served.
 - (d) Attend all meetings of Council with the right to participate in discussion and bring matters to the attention of Council, but without the right to vote.
 - (e) Create and establish and discontinue any department, division or board in the administrative affairs of the City, subject to Council approval and provided that changes are in conformance with provisions of State law.
 - (f) Recommend any legislation for adoption by Council, or recommend the repeal of obsolete legislation.
 - (g) Prepare and submit to Council, the annual budget and appropriations ordinance accompanied by a five year capital improvement program based on goals adopted by Council.
 - (h) Prepare and submit to Council and to the public an annual report including, but not limited to, the financial and administrative affairs and activities of the City for the preceding year, and a plan for goals and accomplishments for the coming year.
 - (i) Continually advise Council on the financial condition and future needs of the City and make such recommendations as may seem desirable.
 - (j) Develop and keep current an administrative code which shall set forth the organizational and operational procedures of the City government. Such an administrative code shall include, but not be limited to, departmental rules, purchasing procedures, personnel rules, risk management, classification and pay plan procedures, etc.
 - (k) The Safety-Service Director shall act as purchasing agent for the City.
 - (l) Make such other reports requested by Council on the operations of the City.
 - (m) Perform such other duties requested of him by Council that are consistent with the laws of Ohio.
- (Ord. 86-5556. Passed 7-1-86.)

131.02 INDIGENT BURIAL OR CREMATION COSTS.

The Safety-Service Director is hereby, authorized to approve vouchers in an amount not exceeding one thousand dollars (\$1,000.00) in those instances when the City has the responsibility to provide indigent burial or cremation services pursuant to Ohio R. C. 9.15.

(Ord. 2018-7. Passed 2-13-18.)

CHAPTER 133

Law Director

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

CROSS REFERENCES

- Election and term - see Ohio R.C. 733.49
- Qualifications, powers and duties - see Ohio R.C. 733.50 et seq.
- Annual reports to Council - see Ohio R.C. 733.62
- Counsel for City school board - see Ohio R.C. 3313.35

CHAPTER 135

Auditor

- 135.01 Authorization to withdraw City funds.**

- 135.02 **Identity Theft Prevention Program.**
 135.03 **Bonds.**
 135.04 **Credit card and charge account policy.**

CROSS REFERENCES

Uniform Bond Law - see Ohio R.C. Ch. 133
 Uniform Depository Act - see Ohio R.C. Ch. 135
 Treasury investment account - see Ohio R.C. 731.56 et seq.
 Election and term - see Ohio R.C. 733.10
 Merger of certain offices - see Ohio R.C. 733.11
 Books and accounts - see Ohio R.C. 733.11 et seq.
 Duty as to receiving bids - see Ohio R.C. 733.18
 Seal - see Ohio R.C. 733.20
 Appropriation and expenditure - see Ohio R.C. 5705.41

135.01 AUTHORIZATION TO WITHDRAW CITY FUNDS.

(a) All withdrawals of funds in the amount of five thousand dollars (\$5,000.00) or less by checks and/or other instruments from depository accounts held in the name of the City of Galion shall be signed and/or otherwise authorized by the Treasurer of the City of Galion in his/her official capacity.

(b) All withdrawals of funds greater than five thousand dollars (\$5,000.00) by checks and/or other instruments from depository accounts held in the name of the City of Galion shall be signed and/or otherwise authorized by both the Treasurer and the Auditor of the City of Galion in their official capacities.

(Ord. 2018-17. Passed 3-27-18.)

135.02 IDENTITY THEFT PREVENTION PROGRAM.

EDITOR'S NOTE: Council does hereby adopt for the City of Galion the Identity Theft Policies and Procedures as attached to Ordinance 2009-34, and made a part hereof, same to be effective from and after May 1, 2009. (Ord. 2009-34. Passed 4-14-09.)

135.03 BONDS.

(a) The City Treasurer shall be bonded for \$50,000.00.

(b) The City Auditor shall be bonded for \$100,000.00.

(Ord. 2013-60. Passed 8-27-13.)

135.04 CREDIT CARD AND CHARGE ACCOUNT POLICY.

(a) Purpose. The Ohio Revised Code Section 717.31 authorizes a municipality to hold a credit card, mandates the adoption of a policy for the use of credit cards, and outlines the provisions required of such a policy. This policy is enacted to govern the use of any credit card and charge accounts by any and all people authorized by the Galion City Auditor or their designee to use a credit card or charge account.

(b) Definitions.

- (1) "Authorized User" means an official, employee, or appointee of the City of Galion that has received authorization to use a credit card account held by the City of Galion.
- (2) "Council" means the elected City Council of the City of Galion, located in Crawford County, Ohio.
- (3) "Credit Card Account" or "Account" means any bank issued credit card account, store issued credit card or account, or other card or charge account allowing the holder to purchases goods or services on credit.
- (4) "Credit Card" means a card related to a Credit Card Account held by City of Galion.
- (5) "Charge Account" means a vendor that allows a line of credit for the city to charge goods or services.
- (6) "Auditor" means the elected City Auditor for the City of Galion.
- (7) "Designee" means Auditor employee that is designated, appointed or chosen.
- (8) "City" means the City of Galion, located in Crawford County, Ohio.
- (9) "Policy" or "Credit Card and Charge Account Policy" means this policy and all exhibits, amendments, and supplements.

(c) Compliance of Credit Card Account.

- (1) Compliance. The Auditor of the City shall maintain control and oversee all City Credit Cards or Charge Accounts and presentation instruments related to the cards and accounts.
 The Auditor or their designee is responsible for the administration of the City Credit Cards to include, but not limited to the selection of the card provider, the payment of Credit Card bills from submitted pay requests, and managing the issuance of the Cards. Each department or cardholder is responsible for ensuring the proper use and pay requests of their purchases. It is the responsibility of each cardholder to store cards in a secured, locked location when cards are not in use.
 The Auditor shall provide a report to Council each month of Credit Card Account transaction detail from the previous month. Council shall review this transaction detail and the Council President shall sign an attestation stating that the Council has reviewed this information.
 The Auditor shall maintain the number of cards and accounts issued, the number of active cards and accounts issued, the cards' and accounts' expiration dates, the cards' and accounts' credit limits, and authorized card users.
 The Auditor shall provide an annual report to Council detailing all rewards received based on the use of the municipal Credit Card accounts.
- (2) The maximum limit for the use of a Credit Card or Charge Account will be five thousand dollars (\$5,000.)
- (3) The Auditor or their designee shall issue cards and determine how the city/holder will be listed on each card.

(d) Use of a Credit Card or Charge Account.

- (1) Authorized Users. Authorized Users for the City Credit Card or Charge Account are determined by department heads or card holders and approved by the Auditor or their designee. The addition or elimination of any employee for the use of the City Credit Card or Charge Account will be reported to the Auditor or their designee as soon as possible.
- (2) Authorized Expenses. The Auditor or their designee may expressly limit the terms of use of a Credit Card or Charge Account with each Authorized User at any time. Any Credit Card or Charge Account may only be used for purchases of work-related goods and services incurred on the behalf of the City. This is not a tool to pay regular bills or where other city charge accounts exists. For example, it is not for utility bills unless authorized by Auditor or designee under special circumstances. It is not for payment to Lowe's or HR Wolf Hardware. If you are unsure of an authorized expense, contact the Auditor's office prior to purchase.

Examples of expenses for which a Credit Card may be used;

- A. Travel: Credit Cards may be used by assigned individuals for official businessrelated expenditures for hotel, parking, ferry, taxi, meals, airline tickets, emergency City vehicle repairs and other travel-related expenses as authorized by the Auditor. Travel expenditures shall not exceed those outlined in the City's travel policy.
- B. Purchases: Credit Cards may be used for ordering supplies, including online purchases when pre-approved by the Auditor or the

Auditor's designee.

Credit Card **SHALL NOT** be used for cash advances, the purchase of alcohol, personal purposes or personal expenses and shall only be used to transact City business.

- (3) **Itemized receipts.** Credit Card users shall obtain itemized receipts for each transaction and provide a signed copy of same to the head of their department as soon as the purchase is made or upon completion of travel. The purpose of the transaction shall be clearly indicated on the receipt and user shall sign the receipt acknowledging the purchase was for city purposes as noted in Exhibit C.
- (4) **Lost or stolen cards.** The authorized Credit Card user shall immediately report the loss, theft, or possible unauthorized use of the card to the Auditor or designee. The Auditor or authorized designee shall immediately notify the issuer of the card to place a hold on the account.
- (5) **Issuance of card(s).** Any card user shall sign the acknowledgment of the Credit Card or Charge Account policy before use of the City Credit Card or Charge Account.
If Card is given to authorized user for travel, the Card shall be returned to the head of their department, the Auditor or their designee by the next business day.
- (6) **Rewards.** Credit Card rewards are assets of the City and are under the control of the legislative authority. All Credit Card rewards must be surrendered to the Auditor's office for proper expenditure control oversight. Any personal use of the Credit Card rewards is a violation of this policy and a possible violation of Ohio R.C. 2913.21.
- (e) **Penalties.** The use of a City Credit Card or Charge Account for expenses beyond those authorized by this Policy and legislative authority, or any failure to comply with these policies constitutes misuse of a Credit Card or Charge Account. An employee who knowingly misuses a Credit Card or Charge Account held by the legislative authority violates section 2913.21 of the Ohio Revised Code, which is a misdemeanor of the first degree and is subject to discipline, which could include demotion, termination and possible criminal charges.
(Ord. 2020-15. Passed 3-24-20.)

CHAPTER 136

Treasurer

EDITOR'S NOTE: There are no sections in Chapter 136. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Loss of funds; release of liability - see Ohio R.C. 131.18 et seq.
Uniform Depository Act - see Ohio R.C. Ch. 135
Election and term - see Ohio R.C. 733.42
Accounts - see Ohio R.C. 733.43, 733.45 et seq.
Powers and duties - see Ohio R.C. 733.44
Annual report to Council - see Ohio R.C. 733.45
Custodian of Firemen's Pension Fund - see Ohio R.C. 741.13
Custodian of Police Pension Fund - see Ohio R.C. 741.44
Auditor - see ADM. Ch. 135
Bonds - see ADM. 135.03

CHAPTER 137

Department of Public Works

EDITOR'S NOTE: There are no sections in Chapter 137. This chapter has been established to provide a place for cross references and future legislation.

CHAPTER 139

Department of Police Protection

139.01 Reserve Officers Unit.

CROSS REFERENCES

Police officer training certificate required - see Ohio R.C. 109.77
Police protection contracts - see Ohio R.C. 505.441, 737.04
Police and Firemen's Disability and Pension Fund - see Ohio R.C. Ch. 742

139.01 RESERVE OFFICERS UNIT.

(a) There is hereby created and established the Auxiliary Police Unit of the Police Department of the City of Galion, Ohio, to be known as the "Reserve Officers Unit," the individual officers of which shall be known as "Reserve Officers."

(b) The Safety-Service Director is appointed executive head of the Reserve Officers Unit. The appointment, refusal to appoint and removal from appointment of all Reserve Officers shall be at the sole discretion of the Safety-Service Director and all decisions as to the appointment, refusal to appoint, or removal, shall be final and without recourse or appeal.

(c) The members of the Reserve Officers Unit shall serve so long as the Safety-Service Director may direct, or until a resignation submitted by such member shall be accepted by the Safety-Service Director.

(d) The members of the Reserve Officers Unit may not be under the age of twenty-one years at the time of their appointment and shall comply with such other requirements as may be provided by the rules and regulations adopted pursuant to this section.

(e) The Chief of Police shall be the commanding officer of the Reserve Officers Unit and shall have control of the assignment, training, stationing and direction of the work of such unit. The Reserve Unit will have all police powers, but shall perform only the police duties assigned by the Chief of Police and shall act only when in prescribed uniform or portion of uniform. The Chief of Police shall prescribe the time and place the uniform or portion thereof shall be worn. Reserve Unit members shall obey the chain of command of the Police Department and shall take orders from all regular appointed members thereof.

(f) The Chief of Police shall, with the approval of the Safety-Service Director, prescribe rules and regulations for the organization, administration, conduct and control of the Reserve Unit.

(g) All services performed by the Reserve Officers shall be on a voluntary basis within the corporate limits of the City of Galion. Reserve Officers shall serve without pay. Members of the Reserve Unit shall not be eligible for membership in the Police and Firemen's Pension and Disability Fund and shall not be in the classified service of the City. While on assigned duty, the members of the Reserve Unit shall be covered by

Workers' Compensation in accordance with the Industrial Commission of Ohio rules and regulations pertaining to the volunteer policemen and firemen of public employers.

(h) The establishment and operation of the Reserve Unit is deemed to be an exercise by the City of its police powers for the protection of the public peace, health, property and general welfare and neither the City, nor any agent or representative of the City, nor any person, firm, partnership, corporation, receiver, trustee or any other agent thereof, who in good faith, executes any order, rule or regulation promulgated pursuant to this section shall be liable for injury, death or damage sustained by any person or property as a direct or proximate result of such action. (Ord. 2000-14. Passed 2-22-00.)

CHAPTER 141

Department of Fire Protection

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

CROSS REFERENCES

Fire protection contracts - see Ohio R.C. 307.05, 505.44, 717.02
Schooling, buildings and equipment - see Ohio R.C. 715.05, 737.23 et seq.
Gas masks for firemen; requirements - see Ohio R.C. 3737.31

CHAPTER 143

Airport Commission

- 143.01 Establishment; members.**
- 143.02 Term.**
- 143.03 Purpose and duties.**
- 143.04 Meetings.**
- 143.05 Organization.**

CROSS REFERENCES

Airports - see Ohio R.C. Ch. 4563
Airports and temporary fields - see OAC Ch. 5501:1-1
Heliports - see OAC Ch. 5501:1-5

143.01 ESTABLISHMENT; MEMBERS.

There is hereby established an Airport Commission of the City which shall consist of five members appointed by the Mayor, with two members thereof being appointed from the private sector, with two members thereof being appointed from the public sector, and with the fifth member being from a business or industry having direct contact with the airport management or utilizing the airport facilities on a regular basis. All members of the Commission shall serve without compensation. (Ord. 95-6155. Passed 7-25-95.)

143.02 TERM.

The term of the five appointed members shall be four years except that of the five members first appointed, two shall be appointed for a term of two years and three for a term of four years. Any person appointed to fill a vacancy shall be appointed only for the unexpired term. Any member is eligible for reappointment.

(Ord. 95-6155. Passed 7-25-95.)

143.03 PURPOSE AND DUTIES.

The purpose and duties of the Airport Commission shall be as follows:

- (a) To study the problems and determine the needs of the City in connection with aviation, both locally and in its relation to the development of future transportation service, including management operation, extension and needs of the airport, acquisition of new sites and facilities, and the financing thereof.
- (b) To advise the Mayor concerning the management, personnel, activities, operation, policy, extension and financial problems of the airport.
- (c) To make recommendations from time to time to the Mayor as to desirable legislation concerning aviation activities of the City.
- (d) To provide for regular and special meetings at which aviation activities and the operation, management and improvements of the airport may be discussed by the members of the Commission and others interested in aviation.
- (e) To receive assignments from the Mayor for study, consideration and recommendations of any problems confronting the City in the field of aviation.
- (f) To review and comment on the Mayor's proposed annual operation budget.
- (g) To make such studies and to develop such programs, recommendations, or findings as it deems necessary or as may be requested by the Mayor.
- (h) To make recommendations on different methods of financing airport improvements, studies and land acquisition.
- (i) To recommend a long-term capital improvement program.
- (j) To recommend grant applications for federal, state, regional or local agencies regarding improvements, studies or land acquisition.
- (k) To develop and implement procedures and programs for the operation and maintenance of the airport.

(Ord. 95-6155. Passed 7-25-95.)

143.04 MEETINGS.

The Airport Commission shall meet regularly, at least monthly, on the same day of each month as determined from time to time by the Commission; and at such further times as the Commission may determine.

(Ord. 95-6155. Passed 7-25-95.)

143.05 ORGANIZATION.

As soon as convenient after the appointment of the Commission members, the Commission shall meet for the purpose of organizing and select from its members a chairman and a vice chairman, each for a term of one year. A secretary to the Commission shall be appointed annually by the chairman. The Commission shall adopt its own rules of procedure.

(Ord. 95-6155. Passed 7-25-95.)

CHAPTER 145

Civil Service Commission

145.01 Powers.

145.02 Exempt positions.

145.03 Rules and regulations.

CROSS REFERENCES

Civil Service Law - see Ohio R.C. Ch. 124

145.01 POWERS.

The Civil Service Commission shall be formulated and exercise powers in conformance with Ohio R.C. 124.40. (Ord. 86-5556. Passed 7-1-86.)

145.02 EXEMPT POSITIONS.

The following named positions shall be declared exempt non-classified.

- (a) Street Superintendent.
- (b) Director of Water and Sewer Operations.
- (c) Director of Water and Sewer Distribution.
- (d) Safety-Service Director.
- (e) Clerk of Council.
- (f) Administrative Assistant to Mayor.
- (g) Building Inspector.
- (h) Assistant to Law Director.
- (i) Victims of Crime Advocate.

145.03 RULES AND REGULATIONS.

Council does hereby adopt the new Galion Civil Service Rules and Regulations, which were adopted by the Galion Civil Service Commission on February 22, 2010, and are in accordance with a copy now on file in the Office of the Mayor. (Ord. 2010-12. Passed 6-22-10.)

CHAPTER 147

Planning Commission

(EDITOR'S NOTE: See Section 1107.02 of the Codified Ordinances.)

CROSS REFERENCES

Board of Zoning Appeals - see ADM. Ch. 149

Appeals and variances - see P. & Z. Ch. 1115

CHAPTER 149

Board of Zoning Appeals

149.01 Appointment; powers; duties.

CROSS REFERENCES

Appeals and variances - see P. & Z. Ch. 1115

149.01 APPOINTMENT; POWERS; DUTIES.

There shall be appointed a Board of Zoning Appeals. Powers and duties of this Board are enumerated in the Zoning Ordinance. (Ord. 86-5565. Passed 9-16-86.)

CHAPTER 153

Employment Provisions

153.01 Education Assistance Program.

153.02 Employee rights to City insurances while on military leave.

CROSS REFERENCES

Public Employee Retirement System - see Ohio R.C. Ch. 145

Vacation credit - see Ohio R.C. 9.44

153.01 EDUCATION ASSISTANCE PROGRAM.

There is hereby adopted an Education Assistance Program for eligible supervisory employees of the City, which shall be available upon the following terms and conditions:

- (a) Supervisory employees who have been in the employ of the City for at least twelve consecutive months are encouraged to pursue an education by enrolling in courses which may be directly or indirectly related to the present position or future promotions, or courses which are required in the pursuit of a degree in the employee's line of work.
- (b) Supervisory employees who wish to participate in the Education Assistance Program shall obtain the approval of the Safety-Service Director before enrolling for the course(s).
- (c) Procedures and criteria for participation shall be established by the Safety-Service Director, which shall include, without limitation, a determination of whether a course is directly or indirectly related to such employee's present position or future promotions, or are required in pursuit of a degree in the employee's line of work and whether the educational institution where the course(s) is/are offered is acceptable.

Approval by the Safety-Service Director is solely at his discretion.

(d) Payment shall be by reimbursement of tuition expenses after receiving a satisfactory grade (C or better) in an approved course. Such educational assistance shall be limited to tuition up to a maximum of four hundred dollars (\$400.00) per year.

(e) A supervisory employee receiving educational assistance shall remain in the employ of the City for at least twelve consecutive months following completion of a course for which assistance has been received. Unless waived by reason of exceptional circumstances, any employee who leaves the employ of the City before the expiration of such time shall repay the City for all tuition received for courses completed within such twelve month period.

(Ord. 90-5843. Passed 8-28-90.)

153.02 EMPLOYEE RIGHTS TO CITY INSURANCES WHILE ON MILITARY LEAVE.

(a) While an employee is on military leave of absence and in the military service on field training or active duty for up to twenty-two workdays in any one calendar year, not to exceed an aggregate amount of 176 hours per calendar year, the employee shall continue to be eligible for hospitalization, surgical and major medical insurance, life insurance, the City's Prescription Drug Plan, Vision Care Plan and Dental Care Plan, provided the employee continues to pay his/her monthly insurance contribution.

(b) During the 176 hours per calendar year, if the employee fails to pay his/her monthly insurance contribution, he/she shall be eligible for Group Health Insurance Coverage (COBRA).

(c) An employee called to military duty for a period in excess of the twenty-two working days (176 hours) shall not be eligible for City hospitalization, surgical and major medical, life insurance, Prescription Drug Plan, Vision Care and Dental Plan coverages until reinstated to active employment with the City.

(Ord. 2005-59. Passed 6-28-05.)

CHAPTER 155

Street Tree Commission

155.01 Establishment; membership.

155.02 Purpose.

155.03 Meetings and procedures.

155.04 Lists of undesirable and desirable trees and shrubs.

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.20

Assessments - see Ohio R.C. 727.011

Street trees - see S.U. & P.S. Ch. 911

155.01 ESTABLISHMENT; MEMBERSHIP.

(a) There is hereby established a Street Tree Commission for the City, which shall consist of the following six members: the Mayor or his designee, the Street Superintendent, and four residents of the City who shall be appointed by the Mayor with the approval of Council. The term of the four residents to be appointed by the Mayor shall be three years, except the initial term of two of the members appointed to the Commission shall be one and two years respectively. In the event that a vacancy occurs during the term of any member, his successor shall be appointed for the unexpired portion of such term. The Mayor may remove any resident member for failure to attend three consecutive regular meetings. If the Mayor appoints a designee to service in his place, such designee shall serve solely at the pleasure of the Mayor. Except for the Street Superintendent, all members of the Street Tree Commission shall be voting members. All members shall serve without compensation.

(b) There is hereby further established a Tree Advisory Committee, which shall consist of a reasonable number of interested citizens of the City of Galion who shall be appointed by the Mayor and shall serve for a term of one year commencing January 1st of each year. All members of this Committee shall serve without compensation, shall be non-voting members, shall be notified in advance of all meetings of the Street Tree Commission, and shall have the right to attend all meetings of the Street Tree Commission and participate in discussions of its business.

(Ord. 94-6110. Passed 12-20-94.)

155.02 PURPOSE.

The primary purposes and objectives of the Street Tree Commission shall include the following:

(a) To study, investigate, plan, advise, report and recommend to Council any action, program, plan or legislation which the Commission finds or determines to be necessary or advisable for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in the public ways, streets and alleys.

(b) To establish the recommended species and varieties of trees to be planted in the tree lawns or parks.

(c) To disseminate news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same be on public or private property.

(d) To hold regular and special meetings at which the subject of trees in so far as it relates to the City may be discussed by members of the Commission, officers and personnel of the Municipality and its several divisions, and all others interested in the tree program.

(e) When requested by Council or the Mayor, to consider, investigate, make findings, report and recommend upon any special matter or questions coming within the scope of its work.

(f) To apply for, receive, administer, and enter into agreements regarding grants and donations to be expended, after review and approval of the project by the Mayor, in accordance with the purposes set forth in this section by use of City forces or under contract with the City. All funds administered by the Commission through grants shall be accounted for through the Auditor's office.

(g) To accept gifts, bequests or donations in cash or kind for the indicated purpose of furthering the work of the Commission. Any gifts in money shall be deposited in the General Fund in a separate line item account designated the source, to be used as directed by the Commission upon appropriation by Council. Gifts in kind shall be utilized under the Commission's sole direction and acknowledged as to value in writing upon qualified appraisal.

(Ord. 94-6100. Passed 10-11-94.)

155.03 MEETINGS AND PROCEDURES.

The Commission shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A simple majority of the voting members shall be a quorum for the transaction of business. The Chairman shall preside over all meetings of the Commission and act as parliamentarian. The Vice Chairman shall assume the duties of the Chairman in his or her absence. All plans, findings, advice, reports and recommendations made by the Commission shall be in writing and shall designate by name those members of the Commission approving or concurring therein. Members who do not so approve or concur therein, including the Street Superintendent, shall have the right, as part of such report, to state their reasons for refusing to approve or concur.

(Ord. 94-6110. Passed 12-20-94.)

155.04 LISTS OF UNDESIRABLE AND DESIRABLE TREES AND SHRUBS.

The Street Tree Commission shall prepare lists of trees undesirable for planting in public places in the City so as to insure the public safety and welfare. These shall not be recommended for general planting, and their use, if any, shall be restricted to special locations where, because of certain characteristics of adaptability or landscape effect, they can be used to advantage. The Commission shall prepare a list of trees desirable for planting in public places. Other species and varieties may be added or deleted as experience proves their value. The selection of shrub species for planting in public places shall follow the recommendations of the Commission.

(Ord. 94-6100. Passed 10-11-94.)

CHAPTER 159

Veterans Memorial Commission

159.01 Establishment; membership.

159.02 Purpose.

159.03 Meetings and procedures.

159.01 ESTABLISHMENT; MEMBERSHIP.

(a) There is hereby established a Veterans Memorial Commission for the City, which shall consist of eleven members with nine of the initial members being appointed by City Council and two members being appointed by the Veterans Memorial Commission.

(b) The term for the members of the Veterans Memorial Commission shall be four years, except for certain members of the first Commission appointed. Of the nine members initially appointed by Council, two members shall have one year terms; two members shall have two year terms; two members shall have three year terms; and, three members shall have four year terms.

(c) At the expiration of a term of any member, the remaining members of the Commission shall appoint a person to serve on the Veterans Memorial Commission for the next succeeding term. In the event a vacancy occurs during the term of any member, his or her successor shall be appointed for the unexpired portion of such term by the remaining members of the Commission. All members shall serve without compensation.

(Ord. 2001-41. Passed 5-22-01.)

159.02 PURPOSE.

The primary purposes and objectives of the Veterans Memorial Commission shall include the following:

- (a) To perpetuate the memory of veterans of all wars and conflicts involving the USA.
- (b) To provide for construction and perpetual maintenance of a new memorial to honor veterans.
- (c) To study, investigate, plan, advise, report and recommend to Council any action, program, plan or legislation which the Commission finds or determines to be necessary or advisable for the construction and perpetual maintenance of a veterans memorial.
- (d) To be the liaison between the City and the local veterans groups for special veteran memorial events.
- (e) To be the organization that requests funds from City Council for worthwhile veterans memorial events.
- (f) To apply for, receive, administer, and enter into agreements regarding grants and donations to be expended, after review and approval of the project by the Mayor, in accordance with the purposes set forth in this Section by use of City forces or under contract with the City. All funds administered by the Commission through grants shall be accounted for through the Auditor's office.
- (g) To accept gifts, bequests or donations in cash or kind for the indicated purpose of furthering the work of the Commission. Any gifts in money shall be deposited in the General Fund in a separate line item account designated the source, to be used as directed by the Commission upon appropriation by Council. Gifts in kind shall be utilized under the Commission's sole direction and acknowledged as to value in writing upon qualified appraisal. (Ord. 2000-24. Passed 3-28-00.)

159.03 MEETINGS AND PROCEDURES.

(a) The Commission shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A simple majority of the members shall be a quorum for the transaction of business.

(b) The Chairman shall preside over all meetings of the Commission and act as parliamentarian. The Vice Chairman shall assume the duties of the Chairman in his or her absence. All plans, findings, advice, reports and recommendations made by the Commission shall be in writing and shall designate by name those members of the Commission approving or concurring therein. Members who do not so approve or concur therein shall have the right, as a part of such report, to state their reasons for refusing to approve or concur.

(Ord. 2000-24. Passed 3-28-00.)

CHAPTER 161

Fees for Permits, Services and Licenses

EDITOR'S NOTE: Pursuant to Ordinance 2011-9, passed February 8, 2011, the City has enacted a Comprehensive Fee Schedule, which is attached to the Ordinance as Exhibit A. Such Fee Schedule shall supersede any previous fees or changes.

CHAPTER 163

Galion Port Authority

163.01 Creation.

163.02 Powers and jurisdiction.

163.03 Board of Directors; members.

163.04 Organizational meeting.

163.05 Dissolution.

163.01 CREATION.

A port authority to be designated and known as the "Galion Port Authority" (the "Port Authority") is hereby created pursuant to the Act. (Ord. 2019-30. Passed 6-11-19; Ord. 2019-51. Passed 9-24-19.)

163.02 POWERS AND JURISDICTION.

The Port Authority shall include all of the territory within the boundaries of the City as they now or hereafter exist. The Port Authority shall be a body corporate and politic and shall have the powers and jurisdiction now or hereafter given to it by or pursuant to the Act and any other applicable provisions of Ohio law. The exercise of those powers and jurisdiction by the Port Authority are deemed to be essential governmental functions of

the State of Ohio.
(Ord. 2019-30. Passed 6-11-19; Ord. 2019-51. Passed 9-24-19.)

163.03 BOARD OF DIRECTORS; MEMBERS.

(a) The Port Authority shall be governed by a seven member Board of Directors each of whom shall serve for a term of four years, provided that such Board initially shall be composed of members having terms of office commencing on the effective date of their appointment and expiring as follows: one member shall have a term of office expiring one year after their appointment; one member shall have a term of office expiring two years after his or her appointment; one member shall have a term of office expiring three years after his or her appointment; and two members shall have a term of office expiring four years after his or her appointment. A majority of the members of the Board of Directors shall have been qualified electors of, or shall have had their businesses or places of employment in, the City for a period of at least three years preceding their appointment. All of the members of the Board of Directors shall be appointed by the Mayor with the advice and consent of this Council. Upon the resignation or removal of a member of the Board of Directors, or the expiration of the term of office of a member of the Board of Directors, a new member of the Board of Directors shall be appointed by the Mayor with the advice and consent of this Council, provided that any member duly appointed and qualified shall, unless such member shall have resigned or been removed, continue to serve until a successor is appointed. Any person appointed to fill a vacancy on the Board of Directors shall be initially appointed to only the unexpired term of that vacancy. Any member of the Board of Directors shall be eligible for reappointment to the Board of Directors.

(b) Each member of the Board of Directors shall serve without compensation, but expenses incurred by any member of the Board of Directors may be paid or reimbursed as the Board of Directors may determine. No person appointed to the Board of Directors shall hold any other public office except that of notary public, member of the State militia or member of a reserve component of the United States Armed Forces.

(c) Any member of the Board of Directors may be removed by the Mayor with the advice and consent of this Council for misfeasance, nonfeasance, or malfeasance in office. No member of the Board of Directors shall be interested in the profits or emoluments of any contract, job, work or service of the Port Authority. Any member of the Board of Directors who is so interested in such profits or emoluments shall be deemed guilty of malfeasance.

(d) Having confirmed that a majority of the individuals named have been qualified electors of, or have had their businesses or places of employment in, the City for a period of three years, this Council hereby consents to the Mayor's appointments to the Board of Directors of the Port Authority.

(Ord. 2019-30. Passed 6-11-19; Ord. 2019-51. Passed 9-24-19.)

163.04 ORGANIZATIONAL MEETING.

The Clerk of this Council, after consultation with the Board of Directors, shall give notice of the time and place of the organizational meeting of the Board of Directors in the manner established for giving notice of regular meetings of this Council, and that organizational meeting shall be held at such time and place upon the qualification of the members of the Board of Directors. The Clerk shall also give notice, at least twenty-four hours prior to the meeting of the time, place and purpose of the organizational meeting of the Board of Directors to any news media to which notice of special meetings of this Council is required to be given.

(Ord. 2019-30. Passed 6-11-19; Ord. 2019-51. Passed 9-24-19.)

163.05 DISSOLUTION.

Subject to compliance with the Act, the Port Authority may be dissolved at any time by the passage of an ordinance by this Council.
(Ord. 2019-30. Passed 6-11-19; Ord. 2019-51. Passed 9-24-19.)

TITLE SEVEN - Judicial

Chap. 171. Municipal Court.

CHAPTER 171

Municipal Court

EDITOR'S NOTE: By amended substitute House Bill 312, effective January 1, 1978, Ohio R.C. 1901.021 provides that the judge of the Crawford County Municipal Court shall sit in Galion and Bucyrus and may sit in other incorporated areas of Crawford County. The powers, duties and proceedings of the Court are established by Ohio R.C. Chapter 1901. Ohio R.C. 1901.25 provides that the Municipal Court may provide by rule how jurors shall be chosen. Jurors' fees in any criminal case involving the violation of a City ordinance shall be paid out of the City Treasury. The Municipal Court, pursuant to Ohio R.C. 1901.26(A), may establish a schedule of fees and costs to be taxed in any action or proceeding, whether civil or criminal. Ohio R.C. 1901.31(F) provides that fines received for violation of City ordinances shall be paid into the City Treasury. Rule 13 of the Ohio Traffic Rules as promulgated by the Ohio Supreme Court provides that a court must establish a Traffic Violations Bureau and specified certain restrictions as to the designated offenses and schedule of fines to be accepted as waiver payment in lieu of court appearance. Rule 11 of the Rules of Superintendence for Municipal and County Courts also prescribes a violations bureau for minor misdemeanors.

171.01 Reimbursement of confinement expenses.

CROSS REFERENCES

Release of Court Clerk's liability for loss of funds - see Ohio R.C. 131.18 et seq.
Municipal court - see Ohio R.C. Ch. 1901
Bond for Court Clerk required - see Ohio R.C. 1901.31(D)
Notification to Director of liquor law convictions - see Ohio R.C. 4301.991
Record of traffic violation - see Ohio R.C. 4513.37

171.01 REIMBURSEMENT OF CONFINEMENT EXPENSES.

(a) The City hereby requires that a person convicted of an offense other than a minor misdemeanor who is confined in a prison or station house, as defined in Ohio R.C. 753.02(A), in the County jail or in a workhouse, as provided in Ohio R.C. 753.04(A), reimburse the City for its expenses incurred by reason of such person's confinement, including but not limited to expenses relating to the provision of food, clothing and shelter.

(b) The amount of such reimbursement shall be determined in accordance with Ohio R.C. 2929.15.
(Ord. 85-5436. Passed 4-2-85.)

TITLE NINE - Taxation

Chap. 191. Income Tax Effective January 1, 2016.

Chap. 191A. Income Tax Through December 31, 2015.

Chap. 193. Motor Vehicle License Tax.

Chap. 195. Transient Occupancy Tax.

CHAPTER 191

Income Tax Effective January 1, 2016

191.01 **Authority to levy tax; purpose of tax.**

- 191.02 **Definitions.**
- 191.03 **Imposition of tax.**
- 191.04 **Collection at source.**
- 191.05 **Annual return; filing.**
- 191.06 **Credit for tax paid to other municipalities.**
- 191.07 **Estimated taxes.**
- 191.08 **Rounding of amounts.**
- 191.09 **Requests for refunds.**
- 191.10 **Second municipality imposing tax after time period allowed for refund.**
- 191.11 **Amended returns.**
- 191.12 **Limitations.**
- 191.13 **Audits.**
- 191.14 **Service of assessment.**
- 191.15 **Administration of claims.**
- 191.16 **Tax information confidential.**
- 191.17 **Fraud.**
- 191.18 **Interest and penalties.**
- 191.19 **Authority of Tax Administrator; verification of information.**
- 191.20 **Request for opinion of the Tax Administrator.**
- 191.21 **Board of Tax Review.**
- 191.22 **Authority to create rules and regulations.**
- 191.23 **Rental and leased property.**
- 191.24 **Savings clause.**
- 191.25 **Collection of tax after termination of ordinance.**
- 191.26 **Adoption of RITA rules and regulations.**
- 191.27 **Election to be subject to Ohio R.C. 718.80 to 718.95.**
- 191.99 **Violations; penalties.**

191.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.

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

(B) (1) The annual tax is levied at a rate of 1% (one percent). The tax is levied at a uniform rate on all persons residing in or earning or receiving income in the City. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 191.03 and other sections as they may apply.

(2) The City also levies an annual tax at the following rates and for the following purposes. For each, the tax is levied at a uniform rate on all persons residing in or earning or receiving income in the City. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 191.03 and other sections as they may apply.

(a) Eleven one-hundredths (11/100) of one percent to be used exclusively for the purposes of recreation and acquisition of real estate;

(b) One half percent (1/2%) to be used exclusively for police, fire and emergency medical services;

(c) Thirty-nine one hundredths (39/100) of one percent to be used exclusively for increased police protection services, increased fire protection services, fire suppression equipment and structures, and ambulance subsidy.

(C) The tax on income and the withholding tax established by this Chapter 191A are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). Ordinance No. 2015-91 does not repeal the existing sections of Chapter 191A for any taxable year beginning on or before December 31, 2015 but rather amends Chapter 191A effective January 1, 2016 for taxable years beginning on or after January 1, 2016. For municipal taxable years beginning on or before December 31, 2015 the City shall continue to administer, audit and enforce the income tax of the City under ORC Chapter 718 and the ordinances and resolutions of the City as that chapter and amendments thereto, and rules and regulations and amendments thereto, existed before January 1, 2016.

(Ord. 2015-91. Passed 11-24-15.)

191.02 DEFINITIONS.

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

(B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(C) As used in this chapter:

(1) **"Adjusted federal taxable income,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under (C)(24)(d) of this division, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(b) Add an amount equal to five percent (5%) of intangible income deducted under division (C)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;

(c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

(d) (i) Except as provided in (C)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (C)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.

- (e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (f) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (g) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under Section 4313.02 of the ORC;
(Ord. 2015-91. Passed 11-24-15.)
- (h) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.
(Ord. 2018-35. Passed 6-12-18.)

- (i) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (V)(3)(b) of Section 191.05.
- (j) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (V)(3)(b) of Section 191.05 .

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

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

- (2) (a) **"Assessment"** means a written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 191.21 , and has "ASSESSMENT" written in all capital letters at the top of such finding.
- (b) **"Assessment"** does not include a notice denying a request for refund issued under division (C)(3) of Section 191.09 , a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (C)(2)(a) of this section.
- (3) **"Audit"** means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.
- (4) **"Board of Tax Review" or "Board of Review" or "Board of Tax Appeals"**, or other named local board constituted to hear appeals of municipal income tax matters, means the entity created under Section 191.21 .
- (5) **"Calendar quarter"** means the three-month period ending on the last day of March, June, September, or December.
- (6) **"Casino operator" and "casino facility"** have the same meanings as in Section 3772.01 of the ORC.
- (7) **"Certified mail," "express mail," "United States mail," "postal service,"** and similar terms include any delivery service authorized pursuant to Section 5703.056 of the ORC.
- (8) **"Disregarded entity"** means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.
- (9) **"Domicile"** means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one residence but not more than one domicile.
- (10) **"Employee"** means an individual who is an employee for federal income tax purposes.
- (11) **"Employer"** means a person that is an employer for federal income tax purposes.
- (12) **"Exempt income"** means all of the following:
 - (a) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.
 - (b) Intangible income.
 - (c) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (C)(12)(c) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code.
 - (d) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
 - (e) Compensation paid under Section 3501.28 or 3501.36 of the ORC to a person serving as a precinct election official to the extent that such compensation does not exceed \$1,000 for the taxable year. Such compensation in excess of \$1,000 for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
 - (f) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
 - (g) Alimony and child support received.
 - (h) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages.

- (i) Income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the ORC. Division (C) (12)(i) of this section does not apply for purposes of Chapter 5745. of the ORC.
- (j) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business.
- (k) Compensation or allowances excluded from federal gross income under Section 107 of the Internal Revenue Code.
- (l) Employee compensation that is not qualifying wages as defined in division (C)(35) of this section.
- (m) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
- (n) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under Division (b)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.
- (o) All of the income of individuals under 18 years of age.
- (p) (i) Except as provided in divisions (C)(12)(p)(ii), (iii), and (iv) of this section, qualifying wages described in division (C)(2) or (5) of Section 191.04 to the extent the qualifying wages are not subject to withholding for the City under either of those divisions.
- (ii) The exemption provided in division (C)(12)(p)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
- (iii) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (C)(4)(b) of Section 191.04 .
- (iv) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages if both of the following conditions apply:
 - (a) For qualifying wages described in division (C)(2) of Section 191.04 , the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (C)(5) of Section 191.04 , the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
 - (b) The employee receives a refund of the tax described in division (C)(12)(p)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.
- (q) (i) Except as provided in division (C)(12)(q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the City on not more than 20 days in a taxable year.
- (ii) The exemption provided in division (C)(12)(q)(i) of this section does not apply under either of the following circumstances:
 - (a) The individual's base of operation is located in the municipal corporation.
 - (b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (C)(12)(q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 191.04 (C).
- (iii) Compensation to which division (C)(12)(q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
- (iv) For purposes of division (C)(12)(q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.
- (r) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to Section 709.023 of the ORC on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.
- (s) Income the taxation of which is prohibited by the constitution or laws of the United States.
Any item of income that is exempt income of a pass-through entity under division (C) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.
- (13) **"Form 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (14) **"Generic form"** means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.
- (15) **"Gross receipts"** means the total revenue derived from sales, work done, or service rendered.
- (16) **"Income"** means the following:
 - (a) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in (C)(24) (d) of this division.
 - (ii) For the purposes of division (C)(16)(a)(i) of this section:
 - (a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable

years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (C)(16)(a)(iv) of this section;

- (b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.
- (iii) Division (C)(16)(a)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (C)(12)(n) or (C)(16)(e) of this section.
 - (iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.
- (b) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (c) For taxpayers that are not individuals, net profit of the taxpayer;
 - (d) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.
- (e) Intentionally left blank.
- (17) **"Intangible income"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the ORC, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (18) **"Internal Revenue Code"** has the same meaning as in Section 5747.01 of the ORC.
- (19) **"Limited liability company"** means a limited liability company formed under Chapter 1705 of the ORC or under the laws of another state.
- (20) **"Municipal corporation"** includes a joint economic development district or joint economic development zone that levies an income tax under Section 715.691 , 715.70 , 715.71 , or 715.74 of the ORC.
(Ord. 2015-91. Passed 11-24-15.)
- (21) (a) **"Municipal taxable income"** means the following:
 - (i) For a person other than an individual, apportioned or sitused to the City under Section 191.03, as applicable reduced by any pre-2017 net operating loss carryforward available to the person for the City.
 - (ii) (a) For an individual who is a resident of the City, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipal corporation.
 - (b) For an individual who is a nonresident of the City, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the municipal corporation under Section 191.03, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the City.
- (b) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (C)(21)(a)(ii)(a) or (C)(21)(b) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by Section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes, but only to the extent the expenses do not relate to exempt income. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation and are not related to exempt income.
(Ord. 2018-35. Passed 6-12-18.)
- (22) **"Municipality"** means the same as the City of Galion. If the terms are capitalized in the ordinance they are referring to Galion. If not capitalized they refer to a municipal corporation other than Galion.
- (23) **"Net operating loss"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations. (Ord. 2015-91. Passed 11-24-15.)
- (24) (a) **"Net profit"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (C)(24)(a) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(24)(c) of this section.
- (b) **"Net profit"** for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (C)(24)(c) of this section.
 - (c) (i) The amount of such operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five (5) consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
 - (ii) No person shall use the deduction allowed by division (C)(24)(c) of this section to offset qualifying wages.
 - (iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(24)(c) of this section.
 - (b) For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by (C)(24)(c) of this section without regard to the limitation of division (C)(24)(c)(iii)(a) of this section.
 - (iv) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to (C)(24)(c) of this section.
 - (v) Nothing in division (C)(24)(c)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (C)(24)(c)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (C)(1)(h)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or

2022, the limitation described in division (C)(24)(c)(iii)(a) of this section shall apply to the amount carried forward.

- (d) For the purposes of this chapter/ordinance, and notwithstanding division (C)(24)(b) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
 - (e) A publicly traded partnership that is treated as a partnership for federal income tax purposes, and that is subject to tax on its net profits by [Municipality/City/Village], may elect to be treated as a C corporation for [Municipality/City/Village], and shall not be treated as the net profit or income of any owner of the partnership. The election shall be made on the annual return for [Municipality/City/Village]. [Municipality/City/Village] will treat the publicly traded partnership as a C corporation if the election is so made. (Ord. 2018-35. Passed 6-12-18.)
- (25) **"Nonresident"** means an individual that is not a resident.
- (26) **"Ohio Business Gateway"** means the online computer network system, created under Section 125.30 of the ORC, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (27) **"Other payer"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- (28) **"Pass-through entity"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (29) **"Pension"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (30) **"Person"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (31) **"Postal service"** means the United States postal service.
- (32) **"Postmark date," "date of postmark,"** and similar terms include the date recorded and marked in the manner described in division (B) (3) of Section 5703.056 of the ORC.
- (33) (a) **"Pre-2017 net operating loss carryforward"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the City of Galion that was adopted by the City of Galion before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in the City of Galion in future taxable years.
- (b) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.
- (Ord. 2015-91. Passed 11-24-15.)
- (34) **"Publicly traded partnership"** means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.
- (Ord. 2018-35. Passed 6-12-18.)
- (35) **"Qualifying wages"** means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (a) Deduct the following amounts:
 - (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.
 - (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
 - (iii) Intentionally left blank.
 - (iv) Intentionally left blank.
 - (v) Any amount included in wages that is exempt income.
 - (b) Add the following amounts:
 - (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 - (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (C)(35)(b)(ii) of this section applies only to those amounts constituting ordinary income.
 - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (C)(35)(b)(iii) of this section applies only to employee contributions and employee deferrals.
 - (iv) Any amount that is supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with Section 1402(a)(8) of the Internal Revenue Code.
 - (vi) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under Section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in Section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (C)(35)(b) of this section or ORC Section 718.03, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.

- the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;
- (b) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;
 - (c) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (C)(36)(d) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;
 - (d) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (C)(36)(a) to (c) of this section have been met.
- (37) **"Related member"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty percent (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in Section 1563(e) of the Internal Revenue Code.
 - (38) **"Resident"** means an individual who is domiciled in the municipal corporation as determined under Section 191.03 (E).
 - (39) **"S corporation"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
 - (40) **"Schedule C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
 - (41) **"Schedule E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
 - (42) **"Schedule F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
 - (43) **"Single member limited liability company"** means a limited liability company that has one direct member.
 - (44) **"Small employer"** means any employer that had total revenue of less than \$500,000 during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; compensation; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.
- (Ord. 2015-91. Passed 11-24-15.)
- (45) (a) **"Tax administrator"** means the individual charged with direct responsibility for administration of an income tax levied by the City in accordance with this chapter/ordinance. Tax Administrator does not include the state tax commissioner.
 - (b) **"Tax commissioner"** means the tax commissioner appointed under section 121.03 of the Revised Code.
- (Ord. 2018-35. Passed 6-12-18.)
- (46) **"Tax return preparer"** means any individual described in Section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.
 - (47) **"Taxable year"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
 - (48) (a) **"Taxpayer"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (C)(48)(b)(i) of this section, a disregarded entity.
 - (b) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
 - (a) The limited liability company's single member is also a limited liability company.
 - (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
 - (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of ORC 718.01 as that section existed on December 31, 2004.
 - (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
 - (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
 - (ii) For purposes of division (C)(48)(b)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least \$400,000.
- (49) **"Taxpayers' rights and responsibilities"** means the rights provided to taxpayers in Sections 191.09 , 191.12 , 191.13 , 191.19 (B), 191.20 , 191.21 , and Sections 5717.011 and 5717.03 of the ORC, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the ORC and resolutions, ordinances, and rules and regulations adopted by the City for the imposition and administration of a municipal income tax.
- (50) **"Video lottery terminal"** has the same meaning as in Section 3770.21 of the ORC.
- (51) **"Video lottery terminal sales agent"** means a lottery sales agent licensed under Chapter 3770. of the ORC to conduct video lottery terminals on behalf of the state pursuant to Section 3770.21 of the ORC.
- (Ord. 2015-91. Passed 11-24-15.)

191.03 IMPOSITION OF TAX.

The following income taxes are levied by the City on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in the City:

1. At the rate of one percent (1%) for the purposes specified in Section 191.01 (A);
2. At the rate of eleven one-hundredths (11/100) of one percent to be used exclusively for the purposes of recreation and acquisition of real estate;
3. At the rate of one half percent (1/2%) to be used exclusively for police, fire and emergency medical services;
4. At the rate of thirty-nine one hundredths (39/100) of one percent to be used exclusively for increased police protection services, increased

fire protection services, fire suppression equipment and structures, and ambulance subsidy.

Individuals.

- (A) For residents of the City, the income tax levied herein shall be on all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident. This is further detailed in the definition of income (Section 191.02 (C)(16)).
- (B) For nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (C) For residents and nonresidents, income can be reduced to "Municipal Taxable Income" as defined in Section 191.02 (C)(21). Exemptions which may apply are specified in Section 191.02 (C)(12).

Refundable credit for Nonqualified Deferred Compensation Plan.

- (D) (1) As used in this division:
 - (a) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
 - (b) "Qualifying loss" means the amount of compensation attributable to a taxpayer's nonqualified deferred compensation plan, less the receipt of money and property attributable to distributions from the nonqualified deferred compensation plan. Full loss is sustained if no distribution of money and property is made by the nonqualified deferred compensation plan. The taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
 - (c) (i) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to the City with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
 - (ii) If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the City each year with respect to the nonqualified deferred compensation plan.
 - (d) "Refundable credit" means the amount of City income tax that was paid on the non-distributed portion, if any, of a nonqualified deferred compensation plan.
- (2) If, in addition to the City, a taxpayer has paid tax to other municipal corporations with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
- (3) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to the City for all taxable years with respect to the nonqualified deferred compensation plan.
- (4) The credit allowed under this division is allowed only to the extent the taxpayer's qualifying loss is attributable to:
 - (a) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - (b) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

Domicile.

- (E) (1) (a) An individual is presumed to be domiciled in the City for all or part of a taxable year if the individual was domiciled in the City on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the City for all or part of the taxable year.
- (b) An individual may rebut the presumption of domicile described in division (E)(1)(a) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the City for all or part of the taxable year.
- (2) For the purpose of determining whether an individual is domiciled in the City for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:
 - (a) The individual's domicile in other taxable years;
 - (b) The location at which the individual is registered to vote;
 - (c) The address on the individual's driver's license;
 - (d) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
 - (e) The location and value of abodes owned or leased by the individual;
 - (f) Declarations, written or oral, made by the individual regarding the individual's residency;
 - (g) The primary location at which the individual is employed.
 - (h) The location of educational institutions attended by the individual's dependents as defined in Section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation where the educational institution is located;
 - (i) The number of contact periods the individual has with the City. For the purposes of this division, an individual has one "contact period" with the City if the individual is away overnight from the individual's abode located outside of the City and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the City.
- (3) All additional applicable factors are provided in the Rules and Regulations.

Businesses.

- (F) This division applies to any taxpayer engaged in a business or profession in the City, unless the taxpayer is an individual who resides in the City or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the ORC.
- (1) Except as otherwise provided in division (F)(2) of this section, net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of municipal income taxation in the same proportion as the average ratio of the following:
 - (a) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

- (b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 191.04 (C);
 - (c) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the City to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (2) (a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in the City, the taxpayer may request, or the Tax Administrator of the City may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
- (i) Separate accounting;
 - (ii) The exclusion of one or more of the factors;
 - (iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;
 - (iv) A modification of one or more of the factors.
- (b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 191.12 (A).
- (c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 191.12 (A).
- (d) Nothing in division (F)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
- (3) As used in division (F)(1)(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
- (a) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (i) The employer;
 - (ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (iii) A vendor, customer, client, or patient of a person described in (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.
 - (b) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
 - (c) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (F) (3)(a) or (b) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.
- (Ord. 2015-91. Passed 11-24-15.)
- (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 of the following criteria:
 - (i) The property is shipped to or delivered within the City from a stock of goods located within the City.
 - (ii) The property is delivered within the City from a location outside the City, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.
 - (b) Gross receipts from the sale of services shall be situated to the City to the extent that such services are performed in the City.
 - (c) To the extent included in income, gross receipts from the sale of real property located in the City shall be situated to the City.
 - (d) To the extent included in income, gross receipts from rents and royalties from real property located in the City shall be situated to the City.
 - (e) Gross receipts from rents and royalties from tangible personal property shall be situated to the City based upon the extent to which the tangible personal property is used in the City.
- (Ord. 2018-35. Passed 6-12-18.)
- (5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to the City's tax only if the property generating the net profit is located in the City or if the individual taxpayer that receives the net profit is a resident of the City. The City 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 the City, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (b) An individual who is a resident of the City shall report the individual's net profit from all real estate activity on the individual's annual tax return for the City. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under the City'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.

(Ord. 2015-91. Passed 11-24-15.)

- (8) Job Creation Tax Credit. The City, by ordinance and pursuant to authority granted in ORC 718.15, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the City. If a credit is granted under this

section, it shall be measured as a percentage of the new income tax revenue the City derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the City passes an ordinance granting a credit, the City and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

(Ord. 2018-22. Passed 4-24-18.)

191.04 COLLECTION AT SOURCE.

Withholding provisions.

(A) Each employer, agent of an employer, or other payer located or doing business in the City shall withhold an income tax from the qualifying wages earned and/or received by each employee in the City. Except for qualifying wages for which withholding is not required under Section 191.03 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 191.03 of this chapter, of 2% (two percent). 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.

(Ord. 2015-91. Passed 11-24-15.)

(B) (1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of the City the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer according to the following schedule:

(a) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the City in the preceding calendar year exceeded \$2,399, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the City in any month of the preceding calendar quarter exceeded \$200.

Payment under division (B)(1)(a) of this section shall be made to the Tax Administrator not later than 15 days after the last day of each month for which the tax was withheld.

(b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.

(Ord. 2018-35. Passed 6-12-18.)

(c) Intentionally left blank.

(2) If the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under Section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation, the payment shall be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the City. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section.

(3) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by Tax Administrator and the City as the return required of a non-resident employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer.

(4) An employer, agent of an employer, or other payer is not required to withhold the City income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

(5) (a) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

(b) The failure of an employer, agent of an employer, or other payer to remit to the City the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(6) Compensation deferred before June 26, 2003, is not subject to a the City income tax or income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(7) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the City until such time as the withheld amount is remitted to the Tax Administrator.

(8) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Tax Administrator listing:

(a) The names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the City during the preceding calendar year;

(b) The amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year,;

(c) The name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year;

(d) Any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee;

(e) Other information as may be required by the Tax Administrator.

(9) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

(10) An employer is required to deduct and withhold the City income tax on tips and gratuities received by the employer's employees and constituting qualifying wages, but only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(11) The Tax Administrator shall consider any tax withheld by an employer at the request of an employee, when such tax is not otherwise required to be withheld by this chapter, to be tax required to be withheld and remitted for the purposes of this section

Occasional Entrant - Withholding.

- (C) (1) As used in this division:
- (a) "Employer" includes a person that is a related member to or of an employer.
 - (b) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
 - (c) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.
 If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (C)(2)(a)(i) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.
 For the purposes of this division, the location at which an employee spends a particular day shall be determined in accordance with division (C)(2)(b) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.
 - (d) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
 - (e) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
 - (f) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
 - (g) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than 20 days during the calendar year. "Worksite location" does not include the home of an employee.
- (2) (a) Subject to divisions (C)(3), (5), (6), and (7) of this section, an employer is not required to withhold the City income tax on qualifying wages paid to an employee for the performance of personal services in the City if the employee performed such services in the City on 20 or fewer days in a calendar year, unless one of the following conditions applies:
- (i) The employee's principal place of work is located in the City.
 - (ii) The employee performed services at one or more presumed worksite locations in the City. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in the City at which the employer provides or provided services that can reasonably be, or would have been, expected by the employer to last more than 20 days in a calendar year. Services can "reasonably be expected by the employer to last more than 20 days" if either of the following applies at the time the services commence:
 - (a) The nature of the services are such that it will require more than 20 days of the services to complete the services;
 - (b) The agreement between the employer and its customer to perform services at a location requires the employer to perform the services at the location for more than 20 days.
 - (iii) The employee is a resident of the City and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 191.04.
 - (iv) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure.
 - (b) For the purposes of division (C)(2)(a) of this section, an employee shall be considered to have spent a day performing services in the City only if the employee spent more time performing services for or on behalf of the employer in the City than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
 - (i) Traveling to the location at which the employee will first perform services for the employer for the day;
 - (ii) Traveling from a location at which the employee was performing services for the employer to any other location;
 - (iii) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
 - (iv) Transporting or delivering property described in division (C)(2)(b)(iii) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
 - (v) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.
- (3) If the principal place of work of an employee is located in another Ohio municipal corporation that imposes an income tax, the exception from withholding requirements described in division (C)(2)(a) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to that municipal corporation.
- (4) (a) Except as provided in division (C)(4)(b) of this section, if, during a calendar year, the number of days an employee spends performing personal services in the City exceeds the 20-day threshold, the employer shall withhold and remit tax to the City for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in the City.
- (b) An employer required to begin withholding tax for the City under division (C)(4)(a) of this section may elect to withhold tax for the City for the first 20 days on which the employer paid qualifying wages to the employee for personal services performed in the City.

- (5) If an employer's fixed location is the City and the employer qualifies as a small employer as defined in Section 191.02, the employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the City, regardless of the number of days which the employee worked outside the corporate boundaries of the City. To determine whether an employer qualifies as a small employer for a taxable year, the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
- (6) Divisions (C)(2)(a) and (4) of this section shall not apply to the extent that the Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 191.04.

(Ord. 2015-91. Passed 11-24-15.)

191.05 ANNUAL RETURN; FILING.

(A) An annual the City income tax return shall be completed and filed by every individual taxpayer eighteen (18) years of age or older and any taxpayer that is not an individual for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.

- (1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 191.04 of this chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due the City.
- (2) Retirees having no Municipal Taxable Income for the City income tax purposes may file with the Tax Administrator a written exemption from these filing requirements on a form prescribed by the Tax Administrator. The written exemption shall indicate the date of retirement and the entity from which retired. The exemption shall be in effect until such time as the retiree receives Municipal Taxable Income taxable to the City, at which time the retiree shall be required to comply with all applicable provisions of this ordinance/chapter.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the City, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.

(E) The City shall permit spouses to file a joint return.

(Ord. 2015-91. Passed 11-24-15.)

(F) (1) Each return required to be filed under this division shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer. The return shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

- (2) The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return, and amended return, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio form IT-1040; and, with respect to an amended tax return, any other documentation necessary to support the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

- (3) The Tax Administrator may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

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

- (4) After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by the City to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the City. No remittance is required if the net amount due is ten dollars or less.

- (b) Except as otherwise provided in this chapter, each annual net profit return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the City. No remittance is required if the net amount due is ten dollars or less.

- (2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of the City's income tax return. The extended due date of the City's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(a) A copy of the federal extension request shall be included with the filing of the City income tax return.

- (b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may submit a written request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's the City income tax return. If the request is received by the Tax Administrator on or before the date the City income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

- (3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of a City income tax return. The extended due date of

the City income tax return shall be the same as the extended due date of the state income tax return.

- (4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the City, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.
- (5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.
- (H) (1) For taxable years beginning after 2015, the City shall not require a taxpayer to remit tax with respect to net profits if the net amount due is ten dollars or less.
- (2) Any taxpayer not required to remit tax to the City for a taxable year pursuant to division (H)(1) of this section shall file with the City an annual net profit return under division (F)(3) of this section, unless the provisions of division (H)(3) apply.
- (3) (a) A person may notify the Tax Administrator that the person does not expect to be a taxpayer subject to the City income tax ordinance for a taxable year if both the following apply:
- (i) The person was required to file a tax return with the City for the immediately preceding taxable year because the person performed services at a worksite location (as defined in Section 4(C)(1)(g)) within the City,
- (ii) The person no longer provides services in the City and does not expect to be subject to the City income tax for the taxable year.
- (b) The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the City. The affidavit shall also include the following statement: "The affiant has no plans to perform any services within the City, make any sales in the City, or otherwise become subject to the tax levied by the City during the taxable year. If the affiant does become subject to the tax levied by the City for the taxable year, the affiant agrees to be considered a taxpayer and to properly comply as a taxpayer with the City income tax ordinance and rules and regulations." The person shall sign the affidavit under penalty of perjury.
- (c) If a person submits an affidavit described in division (H)(3)(b) the Tax Administrator shall not require the person to file and tax return for the taxable year unless the Tax Administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change.
- (d) Nothing in division (H)(3) of this section prohibits the Tax Administrator from performing an audit of the person.
- (I) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment.
- (J) Taxes withheld for the City by an employer, the agent of an employer, or other payer as described in Section 191.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by the City, unless the amounts withheld were not remitted to the City and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.
- (K) Each return required by the City to be filed in accordance with this division shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return.
- (L) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by the City, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by the City or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this chapter and of the City's ordinance, resolution, or rules and regulations governing the filing of returns, reports, or documents. (Ord. 2018-35. Passed 6-12-18.)

Filing via Ohio Business Gateway.

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

Extension for service in or for the armed forces.

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

- (O) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the 181st day after the applicant's active duty or service terminates. The Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate. However, taxes pursuant to a contract entered into under this division are not delinquent, and the Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (2) If the Tax Administrator determines that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the City before the 181st day after the applicant's active duty or service terminates.
- (3) Taxes paid pursuant to a contract entered into under (O)(1) of this division are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(P) (1) Nothing in this division denies to any person described in this division the application of divisions (N) and (O) of this section.

- (2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the City in accordance with this chapter. The length of any extension granted under division (P)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this division, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the president of the United States or an act of the congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.
- (b) Taxes whose payment is extended in accordance with division (P)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (P)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(Q) For each taxable year to which division (N), (O), or (P) of this section applies to a taxpayer, the provisions of divisions (O)(2) and (3) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

Consolidated municipal income tax return.

(R) As used in this section:

- (1) "Affiliated group of corporations" means an affiliated group as defined in Section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
- (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.
- (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (R)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the ORC.
- (5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the ORC.

(Ord. 2015-91. Passed 11-24-15.)

- (S) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the City's income tax in that taxable year, and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (S)(2) of this section or a taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
- (2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (S)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
- (3) An election made under division (S)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.
- (4) When a taxpayer makes the election allowed under section 718.80 of the Revised Code, a valid election made by a taxpayer under division (S)(1) or (2) of this section is binding upon the tax commissioner for the remainder of the five-year period.
- (5) When an election is made under section 718.80 of the Revised Code is terminated, a valid election made under section 718.86 of the Revised Code is binding upon the tax administrator for the remainder of the five-year period. (Ord. 2018-35. Passed 6-12-18.)

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

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

- (V) (1) Except as otherwise provided in divisions (V)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 191.02, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
- (2) No corporation filing a consolidated City income tax return shall make any adjustment otherwise required under Section 191.02 (C)(1) to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.
- (3) If the net profit or loss of a pass-through entity having at least eighty percent (80%) of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated City income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
 - (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 191.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the City. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
 - (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 191.05, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the City. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
 - (a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in divisions (R) through (Y) of Section 191.05, exclude the property, payroll, and gross receipts of the pass-through

entity in the computation of the affiliated group's net profit situated to the City;

- (b) The pass-through entity shall be subject to City income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(W) Corporations filing a consolidated City income tax return shall make the computations required under divisions (R) through (Y) of Section 191.05 by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

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

(Ord. 2015-91. Passed 11-24-15.)

191.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(A) Every individual taxpayer domiciled in the City who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this chapter may claim a nonrefundable credit upon satisfactory evidence of the tax paid to the other municipality. Subject to division (C) of this section, the credit shall not exceed 100% of the amount obtained by multiplying the income, qualifying wages, commissions, net profits or other compensation subject to tax in the other municipality by the LOWER of the tax rate in such other municipality or the rate of one percent (1%).

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

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

(D) Intentionally left blank.

(Ord. 2015-91. Passed 11-24-15.)

191.07 ESTIMATED TAXES.

(A) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for the City's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to the City for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

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

(a) Taxes withheld for the City from qualifying wages shall be considered as paid to the City in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they shall be considered as paid on the dates on which the amounts were actually withheld.

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 191.05 or on or before the fifteenth (15th) day of the fourth month after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth month after the beginning of each fiscal year or period.

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section. (Ord. 2015-91. Passed 11-24-15.)

(C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the City, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

(a) On or before the fifteenth (15th) day of the fourth month after the beginning of the taxable year, twenty-two and one-half (22.5) percent of the tax liability for the taxable year;

(b) On or before the fifteenth (15th) day of the sixth month after the beginning of the taxable year, forty-five (45) percent of the tax liability for the taxable year;

(c) On or before the fifteenth (15th) day of the ninth month after the beginning of the taxable year, sixty-seven and one-half (67.5) percent of the tax liability for the taxable year;

(d) For an individual, on or before the fifteenth (15th) day of the first month of the following taxable year, ninety percent (90%) of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth (15th) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year. (Ord. 2018-35. Passed 6-12-18.)

(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 718.05.

(D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 191.18 upon

the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

- (a) For the first payment of estimated taxes each year, twenty-two and one-half percent (22.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (b) For the second payment of estimated taxes each year, forty-five percent (45%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (c) For the third payment of estimated taxes each year, sixty-seven and one-half percent (67.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (d) For the fourth payment of estimated taxes each year, ninety percent (90%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.
- (E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:
- (1) The amount of estimated taxes that were paid equals at least ninety percent (90%) of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
 - (2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the City under Section 191.05 for that year.
 - (3) The taxpayer is an individual who resides in the City 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. 2015-91. Passed 11-24-15.)

191.08 ROUNDING OF AMOUNTS.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

(Ord. 2015-91. Passed 11-24-15.)

191.09 REQUESTS FOR REFUNDS.

- (A) As used in this section, "withholding tax" has the same meaning as in Section 191.18 .
- (B) Upon receipt of a request for a refund, the Tax Administrator, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the City:
- (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 chapter, 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 to the appropriate municipal corporation official for payment. Except as provided in division (C)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
- (3) If a 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 191.21 .
- (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.
- (E) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within 90 days after the final filing date of the annual return or 90 days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in Section 191.18 (A)(4).

(Ord. 2015-91. Passed 11-24-15.)

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

(A) Income tax that has been deposited with the City, but should have been deposited with another municipality, is allowable by the City as a refund but is subject to the three-year limitation on refunds.

(B) Income tax that was deposited with another municipality but should have been deposited with the City is subject to recovery by the City. If the City's tax on that income is imposed after the time period allowed for a refund of the tax or withholding paid to the other municipality, the City shall allow a nonrefundable credit against the tax or withholding the City claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipality with respect to such income or wages.

(C) If the City's tax rate is less than the tax rate in the other municipality, then the nonrefundable credit shall be calculated using the City's tax rate. However, if the City's tax rate is greater than the tax rate in the other municipality, the tax due in excess of the nonrefundable credit is to be paid to the City, along with any penalty and interest that accrued during the period of nonpayment.

(D) Nothing in this section permits any credit carryforward.

(Ord. 2015-91. Passed 11-24-15.)

191.11 AMENDED RETURNS.

(A) (1) If a taxpayer's tax liability shown on the annual tax return for the City changes as a result of an adjustment to the taxpayer's federal or state income tax return, the taxpayer shall file an amended return with the City. The amended return shall be filed on a form required by the Tax Administrator.

(2) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

(B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due, together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, no payment need be made. The amended return shall reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return only:

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

(ii) If the applicable statute of limitations for civil actions or prosecutions under Section 191.12 has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; i.e., the payment shall be the lesser of the two amounts.

(C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (D) of this section for filing the amended return, even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is in accordance with the dollars, no refund need be paid by the City. A request filed under this division shall claim refund of overpayments resulting from alterations only to those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return, unless it is also filed within the time prescribed in Section 191.09 .

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. All facts, figures, computations, and attachments may be reopened to determine the refund amount due by inclusion of all facts, figures, computations, and attachments.

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

(Ord. 2015-91. Passed 11-24-15.)

191.12 LIMITATIONS.

(A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the later of:

(i) Three years after the tax was due or the return was filed, whichever is later; or

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

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(a) Beginning on the date a person who is aggrieved by an assessment files with the Board of Tax Review the request described in Section 191.21 . That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of Tax Review did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Board of Tax Review becomes final or, if any party appeals from the determination of the Board of Tax Review, the sixtieth day after the date on which the final determination of the Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 191.09 .

(D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the City does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Board of Tax Review, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the resultant amount due is less than the amount paid, a refund will be paid in the amount of the overpayment as provided by Section 191.09 , with interest on that amount as provided by division (E) of Section 191.09 .

(E) No civil action to recover City income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

(Ord. 2015-91. Passed 11-24-15.)

191.13 AUDITS.

(A) At or before the commencement of an audit, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during the audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of a tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to

have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

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

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

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

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest.

(Ord. 2015-91. Passed 11-24-15.)

191.14 SERVICE OF ASSESSMENT.

(A) As used in this section:

- (1) "Last known address" means the address the Tax Administrator has at the time a document is originally sent by certified mail, or any address the Tax Administrator can ascertain using reasonable means such as the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC.
- (2) "Undeliverable address" means an address to which the postal service or an authorized delivery service under Section 5703.056 of the ORC is not able to deliver an assessment of the Tax Administrator, except when the reason for non-delivery is because the addressee fails to acknowledge or accept the assessment.

(B) Subject to division (C) of this section, a copy of each assessment shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under Section 5703.056 of the ORC. With the permission of the person affected by an assessment, the Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail.

(C) (1) (a) If certified mail is returned because of an undeliverable address, a Tax Administrator shall utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC. If the Tax Administrator is unable to ascertain a new last known address, the assessment shall be sent by ordinary mail and considered served. If the ordinary mail is subsequently returned because of an undeliverable address, the assessment remains appealable within 60 days after the assessment's postmark.

(b) Once the Tax Administrator or other City official, or the designee of either, serves an assessment on the person to whom the assessment is directed, the person may protest the ruling of that assessment by filing an appeal with the local board of tax review within 60 days after the receipt of service. The delivery of an assessment of the Tax Administrator under division (C) (1)(a) of this section is prima facie evidence that delivery is complete and that the assessment is served.

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

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

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

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

(D) (1) A person disputing the presumption of delivery and service under division (C) of this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent by certified mail was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least 20 percent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in division (D)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within 60 days after the initial contact by the Tax Administrator or other City official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the local board of tax review.

(E) Nothing in this section prohibits the Tax Administrator or the Tax Administrator's designee from delivering an assessment by a Tax Administrator by personal service.

(F) Collection actions taken upon any assessment being appealed under division (C)(1)(b) of this section, including those on which a claim has been delivered for collection, shall be stayed upon the pendency of an appeal under this section.

(G) Additional regulations as detailed in the Rules and Regulations shall apply.

(Ord. 2015-91. Passed 11-24-15.)

191.15 ADMINISTRATION OF CLAIMS.

(A) As used in this section, "claim" means a claim for an amount payable to the City that arises pursuant to the City's income tax imposed in accordance with this chapter.

(B) Nothing in this chapter prohibits a Tax Administrator from doing either of the following if such action is in the best interests of the City:

- (1) Compromise a claim;
- (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall be to the benefit of only the parties to the compromise or agreement, and shall not eliminate or otherwise affect the liability of any other person.

(E) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

(Ord. 2015-91. Passed 11-24-15.)

191.16 TAX INFORMATION CONFIDENTIAL.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this chapter is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the City as authorized by this chapter. The Tax Administrator or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the internal revenue service, the tax commissioner, and tax administrators of other municipal corporations.

(B) This section does not prohibit the City from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

(Ord. 2015-91. Passed 11-24-15.)

191.17 FRAUD.

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

(Ord. 2015-91. Passed 11-24-15.)

191.18 INTEREST AND PENALTIES.

(A) As used in this section:

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

(B) (1) This section applies to the following:

- (a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
- (b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the City on or after January 1, 2016.

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules and regulations, as adopted before January 1, 2016, of the City to which the return is to be filed or the payment is to be made.

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

- (1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.
 - (2) (a) With respect to unpaid income tax and unpaid estimated income tax, the City may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.
(b) With respect to any unpaid withholding tax, the City may impose a penalty equal to fifty percent (50%) of the amount not timely paid.
 - (3) With respect to returns other than estimated income tax returns, the City may impose a penalty of \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure.
- (D) Nothing in this section requires the City to refund or credit any penalty, amount of interest, charges, or additional fees that the City has

properly imposed or collected before January 1, 2016.

(E) Nothing in this section limits the authority of the City to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate.

(F) By the 31st day of October of each year the City shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

(G) The City may impose on the taxpayer, employer, any agent of the employer, or any other payer the City's post-judgment collection costs and fees, including attorney's fees.

(Ord. 2015-91. Passed 11-24-15.)

191.19 AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION.

Authority.

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

- (1) (a) Exercise all powers whatsoever of an inquiry nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths.
- (b) The powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under the City's income tax ordinance;
- (2) Appoint agents and prescribe their powers and duties;
- (3) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
- (4) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, for any reason overpaid. In addition, the Tax Administrator may investigate any claim of overpayment and, if the Tax Administrator finds that there has been an overpayment, make a written statement of the Tax Administrator's findings, and approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;
- (5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 191.03 ;
- (7) (a) Make all tax findings, determinations, computations, and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, re-determine, or correct any tax findings, determinations, computations, or orders the Tax Administrator has made.
- (b) If an appeal has been filed with the Board of Tax Review or other appropriate tribunal, the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, or order which the Tax Administrator has made, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
- (8) Destroy any or all returns or other tax documents in the manner authorized by law;
- (9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 191.04 .

Verification of accuracy of returns and determination of liability.

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

Identification information.

- (C) (1) Nothing in this chapter prohibits the Tax Administrator from requiring any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.
- (2) (a) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within 30 days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 191.18 , in addition to any applicable penalty described in Section 191.99 .
- (b) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (C) of Section 191.19 within 30 days after filing the next tax

document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 191.18 .

- (c) The penalties provided for under divisions (C)(2)(a) and (b) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 191.99 for a violation of Section 191.17 and any other penalties that may be imposed by the Tax Administrator by law.

(Ord. 2015-91. Passed 11-24-15.)

191.20 REQUEST FOR OPINION OF THE TAX ADMINISTRATOR.

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator in accordance with the Rules and Regulations.

(C) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(D) A Tax Administrator may refuse to offer an opinion on any request received under this section. Such refusal is not subject to appeal.

(E) An opinion of the Tax Administrator binds the Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(F) An opinion of the Tax Administrator issued under this section is not subject to appeal.

(Ord. 2015-91. Passed 11-24-15.)

191.21 BOARD OF TAX REVIEW.

(A) (1) The Board of Tax Review shall consist of three members. Two members shall be appointed by City Council, but such appointees may not be employees, elected officials, or contractors with the City at any time during their term or in the five years (which applies only to these two appointments) immediately preceding the date of appointment. One member shall be appointed by the Mayor of the City. This member may be an employee of the City, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

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

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

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

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

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

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

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

(D) The Board of Tax Review shall schedule a hearing to be held within 60 days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board of Tax Review and may be represented by an attorney at law, certified public accountant, or other representative. The Board of Tax Review may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within 120 days after the first day of the hearing unless the parties agree otherwise.

(E) The Board of Tax Review may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board of Tax Review shall issue a final determination on the appeal within 90 days after the Board of Tax Review's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within 15 days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board of Tax Review's final determination as provided in Section 5717.011 of the ORC.

(F) The Board of Tax Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the ORC. Hearings requested by a taxpayer before a Board of Tax Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the ORC.

(Ord. 2015-91. Passed 11-24-15.)

191.22 AUTHORITY TO CREATE RULES AND REGULATIONS.

(A) Nothing in this chapter prohibits the legislative authority of the City, or a Tax Administrator pursuant to authority granted to the administrator by resolution or ordinance, to adopt rules to administer an income tax imposed by the City in accordance with this chapter. Such rules shall not conflict with or be inconsistent with any provision of this chapter. Taxpayers are hereby required to comply not only with the requirements of this chapter, but also to comply with the Rules and Regulations.

(B) All rules adopted under this section shall be published and posted on the internet.

(Ord. 2015-91. Passed 11-24-15.)

191.23 RENTAL AND LEASED PROPERTY.

Editor's Note: This section intentionally left blank.

(Ord. 2015-91. Passed 11-24-15.)

191.24 SAVINGS CLAUSE.

This chapter shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this chapter or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, or part hereof, not been included therein.
(Ord. 2015-91. Passed 11-24-15.)

191.25 COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE.

(A) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 191.12 and Section 191.99 hereof.

(B) Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 191.05 and Section 191.04 of this ordinance as though the same were continuing.
(Ord. 2015-91. Passed 11-24-15.)

191.26 ADOPTION OF RITA RULES AND REGULATIONS.

The City hereby adopts the Regional Income Tax Agency (RITA) Rules & Regulations, including amendments that may be made from time to time, for use as the City's Income Tax Rules and Regulations. In the event of a conflict with any provision(s) of the City Income Tax Ordinance and the RITA Rules & Regulations, the Ordinance will supersede. Until and if the contractual relationship between the City and RITA ceases, Section 191.26 will supersede all other provisions within this chapter regarding promulgation of rules and regulations by the Tax Administrator.
(Ord. 2015-91. Passed 11-24-15.)

191.27 ELECTION TO BE SUBJECT TO OHIO R.C. 718.80 TO 718.95.

(A) The City hereby adopts and incorporates herein by reference Sections 718.80 to 718.95 of the Ohio Revised Code for tax years beginning on or after January 1, 2018.

(B) A taxpayer, as defined in division (C) of this section, may elect to be subject to Sections 718.80 to 718.95 of the Revised Code in lieu of the provisions of this Chapter.

(C) "Taxpayer" has the same meaning as in section 718.01 of the Revised Code, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745 of the Revised Code. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.
(Ord. 2018-35. Passed 6-12-18.)

191.99 VIOLATIONS; PENALTIES.

(A) Whoever violates Section 191.17, division (A) of Section 191.16, or Section 191.04 by failing to remit City income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than \$1,000 or imprisonment for a term of up to six months, or both. If the individual that commits the violation is an employee, or official, of the City, the individual is subject to discharge from employment or dismissal from office.

(B) Any person who discloses information received from the Internal Revenue Service in violation of division (A) of Section 191.16 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than \$5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. If the individual that commits the violation is an employee, or official, of the City, the individual is subject to discharge from employment or dismissal from office.

(C) Each instance of access or disclosure in violation of division (A) of Section 191.16 constitutes a separate offense.

(D) If not otherwise specified herein, no person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (2) File any incomplete or false return;
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (4) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal and state income tax returns relating to the income or net profits of a taxpayer;
- (5) Fail to appear before the Tax Administrator and to produce his books, records, papers or federal and state income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator;
- (6) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer;
- (7) Fail to comply with the provisions of this ordinance or any order or subpoena of the Tax Administrator authorized hereby;
- (8) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;
- (9) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(E) Any person who violates any of the provisions in Section 191.99 (D) shall be subject to the penalties provided for in Section 191.99 (A) of this chapter.

(Ord. 2015-91. Passed 11-24-15.)

CHAPTER 191A

Income Tax Through December 31, 2015

191.01A Purpose.

191.02A Definitions.

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191.03.1A Imposition of additional thirty-nine hundredths of one percent tax.

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- 191.14A Credit for tax paid to another municipality.**
- 191.15A Board of Review.**
- 191.16A Separability.**
- 191.17A Collection of tax after termination of chapter.**

CROSS REFERENCES

- Power to levy income tax - see Ohio Const., Art. XVIII, Sec. 3
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718

191.01A PURPOSE.

There is hereby levied a tax on salaries, wages, commissions and other compensation and on net profits as hereinafter provided, to provide funds for the purpose of general Municipal operation, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the City.

(Ord. 78-4918. Passed 12-29-78.)

191.02A DEFINITIONS.

(a) As used in this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.

- (1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - A. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - B. Add an amount equal to five percent (5%) of intangible income deducted under Division (a)(1)A. of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code.
 - C. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code.
 - D. 1. Except as provided in division (a)(1)D.2. of this section, deduct income and gain included in federal taxable income to the extent that the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;
 - 2. Division (a)(1)D.1. of this section does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.
 - E. Add taxes on or measure by net income allowed as a deduction in the computation of federal taxable income.
 - F. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.
 - G. In the case of charitable contributions, they shall not be allowed as a deductible expense.
 - H. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
 - 1. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
 - 2. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

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

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.
- (2) "Association" means a partnership, limited partnership, limited liability company, S corporation or any other form of unincorporated enterprise, owned by one or more persons.
- (3) "Board of Appeals" means the Board created by and constituted as provided for in Section 191.15A.
- (4) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
- (5) "Corporation" means a corporation of joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
- (6) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (7) "Employee" means one who works for wages, salary, commission or other types of compensation in the service of an employer.
- (8) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profits, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (9) "Estimated tax liability" means the amount that a taxpayer estimates to be the taxpayer's liability for the income taxes levied in this chapter for a year prior to applying any credits, estimated tax payments, or withheld taxes for the year.
- (10) "Auditor" means the person appointed to administer the Municipality's Income Tax Ordinance and to direct the operation of the Municipal Income Tax Department or the person executing the duties of the Auditor, and sometimes referred to as the Tax Administrator.
- (11) "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.
- (12) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code, and verified by the attachment of Schedule A.
- (13) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal

income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

(14) "Gross receipts" means total income of taxpayers from whatever source derived.

(15) "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

(16) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

(17) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(18) "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.

(19) "Joint Economic Development District" means districts created under the Ohio Revised Code Sections 715.70 through 715.83 as amended from time to time.

(20) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(21) "Municipality" means the City of Galion, Ohio.

(22) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual; means the individual's profit, other than amounts described in Division (h) of Section 191.03A, 191.03.1A and 191.03.2A, required to be reported on Schedule C, Schedule E, or Schedule F.

(23) "Non qualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.

(24) "Nonresident" means an individual domiciled outside the Municipality.

(25) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.

(26) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.

(27) "Other payer" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual.

(28) "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.

(29) "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

(30) "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(31) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

(32) "Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse, or other space, which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his regular employees regularly in attendance.

(33) "Principal place of business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a municipality.

(34) "Qualified plan" means a retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.

(35) "Qualifying wages" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.

(36) "Resident" means an individual domiciled in the Municipality.

(37) "Resident incorporated business entity" means an incorporated business entity whose office, place or operations or business site is within the Municipality.

(38) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.

(39) "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

(40) "Schedule C" means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

(41) "Schedule E" means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(42) "Schedule F" means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

(43) "S corporation" means a corporation that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(44) "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Chapter.

(45) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(46) "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

(47) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying Subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying Subchapter S subsidiary.

(b) The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

(Ord. 2003-103. Passed 11-25-03.)

(a) Subject to the provisions of Section 191.15, an annual tax for the purposes specified in 191.01A shall be imposed on and after January 1, 1979, at the rate of one per cent (1%) per annum upon the following:

- (1) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the Municipality;
- (2) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered in the Municipality;
- (3) On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity;
- (4) On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other business entity has an office or place of business in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity;
- (5) On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality;
- (6) On all income received as gambling winnings as reported on IRS Form W- 2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

(b) Businesses Both In and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. Except as otherwise provided in Division (d) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- (1) Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
 - A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rent thereon by eight;
 - B. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code;
 - C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed;
 - D. Adding together the percentages determined in accordance with Subsections (b)(1) A, B and C hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total:
 1. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.
 2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Treasurer, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

(c) As used in Division (b) (1) C of this Section, "sales made in a municipal corporation" means:

- (1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
- (2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
- (3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(d) Net Operating Loss (NOL).

- (1) The municipality does not allow a net operating loss carryback or carryforward.
- (2) Nothing in Chapter 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryforward.

(e) Consolidated Returns.

- (1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
 - (2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.
- (f) Rentals from Real Property. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.
- (1) Where the gross monthly rentals of any real properties, regardless of number and value aggregates in excess of Three Hundred Dollars (\$300.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer and the net income of such rental properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity where the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds Three Hundred Dollars (\$300.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds Three Hundred Dollars (\$300.00) per month; and provided further that the person who operates a rooming house of five or more rented rooms shall be considered in business whether or not the gross income exceeds Three Hundred Dollars (\$300.00) per month.

(2) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.

(3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

(4) Real property, as the term is used in this chapter, shall include commercial, residential, farm property and any and all other types of real estate.

(5) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal tax purposes.

(6) Residents are subject to taxation upon the net income from rentals, to the extent above specified, regardless of the location of the real property owned.

(7) Nonresidents are subject to such taxation only if the real property is situated within the city. Nonresidents, in determining whether gross monthly rentals exceed Three Hundred Dollars (\$300.00) shall take into consideration only real estate situated within the City.

(8) To be considered nontaxable as ground rentals, the property must be under perpetual leasehold by the term of which the lessor performs no services of any type, including taxes on the property.

(9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City.

(10) A taxpayer may aggregate rentals for a net rental income, but no net loss may be taken against other income nor may it be carried either forward or backward.

(11) The residents of the City are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in the City, and/or on all properties located outside the City, with credit being given for income tax or taxes paid to other municipalities on rental profits on properties in those municipalities, but with said credit not to exceed the total rate levied in this chapter. Non-residents of the City are subject to such taxation only if the real property is situated within the City.

(g) In no case may a taxpayer deduct business losses or rental losses against wages or other compensation earned as an employee.

(h) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:

(1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(2) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

(3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

(4) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(5) Alimony.

(6) Compensation for damage to property by way of insurance or otherwise.

(7) Interest and dividends from intangible property.

(8) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).

(9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Section 718.01 of the Ohio Revised Code to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

(11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.

(12) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.

(13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.

(14) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official to the extent that such compensation does not exceed One Thousand Dollars (\$1,000.00) annually. Such compensation in excess of One Thousand Dollars (\$1,000.00) may be subject to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.

(15) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.

(16) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:

A. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

B. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.

(17) The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:

A. The income of an electric company or combined company;

B. The income of a telephone company.

As used in Division (f)(17) of this section, "combined company," "electric company" and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

(18) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under Division (b)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

(19) Earnings and income of all persons under eighteen (18) years of age whether residents or nonresidents.

(20) Generally the above noted items in this Section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

(Ord. 2003-103. Passed 11-25-03.)

191.03.1A IMPOSITION OF ADDITIONAL THIRTY-NINE HUNDREDTHS OF ONE PERCENT TAX.

(a) Subject to the provisions of Section 191.15A and in addition to the tax or taxes imposed by Section 191.03 and any other provisions of this chapter, an additional annual tax shall be imposed on and after October 1, 1989 at the rate of thirty-nine one hundredths (39/100) of one per cent (1%) per annum upon the following:

- (1) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the Municipality;
- (2) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered in the Municipality;
- (3) On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity;
- (4) On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other business entity has an office or place of business in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity;
- (5) On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality;
- (6) On all income received as gambling winnings as reported on IRS Form W- 2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

(b) Businesses Both In and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. Except as otherwise provided in Division (d) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- (1) Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
 - A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rent thereon by eight;
 - B. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code;
 - C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed;
 - D. Adding together the percentages determined in accordance with Subsections (b)(1) A., B. and C. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total:
 1. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.
 2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Treasurer, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.
- (c) As used in Division (b) (1) C of this Section, "sales made in a municipal corporation" means:
 - (1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
 - (2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
 - (3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(d) Net Operating Loss (NOL).

- (1) The municipality does not allow a net operating loss carryback or carryforward.
- (2) Nothing in Chapter 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryforward.

(e) Consolidated Returns.

- (1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
- (2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.

(f) Rentals from Real Property. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(1) Where the gross monthly rentals of any real properties, regardless of number and value aggregates in excess of Three Hundred Dollars (\$300.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer and the net income of such rental properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity where the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds Three Hundred Dollars (\$300.00) per month; provided further that in the case of farm property, the

owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds Three Hundred Dollars (\$300.00) per month; and provided further that the person who operates a rooming house of five or more rented rooms shall be considered in business whether or not the gross income exceeds Three Hundred Dollars (\$300.00) per month.

(2) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.

(3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

(4) Real property, as the term is used in this chapter, shall include commercial, residential, farm property and any and all other types of real estate.

(5) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal tax purposes.

(6) Residents are subject to taxation upon the net income from rentals, to the extent above specified, regardless of the location of the real property owned.

(7) Nonresidents are subject to such taxation only if the real property is situated within the city. Nonresidents, in determining whether gross monthly rentals exceed Three Hundred Dollars (\$300.00) shall take into consideration only real estate situated within the City.

(8) To be considered nontaxable as ground rentals, the property must be under perpetual leasehold by the term of which the lessor performs no services of any type, including taxes on the property.

(9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City.

(10) A taxpayer may aggregate rentals for a net rental income, but no net loss may be taken against other income nor may it be carried either forward or backward.

(11) The residents of the City are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in the City, and/or on all properties located outside the City, with credit being given for income tax or taxes paid to other municipalities on rental profits on properties in those municipalities, but with said credit not to exceed the total rate levied in this chapter. Non-residents of the City are subject to such taxation only if the real property is situated within the City.

(g) In no case may a taxpayer deduct business losses or rental losses against wages or other compensation earned as an employee.

(h) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:

(1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(2) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

(3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

(4) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(5) Alimony.

(6) Compensation for damage to property by way of insurance or otherwise.

(7) Interest and dividends from intangible property.

(8) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).

(9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Section 718.01 of the Ohio Revised Code to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

(11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.

(12) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.

(13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.

(14) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official to the extent that such compensation does not exceed One Thousand Dollars (\$1,000.00) annually. Such compensation in excess of One Thousand Dollars (\$1,000.00) may be subject to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.

(15) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.

(16) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:

A. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

B. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.

(17) The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:

A. The income of an electric company or combined company;

B. The income of a telephone company.

As used in Division (f)(17) of this section, "combined company," "electric company" and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

(18) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in

Section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under Division (b)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

(19) Earnings and income of all persons under eighteen (18) years of age whether residents or nonresidents.

(20) Generally the above noted items in this Section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

(Ord. 2003-103. Passed 11-25-03.)

191.03.2A IMPOSITION OF ADDITIONAL ELEVEN HUNDREDTHS OF ONE PERCENT TAX.

(a) Subject to the provisions of Section 191.15A, and in addition to the tax or taxes imposed by Section 191.03A and 191.03.1A and any other provisions of this chapter, an additional annual tax shall be imposed on and after January 1, 1996 at the rate of eleven one hundredths (11/100) of one per cent (1%) per annum upon the following:

(1) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the Municipality;

(2) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered in the Municipality;

(3) On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity;

(4) On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other business entity has an office or place of business in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity;

(5) On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality;

(6) On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

(b) Businesses Both In and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. Except as otherwise provided in Division (d) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) Multiply the entire net profits of the business by a business apportionment percentage to be determined by:

A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rent thereon by eight;

B. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code;

C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed;

D. Adding together the percentages determined in accordance with Subsections (b)(1) A, B, and C. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total:

1. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.

2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Auditor, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

(c) As used in Division (b) (1) C of this Section, "sales made in a municipal corporation" means:

(1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;

(2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;

(3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(d) Net Operating Loss (NOL).

(1) The municipality does not allow a net operating loss carryback or carryforward.

(2) Nothing in Chapter 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryforward.

(e) Consolidated Returns.

(1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.

(2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.

(f) Rentals from Real Property. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(1) Where the gross monthly rentals of any real properties, regardless of number and value aggregates in excess of Three Hundred Dollars (\$300.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer and the net income of such rental properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity where the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds Three Hundred Dollars (\$300.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds Three Hundred Dollars (\$300.00) per month; and provided further that the person who operates a rooming house of five or more rented rooms shall be considered in business whether or not the gross income exceeds Three Hundred Dollars (\$300.00) per month.

(2) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.

(3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

(4) Real property, as the term is used in this chapter, shall include commercial, residential, farm property and any and all other types of real estate.

(5) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal tax purposes.

(6) Residents are subject to taxation upon the net income from rentals, to the extent above specified, regardless of the location of the real property owned.

(7) Nonresidents are subject to such taxation only if the real property is situated within the city. Nonresidents, in determining whether gross monthly rentals exceed Three Hundred Dollars (\$300.00) shall take into consideration only real estate situated within the City.

(8) To be considered nontaxable as ground rentals, the property must be under perpetual leasehold by the term of which the lessor performs no services of any type, including taxes on the property.

(9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City.

(10) A taxpayer may aggregate rentals for a net rental income, but no net loss may be taken against other income nor may it be carried either forward or backward.

(11) The residents of the City are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in the City, and/or on all properties located outside the City, with credit being given for income tax or taxes paid to other municipalities on rental profits on properties in those municipalities, but with said credit not to exceed the total rate levied in this chapter. Non-residents of the City are subject to such taxation only if the real property is situated within the City.

(g) In no case may a taxpayer deduct business losses or rental losses against wages or other compensation earned as an employee.

(h) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:

(1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(2) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

(3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

(4) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(5) Alimony.

(6) Compensation for damage to property by way of insurance or otherwise.

(7) Interest and dividends from intangible property.

(8) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).

(9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Section 718.01 of the Ohio Revised Code to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

(11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.

(12) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.

(13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.

(14) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official to the extent that such compensation does not exceed One Thousand Dollars (\$1,000.00) annually. Such compensation in excess of One Thousand Dollars (\$1,000.00) may be subject to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.

(15) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.

(16) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:

A. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

B. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.

(17) The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:

A. The income of an electric company or combined company;

B. The income of a telephone company.

As used in Division (f)(17) of this section, "combined company," "electric company" and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

(18) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under Division (b)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

(19) Earnings and income of all persons under eighteen (18) years of age whether residents or nonresidents.

(20) Generally the above noted items in this Section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

(Ord. 2003-103. Passed 11-25-03.)

191.03.3A IMPOSITION OF ADDITIONAL ONE-HALF PERCENT (½%) TAX.

(a) Subject to the provisions of Section 191.13 , and in addition to the tax or taxes imposed by Section 191.03A , 191.03.1A , 191.03.2A and any other provisions of this chapter, an additional annual tax shall be imposed on and after July 1, 2006 at the rate of one-half per cent (1/2%) per annum upon the following:

- (1) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the Municipality;
- (2) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered in the Municipality;
- (3) On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity;
- (4) On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality whether or not such unincorporated business entity has an office or place of business in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity;
- (5) On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality;
- (6) On all income received as gambling winnings as reported on IRS Form W- 2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

(b) Businesses Both In and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. Except as otherwise provided in subsection (d) hereof, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- (1) Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
 - A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rent thereon by eight;
 - B. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Ohio Revised Code;
 - C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed;
 - D. Adding together the percentages determined in accordance with Subsections (b)(1) A, B and C hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total:
 1. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.
 2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Treasurer, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

(c) As used in subsection (b)(1)C. hereof, "sales made in a municipal corporation" means:

- (1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
- (2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
- (3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(d) Net Operating Loss (NOL).

- (1) The municipality does not allow a net operating loss carryback or carryforward.
- (2) Nothing in Chapter 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryforward.

(e) Consolidated Returns.

- (1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
- (2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.
- (f) Rentals from Real Property. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.
 - (1) Where the gross monthly rentals of any real properties, regardless of number and value aggregates in excess of three hundred dollars (\$300.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer and the net income of such rental properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity where the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds three hundred dollars (\$300.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds three hundred dollars (\$300.00) per month; and provided further that the person who operates a rooming house of five or more rented rooms shall be considered in business whether or not the gross income exceeds three hundred dollars (\$300.00) per month.
 - (2) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.
 - (3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
 - (4) Real property, as the term is used in this chapter, shall include commercial, residential, farm property and any and all other types of real estate.
 - (5) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal tax purposes.
 - (6) Residents are subject to taxation upon the net income from rentals, to the extent above specified, regardless of the location of the real property owned.
 - (7) Nonresidents are subject to such taxation only if the real property is situated within the City. Nonresidents, in determining whether gross monthly rentals exceed three hundred dollars (\$300.00) shall take into consideration only real estate situated within the City.
 - (8) To be considered nontaxable as ground rentals, the property must be under perpetual leasehold by the term of which the lessor performs no services of any type, including taxes on the property.
 - (9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City.
 - (10) A taxpayer may aggregate rentals for a net rental income, but no net loss may be taken against other income nor may it be carried either forward or backward.
 - (11) The residents of the City are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in the City, and/or on all properties located outside the City, with credit being given for income tax or taxes paid to other municipalities on rental profits on properties in those municipalities, but with said credit not to exceed the total rate levied in this chapter. Non-residents of the City are subject to such taxation only if the real property is situated within the City.
- (g) In no case may a taxpayer deduct business losses or rental losses against wages or other compensation earned as an employee.
- (h) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:
 - (1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
 - (2) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
 - (3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
 - (4) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedents estate during the period of administration (except such income from the operation of a business).
 - (5) Alimony.
 - (6) Compensation for damage to property by way of insurance or otherwise.
 - (7) Interest and dividends from intangible property.
 - (8) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
 - (9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Section 718.01 of the Ohio Revised Code to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
 - (10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
 - (11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.
 - (12) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
 - (13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.
 - (14) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually. Such compensation in excess of one thousand dollars (\$1,000.00) may be subject to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.
 - (15) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to

such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.

- (16) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:
- A. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
 - B. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.
- (17) The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:
- A. The income of an electric company or combined company;
 - B. The income of a telephone company.
- As used in Division (h)(17) hereof, "combined company," "electric company" and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.
- (18) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under Division (b)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.
- (19) Earnings and income of all persons under eighteen (18) years of age whether residents or nonresidents.
- (20) Generally the above noted items in this Section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

(Ord. 2009-10. Passed 1-13-09.)

191.04A EFFECTIVE PERIOD.

(a) The income tax imposed by Section 191.03A shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation described therein earned or received on and after January 1, 1979, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1979. Such tax shall continue for an indefinite period and until the same shall be amended or repealed.

(b) The income tax imposed by Section 191.03.1A shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation described therein earned or received on and after October 1, 1989, and with respect to the net profits of businesses, professions or other activities earned on and after October 1, 1989. Such tax shall continue for an indefinite period and until the same shall be amended or repealed.

(c) The income tax imposed by Section 191.03.2A shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation described therein earned or received on and after January 1, 1996, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1996. Such tax shall continue for an indefinite period and until the same shall be amended or repealed.

(d) The income tax imposed by Section 191.03.3A shall be levied, collected and paid with respect to the qualifying wages, commissions, net profits, other compensation and other taxable income described therein earned or received on and after July 1, 2006, and with respect to the net profits of businesses, professions or other activities earned on and after July 1, 2006. Such tax shall continue for an indefinite period and until the same shall be amended or repealed.

(Ord. 2009-10. Passed 1-13-09.)

191.05A RETURN AND PAYMENT OF TAX.

(a) Each taxpayer shall, whether or not a tax be due thereon, make and file a return on or before April 15th of each year for the previous year. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Auditor is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Municipal tax deducted by said employer or employers from the qualifying wages, commissions, other compensation, and other taxable income of a nonresident employee, and paid by him or them to the Auditor may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Chapter, is such qualifying wages, commissions, other compensation, and other taxable income.

(b) A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the Municipal return regardless of whether their federal and state returns were filed separately or jointly. If a joint city return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

(c) The return shall be filed with the Auditor on a form or forms furnished by or obtainable upon request from the Auditor; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Municipality's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with all provisions of this Chapter and all applicable rules and regulations governing the filing of returns.

(d) The return shall set forth:

(1) The aggregate amounts of qualifying wages, commissions, other compensation received, allocated, apportioned or set aside, other income defined by statute as taxable, and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax; and

(2) The amount of the tax imposed by this Chapter on such earnings and profits; and

(3) Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Auditor may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this Chapter.

(e) An extension for the filing of a Municipal Income Tax Return may be granted providing:

(1) The taxpayer has requested an extension for filing a federal income tax return, and files a copy of such extension request with the Municipality's Income Tax Department. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

(2) The Auditor may deny a taxpayer's request for extension if the taxpayer:

- A. Fails to timely file the request; or
- B. Fails to file a copy of the federal extension request; or
- C. Owes the Municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
- D. Has failed to file any required income tax return, report, or other related document for a prior tax period.

(3) The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 191.10A. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of this Chapter have been met. Any extension by the Auditor shall be granted upon the condition that declaration filing and payment requirements have been filled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

(f) Payments with Returns.

(1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Auditor the amount of taxes shown as due. However, credit shall be allowed for:

- A. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section 191.06A; and
- B. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section 191.07A; and
- C. Credit to the extent allowed by Section 191.14A for tax paid to another municipality.

(2) Subject to the limitations contained in Section 191.14A of this Chapter, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(g) Amended Returns.

(1) Where necessary, an amended return shall be filed in order to report additional income, and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 191.05 and 191.10. The Auditor shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Municipal tax liability, such taxpayer shall make and file an amended Municipal return showing income subject to the Municipal tax based upon such final determination of federal tax liability and pay an additional tax shown due thereon or make claim for refund of any overpayment.

(h) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Chapter. Provided, however, that the taxpayer shall have ten (10) days after notification by the Auditor, or his authorized representative, to file the items required by this paragraph.

(Ord. 2003-105. Passed 11-25-03.)

191.06A COLLECTION AT SOURCE.

(a) Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rates provided in Sections 191.03A, 191.03.1A and 191.03.2A hereof on the qualifying wages due by such employer to each such employee and shall, on or before the fifteenth (15th) day of the month following such withholding make a return and pay to the Auditor the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Auditor and shall be subject to the Rules and Regulations prescribed by the Auditor. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have, in fact, been withheld.

(b) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

(c) (1) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

(2) The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(d) Compensation deferred before the effective date of this amendment is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(e) So long as the taxes withheld by an employer for the Municipality during the measurement period are less than three hundred dollars (\$300.00) per month, payments may be made quarterly on or before the last day of the month following the end of each quarter, subject to the approval of the Auditor. The Auditor may revoke the approval of quarterly filing and payments whenever the Auditor has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this section.

(f) Employer Considered as Trustee. Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a trustee for the benefit of the Municipality, and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such tax, in fact, has been withheld.

(g) Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Municipality in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Municipality in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with personally liable for the tax not returned or paid to the Municipality as well as any related interest and penalties, and are also liable under the provisions of Section 191.12A hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

(h) Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. If the total tax withheld from any

employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year.

(i) In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.

(j) Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.
(Ord. 2003-105. Passed 11-25-03.)

191.07A DECLARATIONS.

(a) Requirement for Filing. Every person who anticipates any taxable income over \$6,700.00 which is not subject to Section 191.06A or who engages in any business, profession, enterprise or activity subject to the tax imposed by Sections 191.03A , 191.03.1A and 191.03.2A , shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to this Municipality in accordance with Section 191.06A , such person need not file a declaration.

(b) Dates for Filing.

(1) Such declaration shall be filed on or before April 15 of each year during the life of this Chapter, or on or before the fifteenth (15th) day of the fourth (4th) month following date the taxpayer becomes subject to the tax for the first time.

(2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(c) Forms: Credit for Tax Withheld or Paid Another Community.

(1) Such declaration shall be filed upon a form furnished by or obtainable from the Treasurer or an acceptable generic form, and credit shall be taken for the Municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 191.14A, credit may be taken for tax to be withheld and remitted to another taxing municipality.

(2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(3) For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.

(4) For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.

(5) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

(d) On and after July 1, 2003, and notwithstanding any other provision in this section, a taxpayer who is an individual must remit payment of estimated taxes as follows:

(1) Not more than twenty-two and one-half per cent (22 1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before April 15;

(2) Not more than forty-five per cent (45%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before July 31;

(3) Not more than sixty-seven and one-half per cent (67 1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the 31st day of October; and

(4) Not more than ninety per cent (90%) of the taxpayer's estimated tax liability for the previous year shall be required to be remitted on or before the 31st day of January.

Any amount deducted and withheld for taxes from the compensation of an individual shall be considered as estimated taxes paid in equal amounts on each of the payment dates described above.

(e) On and after January 1, 2003, and notwithstanding any other provision in this section a taxpayer that is not an individual shall remit payments of estimated taxes according to the following:

(1) Not more than twenty-two and one-half per cent (22 1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before April 15 or, in the case of a fiscal year taxpayer, the 15th day of the fourth month of the taxpayer's taxable year;

(2) Not more than forty-five per cent (45%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the 15th day of June or, in the case of a fiscal year taxpayer, the 15th day of the sixth month of the taxpayer's taxable year;

(3) Not more than sixty-seven and one-half per cent (67 1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the 15th day of September or, in the case of a fiscal year taxpayer, the 15th day of the ninth month of the taxpayer's taxable year; and

(4) Not more than ninety per cent (90%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the 15th day of December or, in the case of a fiscal year taxpayer, the 15th day of the twelfth month of the taxpayer's taxable year.

(f) Amended Declaration.

(1) A declaration may be amended at any time.

(2) In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(g) Annual Return Required. On or before the fifteenth (15th) day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 191.05.
(Ord. 2003-105. Passed 11-25-03.)

191.08A AUDITOR'S DUTIES; PERSONNEL.

(a) It shall be the duty of the Auditor:

(1) to collect and receive the tax imposed by this Chapter in the manner prescribed therein, to keep an accurate record thereof, and to report all monies so received, and

(2) to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of seven (7) years, showing the

amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.

- (b) (1) The Auditor shall prescribe the form and method of accounts and reports to be rendered to his office and shall maintain accurate records showing the amount received from each taxpayer and the date of such receipt.
- (2) The Auditor shall make a written report to Council each quarter of all moneys collected hereunder during the preceding quarter.
- (3) It shall be the duty of the Auditor to demand and receive all taxes due the City.
- (c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Auditor may determine the amount of tax appearing to be due the Municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- (d) The Auditor shall have the power to compromise any liability imposed by this Tax Code.
- (e) Upon the demonstration and documentation of good cause, the Auditor shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter. (Ord. 2003-105. Passed 11-25-03.)

191.09A INVESTIGATIVE POWERS OF THE AUDITOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Auditor, or any of his authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or any person subject to, or whom the Auditor believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due under this Chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Auditor or his duly authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.

(b) The Auditor is hereby authorized to order any person, presumed to have knowledge of the facts to appear at the office of the Auditor and to examine such person, under oath, concerning any income which was or should have been reported for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns, and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by an employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the Auditor authorized hereby, shall be deemed a violation of this Chapter punishable as provided in Section 191.12A.

(d) Every taxpayer shall retain all records necessary to compute his tax liability for a period of seven (7) years from the date his return is filed or the taxes required to be withheld are paid.

(e) Any information gained as a result of returns, investigations, hearings or verifications required or authorized by this Chapter shall be confidential and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this Chapter. The Auditor of the municipal corporation may furnish copies of returns filed under this Chapter to the Internal Revenue Service and to the Auditor.

(f) Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six (6) months, or both.

(g) In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal. (Ord. 2003-103. Passed 11-25-03.)

191.10A INTEREST AND PENALTIES.

(a) All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Chapter and remaining unpaid three (3) days after they become due shall bear interest at the rate of one and one-half per cent (1 ½%) per month or fraction thereof.

(b) In addition to interest as provided in Division (a) hereof, penalties are hereby imposed as follows based on the tax remaining unpaid after it becomes due:

- (1) For failure to pay taxes due, other than taxes withheld, one and one-half per cent (1 1/2%) per month or fraction thereof.
- (2) For failure to remit taxes withheld or required to be withheld from employees: five per cent (5%) of the unpaid withholding if paid during the first month after same becomes due, ten per cent (10%) of the unpaid withholding if paid during the second or third months after the same becomes due and fifteen per cent (15%) of the unpaid withholding if paid more than three months after the same becomes due.
- (3) Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, Twenty-five Dollars (\$25.00).
- (4) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety per cent (90%) of the actual tax for the year, or has failed to file a return and paid the total tax on or before the end of the month following the end of the taxable year; ten per cent (10%) of the difference between ninety per cent (90%) of the actual tax for the year and the amount paid through withholding and declaration.

(5) No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Treasurer when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Treasurer; and provided further, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after the final determination of the federal tax liability.

(Ord. 2003-105. Passed 11-25-03.)

191.11A COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this Chapter shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Treasurer shall be extended one (1) year from the time of the final determination of the federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

(c) After the time period allowed for a refund of the tax or withholding paid to another municipality, a nonrefundable credit shall be allowed

against tax or withholding erroneously paid or withheld to another municipality equal to the tax or withholding paid with respect to such income or wages.

(1) If the tax rate is less than the tax rate paid or withheld on such income or wages, the credit described in Division (c) above shall be calculated using the tax rate in effect.

(2) Nothing in this section permits any credit carryforward.

(d) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Section 5703.47 of the Ohio Revised Code.

(e) Amounts of less than One Dollar (\$1.00) shall not be collected or refunded.
(Ord. 2003-103. Passed 11-25-03.)

191.12A VIOLATIONS AND PENALTIES.

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
- (2) Knowingly make an incomplete, false or fraudulent return; or
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Treasurer; or
- (5) Refuse to permit the Treasurer or any duly authorized agent or employee to examine his or her employer books, records, papers, or federal income tax returns; or
- (6) Fail to appear before the Treasurer and to produce his or her employer's books, records, papers or federal income tax returns upon order or subpoena of the Treasurer; or
- (7) Refuse to disclose to the Treasurer any information with respect to such person's or such person's employer's income or net profits; or
- (8) Give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
- (9) Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or to knowingly give the Treasurer false information; or
- (10) Fail to comply with the provisions of this Chapter or any order or subpoena of the Treasurer; or
- (11) Fail or refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section 191.07A; or
- (12) Fail to cause the tax withheld from qualifying wages of the employees pursuant to this Chapter to be paid to the Municipality in accordance with the provisions of Section 191.06A; or
- (13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter, for which violation no penalty is otherwise provided,

is guilty of a minor misdemeanor on a first offense and shall be fined not more than One Hundred Dollars (\$100.00); on a second offense within two (2) years after the first offense, such person is guilty of a misdemeanor of the third degree and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than sixty (60) days, or both, for each offense; on each subsequent tax code violation within two (2) years after the first offense such person is guilty of a misdemeanor of the third degree, and punished as provided for herein.

(b) All prosecutions under this section shall be commenced within three (3) years from the time of the offense complained of; except in the case of failure to file a return, failure to pay taxes due, or in the case of fraud, in which event the limitations of time within which prosecution shall be commenced shall be six (6) years after the commission of the offense.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.

(d) The term "person" as used in this section shall, in addition to the meaning prescribed in Section 191.01, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.

(Ord. 2003-103. Passed 11-25-03.)

191.13A ALLOCATION OF FUNDS.

(a) The funds collected under the provisions of Section 191.03A of this Chapter shall be deposited in the General Fund.

(b) The funds collected under the provisions of Section 191.03.1A of this Chapter shall be deposited in a special fund entitled "Galion Economic Recovery Fund A" to be used exclusively for some or all of the following purposes:

- (1) Ambulance subsidy.
- (2) Increased police protection services.
- (3) Increased fire protection services.
- (4) Fire suppression equipment and structures.

(c) The funds collected under the provisions of Section 191.03.2A of this Chapter shall be deposited in a special General Fund account entitled "Recreation Fund Account" which shall be used exclusively for recreation and acquisition of real estate.

(d) The funds collected under the provisions of Section 191.03.3A of this Chapter shall be deposited in the Police, Fire and Emergency Medical Services Fund, which shall be used exclusively for police, fire and emergency medical services.

(Ord. 2009-10. Passed 1-13-09.)

191.14A CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Except as provided in Division (b) hereof, where a resident of the Municipality is subject to a municipal income tax in another municipality, he shall not pay a total municipal income tax on the other income greater than the tax imposed at the higher rate.

(b) Every individual taxpayer who resides in the Municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Municipality, if it appears that he has paid a municipal income tax on the same income taxable under this Chapter to another municipality, shall be allowed a credit of one per cent (1%) of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the tax assessed by this Chapter on such income earned in such other municipality or municipalities where such tax is paid.

(c) On and after January 1, 2003, the owner of a pass-through entity that are domiciled in the City shall be allowed a credit for taxes paid to another municipal corporation by a pass- through entity that does not conduct business in the City, with the amount of such credit being equal to the lesser of the following amounts:

(1) The amount, if any, of tax paid by the pass-through entity to another municipal corporation in this state, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity; or

(2) The amount of tax that would be imposed on the pass-through entity by the City if the pass-through entity conducted business in the City, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership of all owners of the entity.

(d) A claim for refund or credit under this Section shall be made in such manner as the Treasurer may by regulation provide.

(Ord. 2003-103. Passed 11-25-03.)

191.15A BOARD OF REVIEW.

(a) A Board of Review, consisting of three (3) electors of the City of Galion, one being appointed by the Mayor, one being appointed by the Auditor, and the third to be selected by the two so appointed, is hereby created. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall serve without pay.

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

(c) All hearings of the Board of Review shall be conducted privately and the provisions of Section 191.09A (d) of this chapter with reference to the confidential nature of tax information obtained under this chapter shall apply to such matters as may be heard before the Board of Review on appeal.

(d) Whenever the Tax Administrator issues a decision regarding an income tax obligation subject to appeal as provided in this section, the Tax Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and the manner in which such appeal may be pursued.

(e) Any person who is dissatisfied by a decision of the Tax Administrator and who has filed the required returns or other documents pertaining to the tax obligation at issue may appeal the decision to the Board of Review. The appeal shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator issues such decision.

(f) The Board shall schedule a hearing within forty-five (45) days after receiving the appeal, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative.

(g) The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the taxpayer within fifteen (15) days after issuing the decision.

(h) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision.

(Ord. 2001-75. Passed 11-13-01.)

191.16A SEPARABILITY.

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

(Ord. 2003-105. Passed 11-25-03.)

191.17A COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until terminated by Council, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 191.11A and 191.12A.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 191.06A and 191.07A as though the same were continuing.

(Ord. 2001-75. Passed 11-13-01.)

CHAPTER 193

Motor Vehicle License Tax

193.01 Purpose.

193.02 Additional levy.

CROSS REFERENCES

Power to levy - see Ohio R.C. 4504.06

193.01 PURPOSE.

For the purpose of paying the cost and expenses of enforcing and administering the law provided for in Ohio R.C. 4504.17; to supplement revenue already available to the City under Ohio R.C. 4504.04, 4504.06 or 4504.172; and to provide additional revenue for the purposes set forth therein, including, but not limited to, the purpose of paying the costs and expenses of enforcing and administering the tax provided for in this section, and for planning, constructing, improving, maintaining, and repairing public roads, highways and streets; maintaining and repairing bridges and viaducts; paying this City's portion of the cost and expense of cooperating with the Department of Transportation in the planning, improvement and construction of State highways; paying the City's portion of the compensation, damages, costs and expenses of planning, constructing, reconstructing, improving, maintaining and repairing roads and streets; paying any costs apportioned to this City under Ohio R.C. 4907.47; paying debt service charges on notes or bonds of this City issued for such purposes; purchasing, erecting and maintaining traffic lights and signals; and to supplement revenue already available for such purposes; there is hereby levied an annual license tax, in addition to the tax levied by Ohio R.C. 4503.02, 4503.07 and 4503.18 and Ordinances Nos. 85-5421 and 87-5646, upon the operation of motor vehicles on the public roads and highways. Such tax, beginning January 1, 2008 and continuing each registration year thereafter, to be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles, as defined in Ohio R.C. 4501.01 and 4505.01, in the district the registration of which, as defined in Ohio R.C. 4503.10, is in the City. Such tax levied shall be in addition to the taxes at the rate specified in Ohio R.C. 4503.04 and 4503.16, subject to

reductions in the manner provided in Ohio R.C. 4503.11 and the exemptions in Ohio R.C. 4503.16, 4503.17, 4503.171, 4503.41 and 4503.43. (Ord. 2006-65. Passed 10-24-06.)

193.02 ADDITIONAL LEVY.

For the purpose of paying the cost and expenses of enforcing and administering the law provided for in Ohio R.C. 4504.171; to supplement revenue already available to the City under Ohio R.C. 4504.04, 4504.06, 4504.17, or 4504.172; and to provide additional revenue for the purposes set forth therein, including, but not limited to, the purpose of paying the costs and expenses of enforcing and administering the tax provided for in this section; and for planning, constructing, improving, maintaining, and repairing public roads, highways and streets; maintaining and repairing bridges and viaducts; paying this City's portion of the cost and expense of cooperating with the Department of Transportation in the planning, improvement, and construction of State highways; paying the City's portion of the compensation, damages, costs and expenses of planning, constructing, reconstructing, improving, maintaining and repairing roads and streets; paying any costs apportioned to this City under Ohio R.C. 4907.47; paying debt service charges on notes or bonds of this City issued for such purposes; purchasing, erecting and maintaining traffic lights and signals; and to supplement revenue already available for such purposes; there is hereby levied an annual license tax, in addition to the tax levied by Ohio R.C. 4503.02, 4503.07, and 4503.18 and Ordinances Nos. 85-5421, 87-5646 and 2006-65, upon the operation of motor vehicles on the public roads and highways. Such tax, beginning January 1, 2008 and continuing each registration year thereafter, to be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles, as defined in Ohio R.C. 4501.01 and 4505.01, in the district, the registration of which, as defined in Ohio R.C. 4503.10, is in the City. Such tax levied shall be in addition to the taxes at the rate specified in Ohio R.C. 4503.04 and 4503.16, subject to reductions in the manner provided in Ohio R.C. 4503.11 and the exemptions in Ohio R.C. 4503.16, 4503.17, 4503.171, 4503.41 and 4503.43.

(Ord. 2006-66. Passed 10-24-06.)

CHAPTER 195

Transient Occupancy Tax

195.01 Definitions.

195.02 Rate of tax.

195.03 Exceptions.

195.04 Tax to be separately stated and charged.

195.05 Registration.

195.06 Reporting and remitting.

195.07 Penalties and interest.

195.08 Failure to collect and report tax; determination of Treasurer.

195.09 Appeal.

195.10 Board of Review.

195.11 Records.

195.12 Refunds.

195.13 Actions to collect.

195.14 Moneys received; where credited.

195.99 Penalty.

195.01 DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the following meanings ascribed to them respectively:

(a) "Treasurer" means the Treasurer of the City of Galion.

(b) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for a consideration to guests, in which five or more rooms are used for the accommodation of guests, whether the rooms are in one or several structures.

(c) "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms, or space or portion thereof, in any hotel for dwelling, lodging or sleeping purposes. The use or possession or right to use or possess any room or any suite of connecting rooms as office space, banquet or private dining rooms, or exhibit, sample or display space shall not be considered occupancy within the meaning of this definition unless the person exercising the right uses or possesses, or has the right to use or possess, all or any portion of the room or suite of rooms for dwelling, lodging or sleeping purposes.

(d) "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his functions through a managing agent of any type or character, other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

(e) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

(f) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever.

(g) "Transient guest" means a person occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(Ord. 2007-47. Passed 6-26-07.)

195.02 RATE OF TAX.

(a) Commencing on September 1, 2007, there is levied pursuant to Ohio R.C. 5739.08(B) a tax of three percent (3%) on all rents received by a hotel for lodging furnished to transient guests with the revenue therefrom to be applied as follows:

(1) Fifty percent (50%) deposited in the General Fund and appropriated for any lawful purpose; and

(2) The balance of the revenue shall be deposited in a separate fund, which shall be spent solely to make contributions/dues to a convention and visitor's bureau(s) operating within Crawford County.

(b) This tax is hereby referred to as the "transient occupancy tax" as imposed by and to be collected and administered under this chapter.

(c) This tax constitutes a debt owed by the transient guest to the City, which is extinguished only by payment to the operator as trustee for the City, or to the City. The transient guest shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient guest ceasing to occupy space in the hotel.

(d) If for any reason the tax due is not paid to the operator of the hotel, the Treasurer may require that the tax be paid directly to the Treasurer. (Ord. 2016-7. Passed 2-9-16.)

195.03 EXCEPTIONS.

(a) No tax shall be imposed under this chapter:

- (1) Upon rents not within the taxing power of the City under the Constitution or laws of Ohio or the United States;
- (2) Upon rents paid by the State or any of its political subdivisions;
- (3) Upon rents of five dollars (\$5.00) a day or less.

(b) No exemption claimed under subsections (a)(1) or (2) hereof shall be granted except upon a claim therefor made at the time rent is collected, and, under penalty of perjury, upon a form prescribed by the Treasurer. All claims of exemption under subsection (a)(3) hereof shall be made in the manner prescribed by the Treasurer. (Ord. 2007-47. Passed 6-26-07.)

195.04 TAX TO BE SEPARATELY STATED AND CHARGED.

(a) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy, or any bill or statement or charge made for an occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the City, and the operator shall be liable for the collection thereof and for the tax.

(b) No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

(Ord. 2007-47. Passed 6-26-07.)

195.05 REGISTRATION.

Within thirty days after the effective date of this chapter or within thirty days after commencing business, whichever is later, each operator of any hotel renting lodging to transient guests shall register the hotel with the Treasurer and obtain from him a transient occupancy registration certificate, to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

- (a) The name of the operator;
- (b) The address of the hotel;
- (c) The date upon which the certificate was issued;
- (d) "This Transient Occupancy Registration Certificate signifies that the person named on the face thereof has fulfilled the requirements of the Transient Occupancy Tax Ordinance by registering with the Treasurer for the purpose of collecting from transient guests the Transient Occupancy Tax and remitting said tax to the Treasurer. This certificate does not constitute a permit".

(Ord. 2007-47. Passed 6-26-07.)

195.06 REPORTING AND REMITTING.

Each operator shall, on or before the fifteenth day of each month, make a return to the Treasurer, on forms provided by the Treasurer, of the total rents charged and received, and the amount of tax collected for transient occupancies during the preceding calendar month. All claims for exemption from the tax filed by occupants with the operator during the reporting period shall be filed with the report. At the time the return is filed, the full amount of the tax collected shall be remitted to the Treasurer. The Treasurer may require further information in the return if the information is pertinent to the collection of the tax. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the City until payment thereof is made to the Treasurer. All returns and payments submitted by each operator shall be treated as confidential by the Treasurer, and shall not be released by him except upon order of a court of competent jurisdiction, or to an officer or agent of the United States, the State, the County or the City, for official use only.

(Ord. 2007-47. Passed 6-26-07.)

195.07 PENALTIES AND INTEREST.

(a) Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty equal to ten percent (10%) of the amount of the tax, in addition to the tax.

(b) Continued Delinquency. Any operator who fails to pay any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty equal to ten percent (10%) of the amount of the tax and previous penalty in addition to the tax and the ten percent (10%) penalty first imposed. An additional penalty equal to ten percent (10%) of the total tax and penalty of the previous thirty-day period shall be added for each successive thirty-day period that the account remains delinquent.

(c) Fraud. If the Treasurer determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty equal to twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsection (a) hereof.

(d) Interest. In addition to the previous penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent (1 %) per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) Penalties During Pendency of Hearing or Appeal. No penalty provided under the terms of this chapter shall be imposed during the pendency of any hearing provided for in Section 195.08, nor during the pendency of any appeal to the Board of Review provided for in Section 195.09.

(f) Abatement of Interest and Penalty. In cases where a return has been filed in good faith, and an assessment has been paid within the time prescribed by the Treasurer, the Treasurer may abate any charge of penalty or interest, or both.

(Ord. 2007-47. Passed 6-26-07.)

195.08 FAILURE TO COLLECT AND REPORT TAX; DETERMINATION OF TREASURER.

If any operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of the tax, or any portion thereof required by this chapter, the Treasurer shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Treasurer procures such facts and information upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make a report and remittance, he shall proceed to determine and assess against the operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Treasurer shall give notice of the amount so assessed by serving it personally, or by depositing it in the U.S. mail, postage prepaid, addressed to the operator so assessed at his last known place of address.

The operator may within ten days after the serving or mailing of the notice make application in writing to the Treasurer for a hearing on the amount assessed. If an application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Treasurer, shall become final and conclusive, and immediately due and payable. If an application is made, the Treasurer shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for the tax, interest and penalties. At the hearing, the operator may appear and offer evidence why the specified tax, interest and penalties should not be so fixed. After the hearing, the Treasurer shall determine the proper tax to be remitted, and

shall give written notice to the person in the manner prescribed herein of the determination and the amount of the tax, interest and penalties. The amount determined to be due shall be payable after fifteen days, unless an appeal is taken as provided in Section 195.09. (Ord. 2007-47. Passed 6-26-07.)

195.09 APPEAL.

Any operator aggrieved by any decision of the Treasurer with respect to the amount of the tax, interest and penalties, if any, may appeal to the Board of Review by filing a notice of appeal with the Treasurer within fifteen days of the serving or mailing of the determination of the tax due. The Board shall fix a time and place for hearing the appeal and shall give notice in writing to the operator at his last known place of address. The findings of the Board shall be served upon the appellant in the manner prescribed above for service of a notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. 2007-47. Passed 6-26-07.)

195.10 BOARD OF REVIEW.

(a) A Board of Review, consisting of the Mayor and the Director of Law, is hereby created. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearings by the Board may be conducted privately and the provisions of Section 195.06 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(b) The Board shall hear and pass on appeals from any ruling or decision of the Treasurer, and at the request of the operator, person, or Treasurer, is empowered to substitute alternate methods of allocation. The Board shall, in hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(Ord. 2007-47. Passed 6-26-07.)

195.11 RECORDS.

Every operator liable for the collection and payment to the City of any tax imposed by this chapter shall keep and preserve, for a period of three years, all records as may be necessary to determine the amount of tax as he may have been liable for the collection of and payment to the City, which record the Treasurer shall have the right to inspect at all reasonable times.

(Ord. 2007-47. Passed 6-26-07.)

195.12 REFUNDS.

(a) Whenever the amount of any tax, interest or penalty has been overpaid, or paid more than once, or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in subsections (b) and (c) hereof provided a claim in writing therefor, stating, under penalty of perjury, the specific grounds upon which the claim is founded, is filed with the Treasurer within three years of the date of payment. The claim shall be on forms furnished by the Treasurer.

(b) An operator may claim a refund or take as a credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established in a manner prescribed by the Treasurer that the person from whom the tax has been collected was not a transient guest; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient guest or credited to rent subsequently payable by the transient to the operator.

(c) A transient guest may obtain a refund of taxes overpaid, or paid more than once, or erroneously or illegally collected or received by the City, by filing a claim in the manner provided in subsection (a) hereof, but only when the tax was paid by the transient guest directly to the Treasurer, or when the transient guest, having paid the tax to the operator, establishes to the satisfaction of the Treasurer that the transient guest has been unable to obtain a refund from the operator who collected the tax.

(d) No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.

(Ord. 2007-47. Passed 6-26-07.)

195.13 ACTIONS TO COLLECT.

Any tax required to be paid by a transient guest under the provisions of this chapter shall be deemed a debt owed by the transient guest to the City. Any tax collected by an operator which has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of the amount.

(Ord. 2007-47. Passed 6-26-07.)

195.14 MONEYS RECEIVED; WHERE CREDITED.

The moneys received under the provisions of this chapter shall be distributed and deposited by the Treasurer in accordance with Section 195.02(a) and (b), respectively.

(Ord. 2007-47. Passed 6-26-07.)

195.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter shall be punishable therefor by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a period of not more than six months, or both.

(b) Any operator or other person who fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Treasurer, or who renders a false or fraudulent return or claim is punishable as aforesaid in subsection (a) hereof.

(c) Any person required to make, render, sign or verify any report or claim, who makes a false or fraudulent report or claim is punishable as aforesaid in subsection (a) hereof. Any person required to make, render, sign or verify any report or claim, who makes a false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is punishable as aforesaid in subsection (a) hereof.

(Ord. 2007-47. Passed 6-26-07.)

CODIFIED ORDINANCES OF GALION

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

Chap. 301. Definitions.

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TITLE THREE - Streets and Traffic Control Devices

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**CODIFIED ORDINANCES OF GALION
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TITLE ONE - Administration**

Chap. 301. Definitions.

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CHAPTER 301

Definitions

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CROSS REFERENCES

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301.01 MEANING OF WORDS AND PHRASES.

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

301.02 AGRICULTURAL TRACTOR.

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

301.03 ALLEY.

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

301.031 BEACON; HYBRID BEACON.

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

301.04 BICYCLE; MOTORIZED BICYCLE; MOPED; ELECTRIC BICYCLE.

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

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

"Motorized bicycle" or "moped" does not include an electric bicycle. (ORC 4511.01(H))
 (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. It shall in no instance mean any firearm as defined in ORC §2923.11.

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. (Ord. 2019-76. Passed 11-26-19.)

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. A shared-use path does not include any trail that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use.

(ORC 4511.01(PPP))

301.37 SIDEWALK.

"Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for

the use of pedestrians. (ORC 4511.01(FF))

301.38 STATE ROUTE.

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

301.39 STOP (WHEN REQUIRED).

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

301.40 STOPPING OR STANDING.

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

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

301.41 STOP INTERSECTION.

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

301.42 STREET OR HIGHWAY; ARTERIAL STREET.

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

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

301.43 THROUGH STREET OR HIGHWAY.

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

301.44 THRUWAY.

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

301.45 TRAFFIC.

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

301.46 TRAFFIC CONTROL DEVICE.

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

301.47 TRAFFIC CONTROL SIGNAL.

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

301.48 TRAILER.

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

301.485 TREE LAWN.

"Tree lawn" or "street lawn area" means that area lying between the curb and the street right-of-way line, i.e. the sidewalk, where one exists, and to the end of the right-of-way line, where no sidewalk exists.

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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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.

(EDITOR'S NOTE: Refer to Ohio R.C. 2921.331 for filing charges under subsection (b) hereof since the jury or judge as trier of fact may determine the violation to be a felony.)

(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. Except as hereinafter provided, a violation of subsection (b) is a misdemeanor of the first degree. A violation of subsection (b) is a felony if 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) When any vehicle or "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 is left on private property for more than forty-eight consecutive hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway, for forty-eight consecutive hours or longer, without notification to the Police Chief of the reasons for leaving such vehicle in such place. Prior to disposal of an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63, it shall be photographed by a law enforcement officer.

(3) When any vehicle has been stolen or operated without the consent of the owner and is located upon either public or private property.

(4) When any vehicle displays illegal license plates or fails to display the current lawfully required plates and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.

(5) When any vehicle has been used in or connected with the commission of a felony and is located upon either public or private property.

(6) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code whereby its continued operation would constitute a condition hazardous to life, limb or property, and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.

(7) When any vehicle is left unattended either on public or private property due to the removal of an ill, injured or arrested operator, or due to the abandonment thereof by the operator during or immediately after pursuit by a law enforcement officer.

(8) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision and is located either on public or private property.

(9) When any vehicle has been operated by any person who is driving without a lawful license or while his license has been suspended or revoked and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.

(10) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required, and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.

(b) Any vehicle removed under authority of subsection (a)(2) hereof shall be ordered into storage and/or disposed of as provided under Ohio R.C. 4513.60 et seq. Any other vehicle removed under authority of this section shall be ordered into storage and the Municipal police shall forthwith notify the registered vehicle owner of the fact of such removal and impounding, reasons therefor and the place of storage. Any person desiring to redeem an impounded vehicle shall appear at the police offices to furnish satisfactory evidence of identity and ownership or right to possession. Prior to issuance of a release form, the claimant, owner or operator shall either pay the amount due for any fines for violations on account of which such vehicle was impounded or, as the court may require, post a bond in an amount set by the court, to appear to answer to such violations. The pound operator shall release such vehicle upon the receipt of the release form and payment of all towage and storage charges.

(c) No owner or operator shall remove an impounded vehicle from the place of storage without complying with the above procedure. Possession of a vehicle which has been impounded and unlawfully taken from the place of storage, by the owner or operator, shall constitute prima-facie evidence that it was so removed by the owner or operator.

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

303.081 IMPOUNDING VEHICLES ON PRIVATE RESIDENTIAL OR AGRICULTURAL PROPERTY.

(a) (1) The Chief of Police upon complaint of any person adversely affected may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The Chief of Police, upon complaint of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. When ordering a motor vehicle into storage pursuant to this section, the Chief of Police may arrange for the removal of the motor vehicle by a towing service and shall designate a storage facility.

(2) A towing service towing a motor vehicle under subsection (a)(1) of this section shall remove the motor vehicle in accordance with that subsection. The towing service shall deliver the motor vehicle to the location designated by the Chief of Police not more than two hours after the time it is removed from the private property, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.

(3) Subject to subsection (b) of this section, the owner of a motor vehicle that has been removed pursuant to this subsection may recover the vehicle only in accordance with subsection (d) of this section.

(4) As used in this section "private residential property" means private property on which is located one or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

(b) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to subsection (a)(1) of this section arrives after the motor vehicle has been prepared for removal, but prior to its actual removal from the property, the towing service shall give the owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the motor vehicle established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the motor vehicle. However, if the vehicle is within a municipal corporation and the municipal corporation has established a vehicle removal fee, the towing service shall give the owner or operator oral or written notification that the owner or operator may pay not more than one-half of that fee to obtain release of the motor vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction.

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

(c) (1) The Chief of Police shall maintain a record of motor vehicles that the Chief orders into storage pursuant to subsection (a)(1) of this section. The record shall include an entry for each such motor vehicle that identifies the motor vehicle's license number, make, model and color, the location from which it was removed, the date and time of the removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. The Chief of Police shall provide any information in the record that pertains to a particular motor vehicle to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.

(2) Any person who registers a complaint that is the basis of the Police Chief's order for the removal and storage of a motor vehicle under subsection (a)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.

(d) (1) The owner or lienholder of a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section may reclaim it upon both of the following:

A. Payment of all applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 or, if the vehicle was towed within a municipal corporation that has established fees for vehicle removal and storage, payment of all applicable fees established by the municipal corporation.

B. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement.

When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.

(2) Upon presentation of proof of ownership as required under subsection (d)(1)B. of this section, the owner of a motor vehicle that is ordered into storage under subsection (a)(1) of this section may retrieve any personal items from the motor vehicle without retrieving

the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under division (B) (3) of Ohio R.C. 4513.69, if applicable. The owner of a motor vehicle shall not do either of the following:

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

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

(3) If a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by Ohio R.C. 4513.61 and 4513.62 apply.

(e) (1) No person shall remove, or cause the removal of, any motor vehicle from any private residential or private agricultural property other than in accordance with subsection (a)(1) of this section or Ohio R.C. 4513.61 to 4513.65.

(2) No towing service or storage facility shall fail to comply with the requirements of this section.

(f) This section does not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with Section 303.082 .

(g) Whoever violates subsection (e) of this section is guilty of a minor misdemeanor.
(ORC 4513.60)

303.082 PRIVATE TOW-AWAY ZONES.

(a) The owner of a private property may establish a private tow-away zone, but may do so only if all of the following conditions are satisfied:

(1) The owner of the private property posts on the property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that includes all of the following information:

A. A statement that the property is a tow-away zone;

B. A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner of the private property shall include on the sign the address of the property on which the private tow-away zone is located, or the name of the business that is located on the property designated as a private tow-away zone.

C. If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;

D. The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;

E. A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in division (B) of Ohio R.C. 4505.101.

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

(2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:

A. It is located within twenty-five linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within twenty-five linear miles.

B. It is well-lighted.

C. It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

(b) (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (a) of this section, without the consent of the owner of the private property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Ohio R.C. 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (c) of this section, may recover the vehicle in accordance with subsection (g) of this section.

(2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.

(3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.

(c) If the owner or operator of a vehicle that is being removed under authority of subsection (b) of this section, arrives after the vehicle has been prepared for removal, but prior to the actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner of the private property or in violation of any posted parking condition or regulation.

(d) (1) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section.

The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was

towed, whichever is earlier.

- (2) A towing service shall deliver a vehicle towed under subsection (b) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (e) (1) If an owner of a private property that is established as a private tow-away zone in accordance with subsection (a) of this section causes the removal of a vehicle from that property by a towing service under subsection (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the Police Department concerning all of the following:
 - A. The vehicle's license number, make, model and color;
 - B. The location from which the vehicle was removed;
 - C. The date and time the vehicle was removed;
 - D. The telephone number of the person from whom the vehicle may be recovered;
 - E. The address of the place from which the vehicle may be recovered.
- (2) The Chief of Police shall maintain a record of any vehicle removed from private property in the Chief's jurisdiction that is established as a private tow-away zone of which the Chief has received notice under this section. The record shall include all information submitted by the towing service. The Chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.
- (f) (1) When a vehicle is removed from private property in accordance with this section, within three days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the identity of the owner and any lienholder of the motor vehicle. The Registrar of Motor Vehicles shall insure that such information is provided in a timely manner. Subject to subsection (f)(4) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:
 - A. Within five business days after the Registrar of Motor Vehicles provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested or by a commercial carrier service utilizing any form of delivery requiring a signed receipt;
 - B. If the vehicle remains unclaimed thirty days after the first notice is sent, in the manner required under subsection (f)(1)A. of this section;
 - C. If the vehicle remains unclaimed forty-five days after the first notice is sent, in the manner required under subsection (f)(1)A. of this section.
- (2) Sixty days after any notice sent pursuant to subsection (f)(1) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under subsection (B) of Ohio R.C. 4505.101, may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.
- (3) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under division (B) of Ohio R.C. 4505.101.
- (4) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under Ohio R.C. 4505.101, the towing service or storage facility need only comply with the initial notice required under subsection (f)(1)A. of this section.
- (g) (1) The owner or lienholder of a vehicle that is removed under subsection (b) of this section may reclaim it upon both of the following:
 - A. Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement;
 - B. Payment of the following fees:
 1. All applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice sent under subsection (f)(1)A. of this section;
 2. If notice has been sent to the owner and lienholder as described in subsection (f) of this section, a processing fee of twenty-five dollars (\$25.00).
- (2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (b) of this section shall show the vehicle owner, operator or lienholder who contests the removal of the vehicle all photographs taken under subsection (d) of this section. Upon request, the towing service or storage facility shall provide a copy of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.
- (3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
- (4) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement, the owner of a vehicle that is removed under authority of subsection (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (g)(4) of this section, "personal items" do not include any items that are attached to the vehicle.
- (h) No person shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, or store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.
- (i) This section does not affect or limit the operation of Ohio R.C. 4513.60 or Ohio R.C. 4513.61 to 4613.65 as they relate to property other than private property that is established as a private tow-away zone under subsection (a) of this section.
- (j) Whoever violates subsection (h) of this section is guilty of a minor misdemeanor.
- (k) As used in this section, "owner of a private property" or "owner of the private property" includes, with respect to a private property, any of the following:
 - (1) Any person who holds title to the property;
 - (2) Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;
 - (3) A person who is authorized to manage the property;
 - (4) A duly authorized agent of any person listed in subsections (k)(1) to (3) of this section.

(ORC 4513.601)

303.083 RELEASE OF VEHICLE; RECORDS; CHARGES.

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

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

(a) No person shall willfully leave any vehicle or an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 on private property for more than seventy-two consecutive hours without the permission of the person having the right to the possession of the property or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway, for forty-eight consecutive hours or longer, without notification to the Police Chief of the reasons for leaving the vehicle in such place.

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.

(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 an abandoned junk motor vehicle that is the basis of the violation, less any money accruing to the Municipality from this disposal of the vehicle. (ORC 4513.64)

303.10 INOPERABLE OR UNLICENSED MOTOR VEHICLES; UNLICENSED OTHER VEHICLES; UNLICENSED WATERCRAFT; MOTOR VEHICLE PARTS.

(a) Definitions: As used in this section,

(1) "Motor Vehicle" means any motor vehicle as defined in Section 301.20 of these Codified Ordinances.

(2) "Inoperable Motor Vehicle" means a motor vehicle that is incapable of being driven, is extensively damaged, is dismantled or partially dismantled, or has any of the following conditions: missing wheel(s), missing tire(s), flat tire(s), missing window(s) or windshield.

(3) "Unlicensed Motor Vehicle" means a motor vehicle that does not display a current and valid license plate.

(4) "Unlicensed Other Vehicle" means a vehicle without motor power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and which fails to display a current and valid license plate.

(5) "Motor Vehicle Parts" means any portion or parts of any motor vehicle that are detached from said vehicle, including without limitation, tires, wheels, motors, transmissions, radiators, bumpers, fenders, seats, windows, windshields, axles, and chassis.

(6) "In the open" means visible on any property from the adjacent street or alley or visible from the property line of any abutting lot or parcel.

(7) "Unlicensed Watercraft" means a contrivance, boat or vessel used or designed for navigation on water as described in O.R.C. Section 4503.173 (A)(2), and fails to display a current and valid license.

(b) Nuisance. The presence of an inoperable or unlicensed motor vehicle, an unlicensed other vehicle, unlicensed watercraft, or motor vehicle parts on private party in violation of the provisions of this section is declared to be a nuisance.

(c) Prohibition. No person in charge or control of any private property within the City, whether as an owner, occupant, tenant, or otherwise, shall store, place, keep or to permit to remain in the open on such private property an inoperable motor vehicle, an unlicensed motor vehicle, an unlicensed other vehicle, unlicensed watercraft, or motor vehicle parts for more than twenty-one (21) calendar days after notice is served upon such person.

(d) Notice.

(1) The Notice required by this Section shall be in writing and shall contain the following information:

- A. Describe the condition for which the Notice is served, such as the presence of an inoperable motor vehicle, an unlicensed motor vehicle, an unlicensed other vehicle, unlicensed watercraft, motor vehicle parts, or a combination of said conditions in the open on private property;
- B. An order that the said motor vehicle(s), other vehicle(s), watercraft and/or motor vehicle parts be removed from said property within twenty-one (21) calendar days thereafter;
- C. That the person in charge or control of the private property upon which said conditions exist may avoid fine and costs by removing said motor vehicle(s), other vehicle(s), watercraft and/or motor vehicle parts from said property or storing them so as not to be in the open;
- D. The address and telephone number of the city employee to contact for information; and
- E. That each day such condition(s) exist beyond said twenty-one (21) calendar day period shall constitute a separate offense, even though no additional Notice of Violation is served.

(2) The Notice of Violation shall be served upon the person in charge or control of such private property by an inspector of the Health Department or by the Mayor or his designee in any manner provided by the Ohio Rules of Civil Procedure, including without limitation, by personally delivering said Notice to such person, or by certified mail, return receipt requested, addressed to such person's last known place of residence. If no person in charge or control of such property can be found, Notice to such person(s) may be published once in a daily newspaper of general circulation within the City, and the conditions described therein shall be corrected within twenty-one (21) calendar days after such publication. In addition, a copy of said Notice shall also be left at the premises where such condition is located, if the surrounding facts and circumstances make it practicable to do so.

(e) Exception. This Section shall not apply to private property occupied by a business enterprise lawfully operating as a place for the storage, repair or restoration of motor vehicles, other vehicles or watercraft as expressly permitted under the provisions of the City Zoning Ordinance.

(f) Abandoned Motor Vehicle. Should the person in charge or control of private property, within twenty-one (21) calendar days after receipt of a Notice of Violation advise the person who issued said Notice that the inoperable motor vehicle is either an abandoned motor vehicle or an abandoned junk motor vehicle which has been left on such private property without permission of the person having the right of possession of property and request removal thereof, said person shall cause removal of the vehicle pursuant to Ohio R. C. 4513.60 or 4513.63, respectively.

(g) Penalty. Whoever fails to correct a condition described in this Section within twenty-one (21) calendar days after receipt of Notice relating thereto is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day such violation continues beyond such twenty-one (21) calendar day period even though no additional Notice of Violation is served. Each inoperable or unlicensed motor vehicle, unlicensed other vehicle and unlicensed watercraft left in the open in violation of this Section shall also constitute a separate offense.

(Ord. 2001-56. Passed 7-24-01.)

303.11 PROVIDING FALSE INFORMATION TO POLICE OFFICER.

(a) No person shall knowingly present, display or orally communicate a false name, social security number or date of birth to a law enforcement officer who is in the process of issuing to the person a traffic ticket or complaint.

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

(ORC 4513.361)

303.12 CITATION TAGS.

The Chief of Police shall supply officers with citation tags, for the purpose of giving notice to persons violating this Traffic Code. Notice may be given by delivering the tag to the violator or by affixing it to the vehicle by means of which the violation occurred. The citation tag shall direct the violator to appear and to present the tag at a designated office in the City Building 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. 3308. Passed 9-18-56.)

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.

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

(ORC 2929.24; 2929.28)

303.991 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.

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

(1) "Distracted" means doing either of the following while operating a vehicle:

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

(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 305

Traffic Control

- 305.01 Uniform traffic standards.**
- 305.02 Authority and considerations for placement of devices.**
- 305.03 Powers of the Mayor.**
- 305.04 Posting of signs and signals required.**
- 305.05 Mayor's powers not limited.**
- 305.06 Records of Mayor.**
- 305.07 Reservation of power to Council.**

305.08 Violations subject to misdemeanor classification.

CROSS REFERENCES

Power to designate highway as included in a freeway, express- way or thruway - see Ohio R.C. 4511.011
Power to enact local traffic regulations - see Ohio R.C. 4511.07, 4511.61
Local traffic control devices - see Ohio R.C. 4511.11
Alteration of prima-facie speed limits - see Ohio R.C. 4511.21, 4511.22(A), 4511.23
Designation of through streets and erection of stop or yield signs - see Ohio R.C. 4511.65; TRAF. 313.02

305.01 UNIFORM TRAFFIC STANDARDS.

The Mayor or his designee shall cause to be installed traffic control devices in accordance with warrants and specifications prescribed and mandated by the Ohio Manual of Uniform Control Devices.
(ORC 4511.09 et. al.)

305.02 AUTHORITY AND CONSIDERATIONS FOR PLACEMENT OF DEVICES.

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

- (a) The maximum safety and protection of vehicular and pedestrian traffic from physical injury or property damage.
- (b) The existing and potential traffic movement, volume and conditions.
- (c) The location and frequency of accidents, including studies of remedial measures.
- (d) The recommendations of the Police and Fire Chiefs.
- (e) The acceleration of transportation of persons and property by vehicles so as to expedite travel and promote public safety.
- (f) The convenience and welfare of the general public in parking, standing, loading and unloading, and the use of the streets as affecting business concerns and places of assembly.
- (g) Economy in the expenditure of money.

305.03 POWERS OF THE MAYOR.

The Mayor or his designee is hereby empowered to:

- (a) Designate any street or highway as a through street or highway and require that all vehicles stop or yield the right of way as may be required before entering the same; or in residence districts designate certain streets or highways or portions thereof not to be through streets or highways despite the erection of stop signs or other official traffic control devices at intersecting streets.
- (b) Designate any intersection as a stop intersection and require all vehicles to stop at one or more entrances to such intersection.
- (c) Designate any intersection as a yield intersection and require all vehicles to yield the right of way as required.
- (d) Designate any street as a one-way street and require that all vehicles thereon be moved in one specific direction.
- (e) Designate and mark lanes to be used by traffic moving in a particular direction regardless of the center line of the roadway.
- (f) Erect signs directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction.
- (g) Designate those portions of any street, where overtaking and passing other traffic or driving to the left of the center or center line of the roadway would be especially hazardous, by appropriate signs or markings on the street to indicate the beginning and end of such zones. Such zones may be marked by an auxiliary yellow line placed parallel and to the right of the normal center line or offset marked lane line.
- (h) Place markers, buttons or signs within or adjacent to intersections and require that a specific course of direction be traveled by vehicles proceeding in lanes by either permitting, prohibiting or requiring turns at such intersections.
- (i) Install traffic control devices, signals and signs at any location to regulate traffic.
- (j) Establish safety zones, crosswalks, zones of quiet and play streets.
- (k) Close any street or portion thereof to vehicular traffic which is in the process of construction, reconstruction or repair or for any other purpose.
- (l) Determine the location of any necessary bus stops and taxicab stands.
- (m) Determine the location and limiting hours of truck loading zones.
- (n) Designate dangerous railroad crossings and erect stop signs thereat.
- (o) Erect "No U Turn" signs at any location to prohibit a vehicle from being turned so as to proceed in the opposite direction.
- (p) Regulate or prohibit the stopping, standing and parking of vehicles on streets, alleys or public property by erecting signs plainly indicating the prohibitions, restrictions or limitations.
- (q) Designate individual parking spaces by markings, which may either be parallel or at a prescribed angle to the curb or edge of the roadway.
- (r) Designate truck routes and streets or parts thereof where either a weight limit restriction or truck exclusion has been imposed by rule or regulation provided such is not in conflict with any legislation.
- (s) Erect signs to prohibit a right or left turn against a steady red signal at any intersection.

305.04 POSTING OF SIGNS AND SIGNALS REQUIRED.

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

305.05 MAYOR'S POWERS NOT LIMITED.

The powers of the Mayor or his designated assistant shall not be limited by the specific enumeration of subjects contained in this chapter.

305.06 RECORDS OF MAYOR.

The Mayor or his designated assistant shall keep a record of all rules, regulations and proceedings promulgated in connection with this chapter.

305.07 RESERVATION OF POWER TO COUNCIL.

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

305.08 VIOLATIONS SUBJECT TO MISDEMEANOR CLASSIFICATION.

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

TITLE THREE - Streets and Traffic Control Devices

Chap. 311. Street Obstructions and Special Uses.

Chap. 313. Traffic Control Devices.

CHAPTER 311

Street Obstructions and Special Uses

311.01 Placing injurious material or obstruction in street.

311.02 Parades and assemblages; permit.

CROSS REFERENCES

See sectional history for similar State law

Power to regulate processions or assemblages - see Ohio R.C. 4511.07(C)

Dropping, sifting and leaking loads - see TRAF. 339.08

311.01 PLACING INJURIOUS MATERIAL OR OBSTRUCTION IN STREET.

(a) No person shall place or knowingly drop upon any part of a street, highway or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such street, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

(b) Any person who drops or permits to be dropped or thrown upon any street any noxious, destructive or injurious material shall immediately remove the same.

(c) Any person authorized to remove a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

(d) No person shall place any obstruction in or upon a street without proper authority.

(e) No person, with intent to cause physical harm to a person or vehicle, shall place or knowingly drop upon any part of a highway, lane, road, street or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

(f) (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) of this section is guilty of a misdemeanor of the first degree. (ORC 4511.74)

311.02 PARADES AND ASSEMBLAGES; PERMIT.

(a) Permit Required. No person shall parade or hold a procession or attempt to parade or hold a procession in or upon any of the streets, parks or public grounds in the City, unless the person first obtains a permit.

(b) Driving Through Parades. No driver of any vehicle shall drive between the vehicles or persons comprising a parade or other authorized procession when the vehicle or persons are conspicuously designated as a parade or procession.

(c) Permit Issuance. Any person desiring to parade or hold a procession in or upon any street, park or public ground of the City for any purpose whatsoever, except a funeral procession shall, before parading or holding the procession, obtain from the Chief of Police a permit therefor, which shall be issued only upon and after the approval of the application by the Chief of Police.

(d) Permit Application. Each application for a permit shall be made out in duplicate, each copy thereof to be signed by the applicant, and it shall be in a form the Chief of Police prescribes. The application shall be filed with the Chief of Police at least thirty days prior to the date upon which the parade is to be held.

(e) Permit Form. Each permit when issued shall be attached to a duplicate copy of the application provided for in subsection (d) above, signed by the applicant, and each permit shall be in a form the Chief of Police prescribes.

(f) Refusal or Revocation of Permit.

(1) The Chief of Police may refuse to issue a parade permit if the applicant, group, or organization or persons represented by the applicant have previously violated the provisions of a similar permit or have violated any of the ordinances of the City or the laws of the State or of the United States in connection with a previous parade or procession in and upon the streets, parks or public grounds of the City; or if by reason of the nature of the proposed parade or procession, or of the character and type of the objects to be promoted thereby, or for any other reason the Chief is of the opinion that granting the permit will result in, provoke or tend to provoke disorderly conduct or create a disturbance, or will result in violation of an ordinance of the City, law or the State or of the United States.

(2) The permit may be revoked at any time by the Chief of Police for the reasons set forth herein for the refusal of the same, provided that notice of revocation is given immediately to the applicant.

(g) Penalty. 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.

CHAPTER 313

Traffic Control Devices

313.01 Obedience to traffic control devices.

313.02 Through streets; stop and yield right-of-way signs.

313.03 Traffic signal indications.

313.04 Lane-use control signal indications.

313.05 Special pedestrian control signals.

313.06 Flashing traffic signals. (Repealed)

313.07 Unauthorized signs and signals, hiding from view, advertising.

313.08 Alteration, injury, removal of traffic control devices.

313.09 Driver's duties upon approaching ambiguous or non-working traffic signal.

313.10 Unlawful purchase, possession or sale.

313.11 Fire lights.

313.12 Portable signal preemption devices prohibited.

CROSS REFERENCES

See sectional histories for similar State law

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

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

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

Traffic control devices defined - TRAF. 301.46

313.01 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

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

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

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

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

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

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

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

(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 Mayor may 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 in accordance with Chapter 305. 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) The Mayor 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 in accordance with Chapter 305.

(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:

1. Pedestrians lawfully within an associated crosswalk;
2. Other vehicles lawfully within the intersection.

B. In addition, vehicular traffic turning left or making a u-turn movement to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.

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

- A. Pedestrians lawfully within an associated crosswalk.
- B. Other traffic lawfully using the intersection.

(3) A. Unless otherwise directed by a pedestrian signal indication, as provided in Section 313.05, pedestrians facing a circular green signal indication are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. The pedestrian shall yield the right-of-way to vehicles lawfully within the intersection or so close as to create an

immediate hazard at the time that the green signal indication is first displayed.

- B. Pedestrians facing a green arrow signal indication, unless otherwise directed by a pedestrian signal indication or other traffic control device, shall not cross the roadway.
- (b) Steady Yellow Signal Indication:
- (1) Vehicular traffic facing a steady circular yellow signal indication is thereby warned that the related green movement or the related flashing arrow movement is being terminated or that a steady red signal indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady circular yellow signal indication is displayed.
 - (2) Vehicular traffic facing a steady yellow arrow signal indication is thereby warned that the related green arrow movement or the related flashing arrow movement is being terminated. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady yellow arrow signal indication is displayed.
 - (3) Pedestrians facing a steady circular yellow or yellow arrow signal indication, unless otherwise directed by a pedestrian signal indication as provided in Section 313.05 or other traffic control device, shall not start to cross the roadway.
- (c) Steady Red Signal Indication:
- (1) A. Vehicular traffic facing a steady circular red signal indication, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, traffic shall stop before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, before then before entering the intersection; and shall remain stopped until a signal indication to proceed is displayed except as provided in subsections (c)(1), (2) and (3) of this section.
B. Except when a traffic control device is in place prohibiting a turn on red or a steady red arrow signal indication is displayed, vehicular traffic facing a steady circular red signal indication is permitted, after stopping, to enter the intersection to turn right, or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be subject to the provisions that are applicable after making a stop at a stop sign.
 - (2) A. Vehicular traffic facing a steady red arrow signal indication shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, then before entering the intersection; and shall remain stopped until a signal indication or other traffic control device permitting the movement indicated by such red arrow is displayed.
B. When a traffic control device is in place permitting a turn on a steady red arrow signal indication, vehicular traffic facing a steady red arrow indication is permitted, after stopping, to enter the intersection to turn right or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be limited to the direction indicated by the arrow, and shall be subject to the provisions that are applicable after making a stop at a stop sign.
 - (3) Unless otherwise directed by a pedestrian signal indication as provided in Section 313.05 or other traffic control device, pedestrians facing a steady circular red or steady red arrow signal indication shall not enter the roadway.
 - (4) Local authorities by ordinance, or the Director of Transportation on State highways, may prohibit a right or a left turn against a steady red signal at any intersection, which shall be effective when signs giving notice thereof are posted at the intersection.
- (d) Flashing Green Signal Indication. A flashing green signal indication has no meaning and shall not be used.
- (e) Flashing Yellow Signal Indication:
- (1) A. Vehicular traffic, on an approach to an intersection, facing a flashing circular yellow signal indication, is permitted to cautiously enter the intersection to proceed straight through or turn right or left or make a u-turn movement except as such movement is modified by lane-use signs, turn prohibition signs, lane markings, roadway design, separate turn signal indications, or other traffic control devices. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:
 1. Pedestrians lawfully within an associated crosswalk;
 2. Other vehicles lawfully within the intersection.
B. In addition, vehicular traffic turning left or making a u-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
 - (2) A. Vehicular traffic, on an approach to an intersection, facing a flashing yellow arrow signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make the movement indicated by such arrow, or other such movement as is permitted by other signal indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a u-turn, shall yield the right-of-way to both of the following:
 1. Pedestrians lawfully within an associated crosswalk;
 2. Other vehicles lawfully within the intersection.
B. In addition, vehicular traffic turning left or making a u-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
 - (3) Pedestrians facing any flashing yellow signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the flashing yellow signal indication is first displayed.
 - (4) When a flashing circular yellow signal indication is displayed as a beacon to supplement another traffic control device, road users are notified that there is a need to pay additional attention to the message contained thereon or that the regulatory or warning requirements of the other traffic control device, which might not be applicable at all times, are currently applicable.
- (f) Flashing Red Signal Indication:
- (1) Vehicular traffic, on an approach to an intersection, facing a flashing circular red signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. The right to proceed shall be subject to the provisions that are applicable after making a stop at a stop sign.
 - (2) Pedestrians facing any flashing red signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk.

Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the flashing red signal indication is first displayed.

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

(g) General Application: In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(h) Exception: This section does not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by Ohio R.C. 4511.61 and 4511.62. (ORC 4511.13)

313.04 LANE-USE CONTROL SIGNAL INDICATIONS.

(a) The meanings of lane-use control signal indications are as follows:

(1) A steady downward green arrow: A road user is permitted to drive in the lane over which the arrow signal indication is located.

(2) A steady yellow "X": A road user is to prepare to vacate the lane over which the signal indication is located because a lane control change is being made to a steady red "X" signal indication.

(3) A steady white two-way left-turn arrow: A road user is permitted to use a lane over which the signal indication is located for a left turn, but not for through travel, with the understanding that common use of the lane by oncoming road users for left turns also is permitted.

(4) A steady white one-way left-turn arrow: A road user is permitted to use a lane over which the signal indication is located for a left turn, without opposing turns in the same lane, but not for through travel.

(5) A steady red "X": A road user is not permitted to use the lane over which the signal indication is located and that this signal indication shall modify accordingly the meaning of other traffic controls present.

(ORC 4511.131)

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

(ORC 4511.99)

313.05 SPECIAL PEDESTRIAN CONTROL SIGNALS.

(a) Whenever special pedestrian control signals exhibiting the words "walk" or "don't walk", or the symbol of a walking person or an upraised palm are in place, such signals shall indicate the following instructions:

(1) A steady walking person signal indication, which symbolizes "walk", means that a pedestrian facing the signal indication is permitted to start to cross the roadway in the direction of the signal indication, possibly in conflict with turning vehicles. The pedestrian shall yield the right-of-way to vehicles lawfully within the intersection at the time that the walking person signal indication is first shown.

(2) A flashing upraised hand signal indication, which symbolizes "don't walk", means that a pedestrian shall not start to cross the roadway in the direction of the signal indication, but that any pedestrian who has already started to cross on a steady walking person signal indication shall proceed to the far side of the traveled way of the street or highway, unless otherwise directed by a traffic control device to proceed only to the median of a divided highway or only to some other island or pedestrian refuge area.

(3) A steady upraised hand signal indication means that a pedestrian shall not enter the roadway in the direction of the signal indication.

(4) Nothing in this section shall be construed to invalidate the continued use of pedestrian control signals utilizing the word "wait" if those signals were installed prior to March 28, 1985.

(5) A flashing walking person signal indication has no meaning and shall not be used. (ORC 4511.14)

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

(ORC 4511.99)

313.06 FLASHING TRAFFIC SIGNALS.

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

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

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

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

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

(ORC 4511.16)

313.08 ALTERATION, INJURY, REMOVAL OF TRAFFIC CONTROL DEVICES.

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

- (1) Knowingly move, deface, damage, destroy or otherwise improperly tamper with any traffic control device, any railroad sign or signal, or any inscription, shield or insignia on the device, sign or signal, or any part of the device, sign or signal;
 - (2) Knowingly drive upon or over any freshly applied pavement marking material on the surface of a roadway while the marking material is in an undried condition and is marked by flags, markers, signs or other devices intended to protect it;
 - (3) Knowingly move, damage, destroy or otherwise improperly tamper with a manhole cover.
- (b) (1) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (3) of this section is guilty of a misdemeanor of the third degree. If a violation of subsection (a)(1) or (3) of this section creates a risk of physical harm to any person, the offender is guilty of a misdemeanor of the first degree. If a violation of subsection (a)(1) or (3) of this section causes serious physical harm to property that is owned, leased, or controlled by a state or local authority, the offender is guilty of a felony and shall be prosecuted under appropriate state law.
- (2) Except as otherwise provided in this subsection, whoever violates subsection (a)(2) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the third degree.

(ORC 4511.17)

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

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

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

(a) Every operator of a vehicle shall stop at and before the red, circular lights established at the intersections of Harding Way E. at Murray and Midblock (100) S. Liberty Street while such lights are operating in order to permit the safe passage of fire equipment, and such operator shall not proceed through such intersections unless directed to so proceed by a police officer or fire officer, or until such fire light ceases to operate.

(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.

313.12 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)

TITLE FIVE - Vehicles

- Chap. 333. OVI; Willful Misconduct; Speed.
- Chap. 335. Licensing; Accidents.
- Chap. 337. Safety and Equipment.
- Chap. 339. Commercial and Heavy Vehicles.
- Chap. 341. Commercial Drivers.
- Chap. 343. Transportation of Hazardous Wastes.

CHAPTER 331

Operation Generally

- 331.01 Driving upon right side of roadway; exceptions.**
- 331.02 Passing to right when proceeding in opposite directions.**
- 331.03 Overtaking, passing to left; driver's duties.**
- 331.04 Overtaking and passing upon right.**
- 331.05 Overtaking, passing to left of center.**
- 331.06 Additional restrictions on driving upon left side of roadway.**
- 331.07 Hazardous or no passing zones.**
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- 331.18 Operation of vehicle at yield signs.**
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- 331.20 Emergency or public safety vehicles at stop signals or signs.**
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- 331.211 Report of vehicle failing to yield right of way to public safety vehicle.**
- 331.22 Driving onto roadway from place other than roadway: duty to yield.**
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- 331.32 Entering and exiting controlled-access highway.**
- 331.33 Obstructing intersection, crosswalk or grade crossing.**
- 331.34 Failure to control; weaving; full time and attention.**
- 331.35 Occupying a moving trailer or manufactured or mobile home.**
- 331.36 Squealing tires, "peeling", cracking exhaust noises.**
- 331.37 Driving upon sidewalks, street lawns or curbs.**
- 331.38 Stopping for school bus; discharging children.**
- 331.39 Driving across grade crossing.**
- 331.40 Stopping at grade crossing.**
- 331.41 Shortcutting; avoiding traffic control devices.**
- 331.42 Littering from motor vehicle.**
- 331.43 Wearing earplugs or earphones prohibited.**
- 331.44 Vehicular operation on street closed due to rise in water level.**

CROSS REFERENCES

- See sectional histories for similar State law
- Obedience to traffic control devices - see TRAF. 313.01
- Operation of bicycles and motorcycles - see TRAF. 373.01 et seq.
- School bus operation - see OAC Ch. 4501-3

331.01 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.

- (a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:
 - (1) When overtaking and passing another vehicle proceeding in the same direction, or when making a left turn under the rules governing such movements;
 - (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
 - (3) When driving upon a roadway divided into three or more marked lanes for traffic under the rules applicable thereon;
 - (4) When driving upon a roadway designated and posted with signs for one-way traffic;
 - (5) When otherwise directed by a police officer or traffic control device.
- (b) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, and far enough to the right to allow

passing by faster vehicles if such passing is safe and reasonable, except under any of the following circumstances:

- A. When overtaking and passing another vehicle proceeding in the same direction;
- B. When preparing for a left turn;
- C. When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.

(2) Nothing in subsection (b)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.

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

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

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

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

331.02 PASSING TO RIGHT WHEN PROCEEDING IN OPPOSITE DIRECTIONS.

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

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

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

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

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

(1) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall, except as provided in subsection (a)(3) hereof, signal to the vehicle to be overtaken, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. When a motor vehicle overtakes and passes a bicycle or electric bicycle, three feet or greater is considered a safe passing distance.

(2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.

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

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

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

331.04 OVERTAKING AND PASSING UPON RIGHT.

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

(1) When the vehicle overtaken is making or about to make a left turn;

(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.
(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)

331.39 DRIVING ACROSS GRADE CROSSING.

- (a) (1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad, if any of the following circumstances exist at the crossing:
- A. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.
 - B. A crossing gate is lowered.
 - C. A flagperson gives or continues to give a signal of the approach or passage of a train.
 - D. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.
 - E. An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
 - F. There is insufficient undercarriage clearance to safely negotiate the crossing.
- (2) A person who is driving a vehicle and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (a)(1)A. to F. of this section exist at the crossing.
- (b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.
- (c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

(ORC 4511.62)

331.40 STOPPING AT GRADE CROSSING.

- (a) (1) Except as provided in subsection (a)(2) hereof, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle, and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.
- (2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.
- A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.
 - B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.
 - C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.
- (3) As used in this section:
- A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
 - B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
 - C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.
- (4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)
- (b) (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty but not less than fifteen feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
- (2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

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

331.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.

- (a) No person shall operate a vehicle across public or private property marked with signs "No Through Traffic" or words of similar import for the purpose of passing from one roadway to another.
- (b) No person shall operate a vehicle across public or private property for the purpose of avoiding compliance with a traffic control device.
- (c) It shall be prima-facie evidence of a violation of this section for the operator of a vehicle to cross public or private property as provided herein without using the service of such property, stopping the engine or both.
- (d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

331.42 LITTERING FROM MOTOR VEHICLE.

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

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

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

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

331.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.

(a) As used in this section:

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

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

B. Provides hearing protection.

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

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

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

B. Provides hearing protection.

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

(c) This section does not apply to:

(1) Any person wearing a hearing aid;

(2) Law enforcement personnel while on duty;

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

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

(5) Any person engaged in the operation of refuse collection equipment;

(6) Any person wearing earphones or earplugs for hearing protection while operating a motorcycle.

(d) Except as otherwise provided in this division, 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.)

CHAPTER 333

OVI; Willful Misconduct; Speed

333.01 Driving or physical control while under the influence.

333.02 Operation in willful or wanton disregard of safety.

333.03 Maximum speed limits; assured clear distance ahead.

333.031 Approaching a stationary public safety, emergency or road service vehicle.

333.04 Stopping vehicle; slow speed; posted minimum speeds.

333.05 Speed limitations over bridges.

333.06 Speed exceptions for emergency or safety vehicles.

333.07 Street racing prohibited.

333.08 Operation without reasonable control.

333.09 Reckless operation on streets, public or private property.

333.10 Operation in violation of immobilization order.

333.11 Texting while driving prohibited.

CROSS REFERENCES

See sectional histories for similar State law

Drug of abuse defined - see Ohio R.C. 3719.011(A)

Alcohol defined - see Ohio R.C. 4301.01(B)(1)

Alteration of prima-facie speed limits - see Ohio R.C. 4511.21, 4511.22(B), 4511.23
Failure to control vehicle - see TRAF. 331.34
Walking on highway while under the influence - see TRAF. 371.09

333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

- (a) (1) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
- A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - B. The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
 - C. The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
 - E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.
 - F. The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.
 - G. The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
 - H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.
 - I. The person has a concentration of two hundred thirty-eight- thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.
 - J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 1. The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 2. The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
 3. The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
 4. The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
 5. The person has a concentration of heroin metabolite (6- monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.
 6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
 7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
 8. Either of the following applies:
 - a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - b. The person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 9. The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
 10. The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
 11. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is

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

- (2) No person who, within twenty years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) or (B), or any other equivalent offense shall do both of the following:
 - A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
 - B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.
 - (b) Operation After Under-Age Consumption. No person under twenty-one years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
 - (1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
 - (2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
 - (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.
 - (c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)
 - (d) Physical Control.
 - (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
 - (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.
 3. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.
 - B. No person under twenty-one years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.
 - (3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:
 - A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (e) Evidence: Tests.
 - (1) A. In any criminal prosecution or juvenile court proceeding for a violation of (a)(1)A. of this section or for any equivalent offense, that is vehicle-related the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.
 - B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) or (b) of this section or for an equivalent offense that is vehicle related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

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

The bodily substance withdrawn under subsection (e)(1)B. hereof shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.
 - C. As used in subsection (e)(1)B. of this section, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.
 - (2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable

concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.

- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.

If the chemical test was obtained pursuant to subsection (e)(1)B. hereof, the person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of Ohio R.C. 4511.191, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of Ohio R.C. 4511.191, the form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

- (4) A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.
- B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine, if a law enforcement officer has administered a field sobriety test to the operator or person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section.

(ORC 4511.19; 4511.194)

(f) Forensic Laboratory Reports.

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

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

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

(h) General OVI Penalty.

(1) Whoever violates any provision of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A. to E. of this section:

A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of three consecutive days. As used in this subsection, three consecutive days means seventy-two consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers’ intervention program certified under Ohio R.C. 5119.38.

The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the offender to attend for the suspended part of the term a drivers’ intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers’ intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services that the operators of the drivers’ intervention program determine that the offender should attend and to report periodically to the court on the offender’s progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

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

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

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

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

3. In all cases, a fine of not less than three hundred seventy- five dollars (\$375.00) and not more than one thousand seventy-five dollars (\$1,075).

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

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

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

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol

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

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.
In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.
 3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than five hundred twenty-five dollars (\$525.00) and not more than one thousand six hundred twenty-five dollars (\$1,625).
 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)
- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:
1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than eight hundred fifty dollars (\$850.00) and not more than two thousand seven hundred fifty dollars (\$2,750).
 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of two to twelve years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)
 6. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.
- D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) or (b) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.
- E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a

result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.

- (3) If an offender is sentenced to a jail term under subsection (h)(1)B.1. or 2. or (h)(1)C.1. or 2. of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.
- As an alternative to a mandatory jail term of ten consecutive days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.
- As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.
- As an alternative to a mandatory jail term of thirty consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.
- As an alternative to the mandatory jail term of sixty consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.
- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.
- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
- A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
 - B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
 - C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.
- (8) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.
- (i) Vehicle Operation After Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:
- (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection (i)(1) of this section as required under that section.
 - (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) or (b) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.
 - (3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1416 and if the court

imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of Ohio R.C. 2929.24.

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

(ORC 4511.19)

(j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4511.194)

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

- (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.
- (2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.
- (l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

- (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
- (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)

(p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars (\$25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193. (ORC 4511.193)

(q) Definitions. As used in this section:

(1) "Equivalent offense" means any of the following:

- A. A violation of division (A) or (B) of Ohio R.C. 4511.19;
- B. A violation of a municipal OVI ordinance;
- C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
- D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
- E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
- F. A violation of division (A) or (B) of Ohio R.C. 1547.11;
- G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine;
- H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;
- I. A violation of a former law of this State that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;

(2) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:

- A. Except as specifically authorized under this section, the term must be served in a jail.
- B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.

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

(4) "Community residential sanction", "continuous alcohol monitoring", "jail", "mandatory prison term", "mandatory term of local incarceration", "sanction" and "prison term" have the same meanings as in Ohio R.C. 2929.01.

(5) "Drug of abuse" has the same meaning as in Ohio R.C. 4506.01.

(6) "Equivalent offense that is vehicle-related" means an equivalent offense that is any of the following:

- A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
- B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;
- C. A violation of a former law of this state that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19.
(ORC 4511.181)

333.02 OPERATION IN WILLFUL OR WANTON DISREGARD OF SAFETY.

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

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

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

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

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

333.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.

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

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

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

B. As used in this section, "school" means any school chartered under Ohio R.C. 3301.16 and any nonchartered school that during the preceding year filed with the Department of Education in compliance with rule 3301-35-08 of the Ohio Administrative Code, a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone.

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

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

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

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

- (2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;
- (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;
- (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)

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

- (1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
 - (2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.
- (b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.
- (c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.
- (d) (1) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (2) Notwithstanding Section 303.99(b), upon a finding that a person operated a motor vehicle in violation of subsection (c) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.
- (3) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
- (e) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.213)

333.04 STOPPING VEHICLE; SLOW SPEED; POSTED MINIMUM SPEEDS.

(a) No person shall stop or operate a vehicle at such an unreasonably slow speed as to impede or block the normal and reasonable movement of traffic, except when stopping or reduced speed is necessary for safe operation or to comply with law.

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

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

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

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

333.05 SPEED LIMITATIONS OVER BRIDGES.

(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater 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 RECKLESS OPERATION ON STREETS, PUBLIC OR PRIVATE PROPERTY.

(a) No person shall operate a vehicle on any street or highway without due regard for the safety of persons or property.

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

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

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a 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.

333.10 OPERATION IN VIOLATION OF IMMOBILIZATION ORDER.

(a) No person shall operate a motor vehicle or permit the operation of a motor vehicle upon any public or private property used by the public for vehicular travel or parking knowing or having reasonable cause to believe that the motor vehicle has been ordered immobilized pursuant to an immobilization order issued under Ohio R.C. 4503.233.

(b) A motor vehicle that is operated by a person during a violation of subsection (a) hereof shall be criminally forfeited in accordance with the procedures contained in Ohio R.C. 4503.234.

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

(ORC 4503.236)

333.11 TEXTING WHILE DRIVING PROHIBITED.

(a) No person shall drive a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.

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

- (1) A person using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
- (2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;
- (3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;
- (4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;
- (5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic or weather alerts; or data used primarily by the motor vehicle;
- (6) A person receiving wireless messages via radio waves;
- (7) A person using a device for navigation purposes;
- (8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;
- (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
- (10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.

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

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

(e) A prosecution for a violation of Ohio R.C. 4511.204 does not preclude a prosecution for a violation of a substantially equivalent municipal ordinance based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of Ohio R.C. 4511.204 and is also convicted of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(f) As used in this section:

- (1) "Electronic wireless communications device" includes any of the following:
 - A. A wireless telephone;
 - B. A text-messaging device;
 - C. A personal digital assistant;
 - D. A computer, including a laptop computer and a computer tablet;
 - E. Any other substantially similar wireless device that is designed or used to communicate text.
- (2) "Voice-operated or hands-free device" means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate, or deactivate a feature or function.
- (3) "Write, send or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail.

(ORC 4511.204)

CHAPTER 335

Licensing; Accidents

- 335.01 Driver's license or commercial driver's license required.**
- 335.02 Permitting operation without valid license; one license permitted.**
- 335.021 Ohio driver's license required for in state residents.**
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- 335.111 Registration within thirty days of residency.**
- 335.12 Stopping after accident upon streets; collision with unattended vehicle.**
- 335.13 Stopping after accident upon property other than street.**
- 335.14 Vehicle accident resulting in damage to realty.**

CROSS REFERENCES

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

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

(a) (1) No person, except those expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motor vehicle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid driver's license issued under Ohio R.C. Chapter 4507 or a commercial driver's license issued under Ohio R.C. Chapter 4506.

(2) No person, except a person expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motorcycle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid license as a motorcycle operator that was issued upon application by the Registrar of Motor Vehicles under Ohio R.C. Chapter 4507. The license shall be in the form of an endorsement, as determined by the Registrar, upon a driver's or commercial driver's license, if the person has a valid license to operate a motor vehicle or commercial motor vehicle, or in the form of a restricted license as provided in Ohio R.C. 4507.14, if the person does not have a valid license to operate a motor vehicle or commercial motor vehicle.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a)(1) or (2) of this section may be admitted into evidence as prima-facie evidence that the person did not have either a valid driver's or commercial driver's license at the time of the alleged violation of subsection (a)(1) of this section or a valid license as a motorcycle operator either in the form of an endorsement upon a driver's or commercial driver's license or a restricted license at the time of the alleged violation of subsection (a)(2) of this section. The person charged with a violation of subsection (a)(1) or (2) of this section may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates this section is guilty of operating a motor vehicle or motorcycle without a valid license and shall be punished as follows:

- (1) If the trier of fact finds that the offender never has held a valid driver's or commercial driver's license issued by this state or any other jurisdiction, or, in a case involving the operation of a motorcycle by the offender, if the offender has never held a valid license as a motorcycle operator, either in the form of an endorsement upon a driver's or commercial driver's license or in the form of a restricted license, except as otherwise provided in this subsection, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If the offender previously has been convicted of or pleaded guilty to any violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.
- (2) If the offender's driver's or commercial driver's license or permit or, in a case involving the operation of a motorcycle by the offender, the offender's driver's or commercial driver's license bearing the motorcycle endorsement or the offender's restricted license

was expired at the time of the offense, except as otherwise provided in this subsection, the offense is a minor misdemeanor. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

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

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

(ORC 4510.12)

335.02 PERMITTING OPERATION WITHOUT VALID LICENSE; ONE LICENSE PERMITTED.

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

(b) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, unless and until he surrenders to the Registrar all valid licenses issued to him by another jurisdiction recognized by the State of Ohio. No person shall be permitted to have more than one valid license at any time.

(ORC 4507.02)

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

(2) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree.

(ORC 4507.02; 4507.99)

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

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

(b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

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

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

(1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.

(2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01.

(ORC 4507.213)

335.03 DRIVING WITH TEMPORARY INSTRUCTION PERMIT; CURFEW.

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

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

A. The permit and identification card are in the holder's immediate possession;

B. The holder is accompanied by an eligible adult who actually occupies the seat beside the permit holder and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);

C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(2) If the permit is issued to a person who is at least sixteen years of age:

A. The permit and identification card are in the holder's immediate possession;

B. The holder is accompanied by a licensed operator who is at least twenty-one years of age and is actually occupying a seat beside the driver and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);

C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

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

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

(c) As used in this section:

(1) "Eligible adult" means any of the following:

- A. An instructor of a driver education course approved by the Department of Education or a driver training course approved by the Department of Public Safety;
- B. Any of the following persons who holds a current valid driver's or commercial driver's license issued by this State:
 1. A parent, guardian or custodian of the permit holder;
 2. A person twenty-one years of age or older who acts in loco parentis of the permit holder.

(2) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.

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

(ORC 4507.05)

335.031 DRIVING WITH PROBATIONARY LICENSE; CURFEW.

(a) (1) A. No holder of a probationary driver's license who has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. unless the holder is accompanied by the holder's parent or guardian.

B. No holder of a probationary driver's license who has held the license for twelve months or longer shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of one a.m. and five a.m. unless the holder is accompanied by the holder's parent or guardian.

(2) A. Subject to subsection (c)(1) of this section, subsection (a)(1)A. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

1. Traveling to or from work between the hours of midnight and six a.m. provided that the holder has in the holder's immediate possession written documentation from the holder's employer.
2. Traveling to or from an official function sponsored by the school the holder attends between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;
3. Traveling to or from an official religious event between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

B. Subsection (a)(1)B. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

1. Traveling to or from work between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from the holder's employer.
2. Traveling to or from an official function sponsored by the school the holder attends between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;
3. Traveling to or from an official religious event between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

(3) An employer, school official or official affiliated with a religious event is not liable in damages in a civil action for any injury, death or loss to person or property that allegedly arises from, or is related to, the fact that the employer, school official, or official affiliated with a religious event provided the holder of a probationary driver's license with the written documentation described in subsection (a)(2) of this section.

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

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

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

(c) (1) If a person is issued a probationary driver's license prior to attaining the age of seventeen years and the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed a moving violation during the six-month period commencing on the date on which the person is issued the probationary driver's license, the court with jurisdiction over the violation may order that the holder must be accompanied by the holder's parent or guardian whenever the holder is operating a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking for a period not to exceed six months or the date the holder attains the age of seventeen years, whichever occurs first.

(2) Any person who is subject to the operating restrictions established under subsection (c)(1) of this section as a result of a first moving violation may petition the court for driving privileges without being accompanied by the holder's parent or guardian during the period of time determined by the court under that subsection. In granting the driving privileges, the court shall specify the purposes of the privileges and shall issue the person appropriate forms setting forth the privileges granted. If a person is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a second or subsequent moving violation, the court with jurisdiction over the violation may terminate any driving privileges previously granted under this division.

(3) No person shall violate any operating restriction imposed under subsection (c)(1) or (2) of this section.

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

properly adjusted occupant restraining device.

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

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

(g) As used in this section:

(1) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.

(2) "Family member" of a probationary license holder includes any of the following:

A. A spouse;

B. A child or stepchild;

C. A parent, stepparent, grandparent, or parent-in-law;

D. An aunt or uncle;

E. A sibling, whether or the whole or half blood or by adoption, a brother-in-law or a sister-in-law;

F. A son or daughter of the probationary license holder's stepparent if the stepparent has not adopted the probationary license holder;

G. An eligible adult, as defined in Ohio R.C. 4507.05.

(3) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles, streetcars, or trackless trolleys on the highways or streets. "Moving violation" does not include a violation of Ohio R.C. 4513.263 or a substantially equivalent municipal ordinance, or a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.

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

(ORC 4507.071)

335.032 USE OF ELECTRONIC WIRELESS COMMUNICATION DEVICE PROHIBITED WHILE DRIVING.

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

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

(1) A person using an electronic wireless communications device for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel;

(3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.

(c) (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) of this section shall be fined one hundred fifty dollars (\$150.00). In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of sixty days.

(2) If the person previously has been adjudicated a delinquent child or a juvenile traffic offender for a violation of this section, whoever violates this section shall be fined three hundred dollars (\$300.00). In addition, the court shall impose a class seven suspension of the person's driver's license or permit for a definite period of one year.

(d) The filing of a sworn complaint against a person for a violation of Ohio R.C. 4511.205 does not preclude the filing of a sworn complaint for a violation of a substantially equivalent municipal ordinance for the same conduct. However, if a person is adjudicated a delinquent child or a juvenile traffic offender for a violation of Ohio R.C. 4511.205 and is also adjudicated a delinquent child or a juvenile traffic offender for a violation of a substantially equivalent municipal ordinance for the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(e) As used in this section, "electronic wireless communications device" includes any of the following:

(1) A wireless telephone;

(2) A personal digital assistant;

(3) A computer, including a laptop computer and a computer tablet;

(4) A text-messaging device;

(5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.

(ORC 4511.205)

335.04 CERTAIN ACTS PROHIBITED.

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

(1) Display, or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended or altered;

(2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;

(3) Display or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit not issued to the person so displaying the same;

(4) Fail to surrender to the Registrar of Motor Vehicles, upon the Registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit that has been suspended or canceled;

(5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit, or any renewal or duplicate thereof, knowingly conceal a material fact, or present any physician's statement required under Ohio R.C. 4507.08 or 4507.081 when knowing the same to be false or fictitious.

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

(ORC 4507.30)

335.05 WRONGFUL ENTRUSTMENT OF A MOTOR VEHICLE.

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

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

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

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

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

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a)(1), (2) or (3) of this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02.

- (2) A. If, within three years of a violation of subsection (a)(1), (2) or (3) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of division (A)(1), (2) or (3) of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.

B. Whoever violates subsection (a)(4) or (5) of this section is guilty of a misdemeanor of the first degree.

- (3) For any violation of this section, in addition to the penalties imposed under Section 303.99, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02, and, if the vehicle involved in the offense is registered in the name of the offender, the court may order one of the following:

A. Except as otherwise provided in subsection (c)(3)B. or C. of this section, the court may order, for thirty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.

B. If the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order, for sixty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.

C. If the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order the criminal forfeiture to the state of the vehicle involved in the offense. If issued, the order shall be issued and enforced under Ohio R.C. 4503.234.

If title to a motor vehicle that is subject to an order for criminal forfeiture under this subsection is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national automobile dealer's association. The proceeds from any fine imposed under this subsection shall be distributed in accordance with division (C)(2) of Ohio R.C. 4503.234.

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

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

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

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

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

335.06 DISPLAY OF LICENSE.

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

(b) (1) Except as provided in subsection (b)(2) hereof, whoever violates this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.

(2) If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.35 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree. (ORC 4507.35)

335.07 DRIVING UNDER SUSPENSION OR LICENSE RESTRICTION.

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

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

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

(d) (1) Whoever violates subsection (a) or (b) hereof, is guilty of a misdemeanor of the first degree. The court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

(2) A. Except as provided in subsection (d)(2)B. or C. of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the court, in addition to or independent of any other sentence that it imposes upon the offender, may order the immobilization of the vehicle involved in the offense for thirty days and the impoundment of that vehicle's license plates for thirty days in accordance with Ohio R.C. 4503.233.

B. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two violations of Ohio R.C. 4510.11 or any combination of two violations of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the immobilization of the vehicle involved in the offense for sixty days and the impoundment of that vehicle's license plates for sixty days in accordance with Ohio R.C. 4503.233.

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

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

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

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

(h) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under this section and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving

under a twelve-point suspension, a misdemeanor of the first degree. The court shall sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this subsection. (ORC 4510.037)

335.071 DRIVING UNDER OVI SUSPENSION.

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

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

(1) Except as otherwise provided in subsection (b)(2) or (3) of this section, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of three consecutive days. The three-day term shall be imposed, unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than thirty consecutive days of house arrest with electronic monitoring. A period of house arrest with electronic monitoring imposed under this subsection shall not exceed six months. If the court imposes a mandatory three-day jail term under this subsection, the court may impose a jail term in addition to that term, provided that in no case shall the cumulative jail term imposed for the offense exceed six months.

B. A fine of not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000).

C. A license suspension under subsection (e) of this section.

(2) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of this section or one equivalent offense, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of ten consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The ten-day mandatory jail term shall be imposed unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than ninety consecutive days of house arrest with electronic monitoring. The period of house arrest with electronic monitoring shall not exceed one year.

B. Notwithstanding the fines provided for in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).

C. A license suspension under subsection (e) of this section.

(3) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of this section or two or more equivalent offenses, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of thirty consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The court shall not sentence the offender to a term of house arrest with electronic monitoring in lieu of the mandatory portion of the jail term.

B. Notwithstanding the fines set forth in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).

C. A license suspension under subsection (e) of this section.

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

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

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

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

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

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

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

(g) (1) If a person is convicted of or pleads guilty to a violation of a municipal ordinance that is substantially equivalent to Ohio R.C. 4510.14, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, shall do whichever of the following is applicable:

A. If, within six years of the current offense, the offender has not been convicted of or pleaded guilty to a violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for thirty days of the vehicle involved in the offense and the impoundment for thirty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.

B. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section

or former division, the court shall order the immobilization for sixty days of the vehicle involved in the offense and the impoundment for sixty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.

- C. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02 or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense.
- (2) An order for immobilization and impoundment of a vehicle under this section shall be issued and enforced in accordance with Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.
- (3) An order for criminal forfeiture of a vehicle under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of a copy of the order from the court, neither the Registrar of Motor Vehicles nor a Deputy Registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then shall take the necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(ORC 4510.161)

(h) As used in this section:

- (1) "Electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.
- (2) "Equivalent offense" means any of the following:
- A. A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to subsection (a) of this section;
- B. A violation of a former law of this State that was substantially equivalent to subsection (a) of this section.
- (3) "Jail" has the same meaning as in Ohio R.C. 2929.01.
- (4) "Mandatory jail term" means the mandatory term in jail of three, ten, or thirty consecutive days that must be imposed under subsection (b) (1), (2) or (3) of this section upon an offender convicted of a violation of subsection (a) of this section and in relation to which all of the following apply:
- A. Except as specifically authorized under this section, the term must be served in a jail.
- B. Except as specifically authorized under this section, the term cannot be suspended, reduced, or otherwise modified pursuant to any provision of the Ohio Revised Code.

(ORC 4510.14)

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

(a) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to Ohio R.C. Chapter 4509, shall operate any motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period of the suspension or cancellation, except as specifically authorized by Ohio R.C. Chapter 4509. No person shall operate a motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period in which the person is required by Ohio R.C. 4509.45 to file and maintain proof of financial responsibility for a violation of Ohio R.C. 4509.101, unless proof of financial responsibility is maintained with respect to that vehicle.

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

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

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

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

(ORC 4510.16)

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

335.073 DRIVING WITHOUT COMPLYING WITH LICENSE REINSTATEMENT REQUIREMENTS.

(a) No person whose driver's license, commercial driver's license, temporary instruction permit, or nonresident's operating privilege has been suspended shall operate any motor vehicle upon a public road or highway or any public or private property after the suspension has expired unless the person has complied with all license reinstatement requirements imposed by the court, the Bureau of Motor Vehicles, or another provision of the Ohio Revised Code.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima- facie evidence that the license of the person had not been reinstated by the person at the time of the alleged violation of subsection (a) hereof. The person charged with a violation of subsection (a) hereof may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates this section is guilty of failure to reinstate a license and shall be punished as follows:

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of a violation of subsection (a) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of Ohio R.C. 4510.21(A) or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
- (3) In all cases, the court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary driver's license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.21)

335.074 DRIVING UNDER LICENSE FORFEITURE OR CHILD SUPPORT SUSPENSION.

(a) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality whose driver's or commercial driver's license has been suspended pursuant to Ohio R.C. 2151.354, 2151.87, 2935.27, 3123.58, 4301.99, 4510.032, 4510.22 or 4510.33.

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

(c) Whoever violates subsection (a) of this section is guilty of driving under suspension and shall be punished as provided in subsection (c) of this section.

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

(ORC 4510.111)

335.08 OPERATION OR SALE WITHOUT CERTIFICATE OF TITLE.

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

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

Information and Cost Savings Act”, 86 Stat. 961 (1972), 15 U.S.C. 1981;

(7) Operate in this Municipality a motor vehicle knowing that the certificate of title to the vehicle or ownership of the vehicle as otherwise reflected in the automated title processing system has been canceled.

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

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

335.09 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS; REGISTRATION.

(a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker issued under Ohio R.C. 4503.19 and 4503.191.

(2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.

(3) No person to whom a temporary license placard or windshield sticker has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. No temporary license placard or windshield sticker shall be covered by any material that obstructs its visibility.

(ORC 4503.21(A))

(b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(2) The offense established under subsection (a) of 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 4503.21(B), (C))

335.091 OPERATING WITHOUT DEALER OR MANUFACTURER LICENSE PLATES.

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

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

(ORC 4549.10)

335.10 EXPIRED OR UNLAWFUL LICENSE PLATES.

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

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

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

(ORC 4549.12)

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

(e) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates not legally registered and issued for such vehicle, or upon which are displayed any license plates that were issued on an application for registration that contains any false statement by the applicant.

(f) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.

(2) Whoever violates subsection (b) hereof is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.

(3) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor.

(ORC 4549.11; 4549.12)

335.11 USE OF ILLEGAL LICENSE PLATES; TRANSFER OF REGISTRATION.

(a) No person shall operate or drive a motor vehicle upon the streets in this Municipality if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:

(1) Is fictitious;

(2) Is a counterfeit or an unlawfully made copy of any distinctive number or identification mark;

(3) Belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the streets in this Municipality when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the streets in this Municipality, during the thirty-day period described in subsection (c) hereof.

(b) Whoever violates subsection (a)(1), (2) or (3) of this section is guilty of operating a motor vehicle bearing an invalid license plate or identification mark, a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense.

(ORC 4549.08)

(c) Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner shall immediately remove the license plates from the motor vehicle. The transfer of the registration and, where applicable, the license plates from the motor vehicle for which they originally were issued to a succeeding motor vehicle purchased by the same person in whose name the original registration and license plates were issued shall be done within a period not to exceed thirty days. During that thirty-day period, the license plates from the motor vehicle for which they originally were issued may be displayed on the succeeding motor vehicle, and the succeeding motor vehicle may be operated on the streets of the Municipality.

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

(ORC 4503.12)

335.111 REGISTRATION WITHIN THIRTY DAYS OF RESIDENCY.

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

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

(ORC 4503.111)

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

- (a) (1) In the case of a motor vehicle accident or collision with persons or property on a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, immediately shall stop the operator's motor vehicle at the scene of the accident or collision. The operator shall remain at the scene of the accident or collision until the operator has given the operator's name and address and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to all of the following:
- A. Any person injured in the accident or collision;
- B. The operator, occupant, owner or attendant of any motor vehicle damaged in the accident or collision;
- C. The police officer at the scene of the accident or collision.
- (2) In the event an injured person is unable to comprehend and record the information required to be given under subsection (a)(1) of this section, the other operator involved in the accident or collision shall notify the nearest police authority concerning the location of the accident or collision, and the operator's name, address and the registered number of the motor vehicle the operator was operating. The operator shall remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance.
- (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b) (1) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after an accident is a misdemeanor of the first degree.
- (2) If the accident or collision results in serious physical harm to a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.
- (3) If the accident or collision results in the death of a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.
- (4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

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

(ORC 4549.02)

335.13 STOPPING AFTER ACCIDENT UPON PROPERTY OTHER THAN STREET.

- (a) (1) In the case of a motor vehicle accident or collision resulting in injury or damage to persons or property on any public or private property other than a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, shall stop at the scene of the accident or collision. Upon request of any person who is injured or damaged, or any other person, the operator shall give that person the operator's name and address, and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, and, if available, exhibit the operator's driver's or commercial driver's license.
- (2) If the operator of the motor vehicle involved in the accident or collision does not provide the information specified in subsection (a)(1) of this section, the operator shall give that information, within twenty-four hours after the accident or collision, to the Police Department.
- (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required under subsection (a)(1) of this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b) (1) Whoever violates subsection (a) of this section is guilty of failure to stop after a nonpublic road accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after a nonpublic road accident is a misdemeanor of the first degree.
- (2) If the accident or collision results in serious physical harm to a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.
- (3) If the accident or collision results in the death of a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.
- (4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

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

(ORC 4549.021)

335.14 VEHICLE ACCIDENT RESULTING IN DAMAGE TO REALTY.

(a) The driver of any vehicle involved in an accident resulting in damage to real property, or personal property attached to real property, legally upon or adjacent to a public road or highway immediately shall stop and take reasonable steps to locate and notify the owner or person in charge of the property of that fact, of the driver's name and address, and of the registration number of the vehicle the driver is driving and, upon request and if available, shall exhibit the driver's or commercial driver's license.

If the owner or person in charge of the property cannot be located after reasonable search, the driver of the vehicle involved in the accident resulting in damage to the property, within twenty-four hours after the accident, shall forward to the police authority in the municipality in which the accident or collision occurred, the same information required to be given to the owner or person in control of the property and give the location of the accident and a description of the damage insofar as it is known.

(b) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident involving the property of others, a misdemeanor of the first degree.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.03)

CHAPTER 337

Safety and Equipment

- 337.01 **Driving unsafe vehicles.**
- 337.02 **Lighted lights; measurement of distances and heights.**
- 337.03 **Headlights on motor vehicles and motorcycles.**
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CROSS REFERENCES

See sectional histories for similar State law
Warning devices for commercial vehicles disabled upon freeways - see Ohio R.C. 4513.28
Slow moving vehicle emblem - see OAC Ch. 4501.13
Motorized bicycle lights and equipment - see Ohio R.C. 4511.521
Vehicle lighting - see OAC 4501-15
Use of stop and turn signals - see TRAF. 331.14
Wheel protectors for commercial vehicles - see TRAF. 339.05
Vehicles transporting explosives - see TRAF. 339.06
Towing requirements - see TRAF. 339.07
Use of studded tires and chains - see TRAF. 339.11
Bicycle equipment - see TRAF. 373.05 et seq.

337.01 DRIVING UNSAFE VEHICLES.

(a) No person shall drive or move, or cause or knowingly permit to be driven or moved, on any street any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property.

(b) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(c) The provisions of this chapter with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or agricultural tractors except as made applicable to such articles of machinery. (ORC 4513.02)

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

337.02 LIGHTED LIGHTS; MEASUREMENT OF DISTANCES AND HEIGHTS.

(a) Every vehicle, other than a motorized bicycle, operated upon a street or highway shall display lighted lights and illuminating devices as required by this chapter during all of the following times:

- (1) The time from sunset to sunrise;
- (2) At any other time when, due to insufficient natural light or unfavorable atmospheric conditions, persons, vehicles, and substantial objects on the street or highway are not discernible at a distance of one thousand feet ahead;
- (3) At any time when the windshield wipers of the vehicle are in use because of precipitation on the windshield.

Every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521. No motor vehicle, during any time specified in this section, shall be operated upon a street or highway using only parking lights as illumination.

(b) Whenever in this chapter a requirement is declared as to the distance from which certain lights and devices shall render objects visible, or within which such lights or devices shall be visible, such distance shall be measured upon a straight level unlighted street under normal atmospheric conditions unless a different condition is expressly stated.

(c) Whenever in this chapter a requirement is declared as to the mounted height of lights or devices, it shall mean from the center of such light or device to the level ground upon which the vehicle stands.

(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause the operator of a vehicle being operated upon a street or highway to stop the vehicle solely because the officer observes that a violation of subsection (a)(3) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that subsection, or causing the arrest of or commencing a prosecution of a person for a violation of that subsection.

(e) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.03)

337.03 HEADLIGHTS ON MOTOR VEHICLES AND MOTORCYCLES.

(a) Every motor vehicle, other than a motorcycle, shall be equipped with at least two headlights with at least one near each side of the front of the motor vehicle.

(b) Every motorcycle shall be equipped with at least one and not more than two headlights.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.04)

337.04 TAIL LIGHT; ILLUMINATION OF REAR LICENSE PLATE.

(a) Every motor vehicle, trailer, semitrailer, pole trailer or vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one tail light mounted on the rear which, when lighted, shall emit a red light visible from a distance of 500 feet to the rear, provided that in the case of a train of vehicles only the tail light on the rear-most vehicle need be visible from the distance specified.

(b) Either a tail light or a separate light shall be so constructed and placed as to illuminate with a white light the rear registration plate, when such registration plate is required, and render it legible from a distance of fifty feet to the rear. Any tail light, together with any separate light for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlights or auxiliary driving lights are lighted, except where separate lighting systems are provided for trailers for the purpose of illuminating such registration plate.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.05)

337.05 REAR RED REFLECTORS.

(a) Every new motor vehicle sold after September 6, 1941, and operated on a street, other than vehicles of the type mentioned in Section 337.06 or a commercial tractor to which a trailer or semitrailer is attached, shall carry at the rear, either as a part of the tail lights or separately, two red reflectors of such size and characteristics and so maintained as to be visible at night from all distances within 300 feet to fifty feet from such vehicle.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.06)

337.06 SAFETY LIGHTING ON COMMERCIAL VEHICLES.

(a) Buses, trucks, commercial tractors, trailers, semitrailers and pole trailers, when operated upon any street, shall be equipped with clearance lights, marker lights, reflectors and stop lights as required by State regulations. Such equipment shall be lighted at all times mentioned in Section 337.02 except that clearance lights and side marker lights need not be lighted on a vehicle operated where there is sufficient light to reveal any person or substantial object on the street at a distance of 500 feet.

Such equipment shall be in addition to all other lights specifically required by Section 337.02 to Section 337.15, inclusive. Vehicles operated under the jurisdiction of the Ohio Public Utilities Commission are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.07)

337.07 OBSCURED LIGHTS ON VEHICLES IN COMBINATION.

(a) Whenever motor and other vehicles are operated in combination during the time that lights are required, any light, except tail lights, which by reason of its location on a vehicle of the combination would be obscured by another vehicle of the combination need not be lighted, but this section does not affect the requirement that lighted clearance lights be displayed on the front of the foremost vehicle required to have clearance lights or that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.
(ORC 4513.08)

337.08 RED LIGHT OR RED FLAG ON EXTENDED LOADS.

(a) Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in Section 337.02, a red light or lantern plainly visible from a distance of at least 500 feet to the side and rear. The red light or lantern required by this section is in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than sixteen inches square.

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

(ORC 4513.09)

337.09 LIGHTS ON PARKED OR STOPPED VEHICLES.

(a) Except in case of an emergency, whenever a vehicle is parked or stopped upon a roadway open to traffic or shoulder adjacent thereto, whether attended or unattended during the times mentioned in Section 337.02, such vehicle shall be equipped with one or more lights which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of such vehicle, and a red light visible from a distance of 500 feet to the rear. No lights need be displayed upon any such vehicle when it is stopped or parked where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon such street. Any lighted headlights upon a parked vehicle shall be depressed or dimmed.

(ORC 4513.10)

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

(ORC 4513.99)

337.10 LIGHTS ON SLOW-MOVING VEHICLES; EMBLEM REQUIRED.

(a) All vehicles other than bicycles, including animal-drawn vehicles and vehicles referred to in Section 337.01(c), not specifically required to be equipped with lights or other lighting devices by Section 337.02 to 337.09, shall at all times specified in Section 337.02, be equipped with at least one light displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle, and also shall be equipped with two lights displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one light displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlights.

Lights and reflectors required or authorized by this section shall meet standards adopted by the Ohio Director of Public Safety.

(b) All boat trailers, farm machinery and other machinery, including all road construction machinery, upon a street or highway, except when being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used, or when operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, or the Municipal or County Engineer, when such construction area is marked in accordance with requirements of the Director and the Manual of Uniform Traffic Control Devices, as set forth in Ohio R.C. 4511.09, which is designed for operation at a speed of twenty-five miles per hour or less shall be operated at a speed not exceeding twenty-five miles per hour, and shall display a triangular slow-moving vehicle emblem (SMV). The emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. The Ohio Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for SMV emblems referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.

A unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour may be operated on a street or highway at a speed greater than twenty-five miles per hour provided it is operated in accordance with this section.

As used in this subsection (b), "machinery" does not include any vehicle designed to be drawn by an animal.

(c) The use of the SMV emblem shall be restricted to animal-drawn vehicles, and to the slow-moving vehicles specified in subsection (b) hereof operating or traveling within the limits of the highway. Its use on slow-moving vehicles being transported upon other types of vehicles or on any other type of vehicle or stationary object on the highway is prohibited.

(d) (1) No person shall sell, lease, rent or operate any boat trailer, farm machinery or other machinery defined as a slow-moving vehicle in subsection (b) hereof, except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after April 1, 1966, unless the vehicle is equipped with a slow-moving vehicle emblem mounting device as specified in subsection (b) hereof.

(2) No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the unit displays a slow-moving vehicle emblem as specified in subsection (b) of this section and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS).

(e) Any boat trailer, farm machinery, or other machinery defined as a slow-moving vehicle in subsection (b) of this section, in addition to the use of the slow-moving vehicle emblem, and any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour, in addition to the display of a speed identification symbol may be equipped with a red flashing light that shall be visible from a distance of not less than one thousand feet to the rear at all times specified in Section 337.02. When a double-faced light is used, it shall display amber light to the front and red light to the rear.

In addition to the lights described in this subsection, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating or rotating amber light, as permitted by Section 337.16, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.

(f) Every animal-drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:

- (1) With a slow-moving vehicle emblem complying with subsection (b) hereof;
- (2) With alternate reflective material complying with rules adopted under this subsection (f);
- (3) With both a slow-moving vehicle emblem and alternate reflective material as specified in this subsection (f).

The Ohio Director of Public Safety, subject to Ohio R.C. Chapter 119, shall adopt rules establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this subsection (f). The rules shall permit, as a minimum, the alternate reflective material to be black, gray or silver in color. The alternate reflective material shall be mounted on the animal-drawn vehicle so as to be visible at all times specified in Section 337.02, from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps.

(g) Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour shall display a slow-moving vehicle emblem and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS) when the unit is operated upon a street or highway, irrespective of the speed at which the unit is operated on the street or highway. The speed identification symbol shall indicate the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate. The display of the speed identification symbol shall be in accordance with the standard prescribed in this subsection.

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

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

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

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

337.11 SPOTLIGHT AND AUXILIARY LIGHTS.

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

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

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

337.12 COWL, FENDER AND BACK-UP LIGHTS.

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

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

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

337.13 DISPLAY OF LIGHTED LIGHTS.

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

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

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

337.14 USE OF HEADLIGHT BEAMS.

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

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

337.15 LIGHTS OF LESS INTENSITY ON SLOW-MOVING VEHICLES.

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

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

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

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

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

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

(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 effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other sources of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.
- (8) The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.
- (9) Every motor vehicle or combination of motor-drawn vehicles shall be capable at all times and under all conditions of loading of being stopped on a dry, smooth, level road free from loose material, upon application of the service or foot brake, within the following specified distances, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

From a speed of 20 miles per hour

	<u>Stopping distance in feet</u>	<u>Deceleration in feet per second per second</u>
Brakes on all wheels	30	14
Brakes not on all four wheels	40	17

(10) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (ORC 4513.20)

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

(ORC 4513.99)

337.19 HORN, SIREN AND THEFT ALARM SIGNAL.

(a) Every motor vehicle when operated upon a street shall be equipped with a horn which is in good working order and capable of emitting sound audible, under normal conditions, from a distance of not less than 200 feet.

(b) No motor vehicle shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal. Every emergency or public safety vehicle shall be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Ohio Director of Public Safety. Such equipment shall not be used except when such vehicle is operated in response to an emergency call or is in the immediate pursuit of an actual or suspected violator of the law, in which case the driver of the emergency

or public safety vehicle shall sound such equipment when it is necessary to warn pedestrians and other drivers of the approach thereof.

(c) No person shall use the horn of a motor vehicle except to give warning to other drivers or pedestrians.

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

(ORC 4513.21)

337.20 MUFFLER; MUFFLER CUTOUT; EXCESSIVE SMOKE, GAS OR NOISE.

(a) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, by-pass or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

(b) No person shall own, operate or have in the person's possession any motor vehicle or motorcycle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any other way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation.

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

(ORC 4513.22)

337.21 REAR-VIEW MIRROR; CLEAR VIEW TO FRONT, BOTH SIDES AND REAR.

(a) Every motor vehicle and motorcycle shall be equipped with a mirror so located as to reflect to the operator a view of the street to the rear of such vehicle or motorcycle. Operators of vehicles and motorcycles shall have a clear and unobstructed view to the front and to both sides of their vehicles or motorcycles and shall have a clear view to the rear of their vehicles or motorcycles by mirror.

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

(ORC 4513.23)

337.22 WINDSHIELD AND WINDSHIELD WIPER; SIGN OR POSTER THEREON.

(a) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.

(b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.

(2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:

- A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.
- B. It does not conceal the vehicle identification number.

(3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:

- A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.
- B. It is mounted not more than six inches below the upper edge of the windshield and is outside the area swept by the vehicle's windshield wipers.

(c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

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

(ORC 4513.24)

337.23 LIMITED LOAD EXTENSION ON LEFT SIDE OF PASSENGER VEHICLE.

(a) No passenger-type vehicle shall be operated on a street with any load carried on such vehicle which extends more than six inches beyond the line of the fenders on the vehicle's left side. (ORC 4513.30)

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

(ORC 4513.99)

337.24 MOTOR VEHICLE STOP LIGHTS.

(a) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a street or highway shall be equipped with two or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least one stop light. Stop lights shall be mounted on the rear of the vehicle, actuated upon application of the service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the stop lights on the rear-most vehicle need be visible from the distance specified.

Such stop lights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.

When stop lights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under Ohio R.C. 4513.19.

Historical motor vehicles as defined in Ohio R.C. 4503.181, not originally manufactured with stop lights, are not subject to this section.

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

(ORC 4513.071)

337.25 AIR CLEANER REQUIRED.

(a) No person shall operate a motor vehicle with an internal combustion engine unless the carburetion system of the vehicle is protected with an air filter, a flame arresting device, or any other accepted method of protection that is adequate for this purpose. If the original device or system is replaced, it shall be replaced with one that is equal to or better than the original equipment.

(b) This section does not apply to a person doing automotive repair work on a motor vehicle that necessitates this device being removed while the work is performed.

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

a misdemeanor of the third degree.

337.26 CHILD RESTRAINT SYSTEM USAGE.

(a) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased or otherwise under the control of a nursery school, or day-care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsection (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01 or a vehicle that is regulated under Ohio R.C. 5104.011, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.

(d) When any child who is at least eight years of age but not older than fifteen years of age and who is not otherwise required by subsection (a), (b) or (c) hereof to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in Ohio R.C. 4513.263.

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

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

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

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

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

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

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

(ORC 4511.81)

337.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.

(a) As used in this section:

- (1) "Automobile" means any commercial tractor, passenger car, commercial car or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.
- (2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum Federal vehicle safety standards established by the United States Department of Transportation.
- (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 sunscreening material or other product or material applied to the side windows to the immediate right or left the driver, so long as such material, when used in conjunction with the safety glazing materials of such windows, has a light transmittance of not less than fifty per cent plus or minus three per cent and is not red or yellow in color.
 - D. Any sunscreening material or other product or material applied to a window not otherwise listed in subsections (a)(1)A. to C. or E. of this section, except that outside left and right rear view mirrors are required if the sunscreening material is applied to the rear window and the sunscreening material, when used in conjunction with the safety glazing material of such window, has a light transmittance of less than fifty per cent plus or minus three per cent.
 - E. Any sunscreening material or other product or material applied along the top of the windshield and that does not extend downward beyond the AS-1 line or five inches from the top of the windshield, whichever is closer to the top, is not regulated by this section.
- (2) No person shall install in any motor vehicle any glass or other material that fails to conform to the specifications of this section.
 - (3) No used motor vehicle dealer or new motor vehicle dealer, as defined in Ohio R.C. 4517.01, shall sell any motor vehicle that fails to conform to the specifications of this section.
 - (4) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings or rear window.
 - (5) No person shall operate on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State that is equipped with privacy drapes, louvers, curtains or blinds unless the drapes, louvers, curtains or blinds are open and secure during vehicle operation.
 - (6) All motor vehicles, beginning with the 1990 model year, must be equipped with labels identifying suncreening 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 suncreening, 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 SNOW REMOVAL EQUIPMENT.

(a) No person shall operate snow removal equipment on a street unless the lights thereon comply with and are lighted when and as required by the standards and specifications adopted by the Ohio Director of Highways.

(Ord. 3308. Passed 9-18-56.)

(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.

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)

337.32 USE OF ENGINE RETARDERS.

(a) The usage of any and all "engine retarders" or similar braking equipment while operating any commercial car, trailer, semi-trailer or vehicle shall be prohibited within the City. "Engine retarders" shall be defined to include, but not be limited to: C Brakes, PacBrakes, TekBrakes, Jake Brakes and any other type of engine retarders commonly utilized within the trucking industry.

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

(Ord. 2001-57. Passed 7-10-01.)

CHAPTER 339

Commercial and Heavy Vehicles

339.01 Oversize or overweight vehicle operation on State routes; State permit.

339.02 Use of local streets; local permit and conditions.

339.03 Maximum width, height and length.

339.04 Route and load information.

339.05 Wheel protectors.

339.06 Vehicles transporting explosives.

339.07 Towing requirements.

339.08 Loads dropping or leaking; removal required; tracking mud.

339.09 Shifting load; loose loads.

339.10 Vehicles with spikes, lugs and chains.

339.11 Use of studded tires and chains.

339.12 Truck routes.

CROSS REFERENCES

See sectional histories for similar State law

Weighing vehicle; removal of excess load - see Ohio R.C. 4513.33

Arrest notice of driver - see Ohio R.C. 5577.14

Slower moving vehicles to be driven in right-hand lane - see TRAF. 331.01(b)

339.01 OVERSIZE OR OVERWEIGHT VEHICLE OPERATION ON STATE ROUTES; STATE PERMIT.

(a) No person shall operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in Ohio R.C. 5577.01 to 5577.09, inclusive, or otherwise not in conformity with Ohio R.C. 4513.01 to 4513.37, inclusive, upon any State route within the Municipality, except pursuant to special written permit issued by the Ohio Director of Transportation, or upon any local truck route. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer.

No holder of a permit issued by the Ohio Director of Transportation shall be required to obtain any local permit or license or pay any local fee or charge for movement on any State route within the Municipality; however, it shall be unlawful to operate any such vehicle or combination of vehicles upon any roadway within the Municipality which is not a State route, except as provided in Section 339.02.

(ORC 4513.34)

(b) (1) No person shall violate the terms of a permit issued under this section that relate to gross load limits.

(2) No person shall violate the terms of a permit issued under this section that relate to axle load by more than 2000 pounds per axle or group of axles.

(3) No person shall violate the terms of a permit issued under this section that relate to an approved route except upon order of a law enforcement officer or authorized agent of the issuing authority.

(c) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor.

(ORC 4513.99)

339.02 USE OF LOCAL STREETS; LOCAL PERMIT AND CONDITIONS.

(a) Use of Local Streets. No person shall operate a vehicle exceeding a size as specified in Section 339.03 or exceeding a gross weight of five tons, upon any street in the Municipality other than a State route, except those local streets designated as a truck route and marked as such by appropriate traffic signs, and except when such operation is necessary to load or unload property, to go to or from the usual place of storage of such vehicle or to perform any other legitimate business or act other than passage through the Municipality. Operators of vehicles so deviating from either a State route or a designated truck route within the Municipality shall confine such deviation to that required in order to accomplish the purpose of the departure.

(b) Local Permit and Conditions. Upon application and for good cause, the Police Chief may issue a local permit authorizing an applicant to move an oversize or overweight vehicle or combination of vehicles upon local streets.

No permittee shall be required to obtain a special permit from the Ohio Director of Transportation for the movement of the vehicle or combination of vehicles on streets or highways under local jurisdiction; however, the approval of the Ohio Director of Transportation shall be required for movement upon State routes as provided in Section 339.01.

The Police Chief may grant a permit for a single or round trip, or for such period of time, not to exceed one year, as the Police Chief in his discretion deems advisable, or for the duration of any construction project. The Police Chief may limit or prescribe terms or conditions of operation for such vehicle or combination of vehicles by designating the route, hours, speed or such other restrictions as may be necessary for the preservation of the public peace, property, health and safety. The Police Chief may require the posting of bond or other security necessary to compensate for any damage to a roadway or road structure.

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

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

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

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

339.03 MAXIMUM WIDTH, HEIGHT AND LENGTH.

(a) No vehicle shall be operated upon the public highways, streets, bridges and culverts within the Municipality, whose dimensions exceed those specified in this section.

(b) No such vehicle shall have a width in excess of:

- (1) 104 inches for passenger bus type vehicles operated exclusively within municipal corporations;
- (2) 102 inches, excluding such safety devices as are required by law, for passenger bus type vehicles operated over freeways, and such other State roads with minimum pavement widths of twenty-two feet, except those roads or portions of roads over which operation of 102-inch buses is prohibited by order of the Ohio Director of Transportation;
- (3) 132 inches for traction engines;
- (4) 102 inches for recreational vehicles, excluding safety devices and retracted awnings and other appurtenances of six inches or less in width and except that the Director may prohibit the operation of 102-inch recreational vehicles on designated State highways or portions of highways;
- (5) 102 inches, including load, for all other vehicles, except that the Director may prohibit the operation of 102-inch vehicles on such State highways or portions of State highways as the Director designates.

(c) No such vehicle shall have a length in excess of:

- (1) 66 feet for passenger bus type vehicles and articulated passenger bus type vehicles operated by a regional transit authority pursuant to Ohio R.C. 306.30 to 306.54;
- (2) 45 feet for all other passenger bus type vehicles;
- (3) 53 feet for any semitrailer when operated in a commercial tractor- semitrailer combination, with or without load, except that the Director may, by journal entry, prohibit the operation of any such commercial tractor- semitrailer combination on such State highways or portions of State highways as the Director designates;
- (4) 28.5 feet for any semitrailer or trailer when operated in a commercial tractor-semi-trailer-trailer or commercial tractor-semi-trailer-semi-trailer combination, except that the Director may prohibit the operation of any such commercial tractor-semi-trailer-trailer or commercial tractor- semi-trailer-semi-trailer combination on such State highways or portions of State highways as the Director designates;
- (5) A. 97 feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations when operated on any interstate, United States route, or State route, including reasonable access travel on all other roadways for a distance not to exceed one road mile from any interstate, United States route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;
B. 75 feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations, when operated on any roadway not designated as an interstate, United States route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;
- (6) 65 feet for any other combination of vehicles coupled together, with or without load, except as provided in subsections (c)(3) and (4) and in subsection (e) hereof;
- (7) 45 feet for recreational vehicles.
- (8) 50 feet for all other vehicles except trailers and semitrailers, with or without load.

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

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

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

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

The lengths prescribed in subsections (c)(2) to (8) hereof shall not include safety devices, bumpers attached to the front or rear of such bus or combination, nonproperty carrying devices or components that do not extend more than twenty-four inches beyond the rear of the vehicle and are needed for loading or unloading, B-train assembly used between the first and second semitrailer of a commercial tractor-semi-trailer-semi-trailer combination, energy conservation devices as provided in any regulations adopted by the Secretary of the United States Department of Transportation, or any noncargo-carrying refrigeration equipment attached to the front of trailers and semitrailers. In special cases, vehicles whose dimensions exceed those prescribed by this section may operate in accordance with rules adopted by the Ohio Director of Transportation.

(g) This section does not apply to fire engines, fire trucks or other vehicles or apparatus belonging to any municipal corporation or to the volunteer fire department of any municipal corporation or used by such department in the discharge of its functions. This section does not apply to vehicles and pole trailers used in the transportation of wooden and metal poles, nor to the transportation of pipes or well-drilling equipment, nor to farm machinery and equipment. The owner or operator of any vehicle, machinery or equipment not specifically enumerated in this section but the dimensions of which exceed the dimensions provided by this section, when operating the same on the highways and streets of this State shall comply with the rules of the Director governing such movement, that the Director may adopt. Ohio R.C. 119.01 to 119.13 apply to any rules the Director adopts under this section, or the amendment or rescission of the rules, and any person adversely affected shall have the same right of appeal as provided in those sections.

This section does not require the State, the Municipality, County, township or any railroad or other private corporation to provide sufficient vertical clearance to permit the operation of such vehicle, or to make any changes in or about existing structures now crossing streets, roads and other public thoroughfares in the Municipality.

(h) As used in this section, "recreational vehicle" has the same meaning as in Ohio R.C. 4501.01. (ORC 5577.05)

(i) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense or subsequent offense, the person is guilty of a misdemeanor of the fourth degree. (ORC 5577.99)

339.04 ROUTE AND LOAD INFORMATION.

Drivers of vehicles described in this chapter shall be required, upon request by a police officer, to give full and true information as to the route they are following and the name of the consignor and consignee and place of delivery or removal and the location of any consignment being hauled or goods being removed, and upon a designation by such police officer of a route to be followed, shall immediately adopt and pursue such route.

339.05 WHEEL PROTECTORS.

(a) No person shall drive or operate, or cause to be driven or operated, any commercial car, trailer or semitrailer, used for the transportation of goods or property, the gross weight of which, with load, exceeds three tons, upon the streets, bridges and culverts within this Municipality unless such vehicle is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels of such vehicle or combination of vehicles to prevent, as far as practicable, the wheels from throwing dirt, water or other materials on the windshields of following vehicles. Such protectors or flaps shall have a ground clearance of not more than one- third of the distance from the center of the rearmost axle to the center of the flaps under any conditions of loading of the vehicle, and they shall be at least as wide as the tires they are protecting. If the vehicle is so designed

and constructed that such requirements are accomplished by means of fenders, body construction or other means of enclosure, then no such protectors or flaps are required. Rear wheels not covered at the top by fenders, bodies or other parts of the vehicle shall be covered at the top by protective means extending at least to the center line of the rearmost axle. (ORC 5577.11)

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

339.06 VEHICLES TRANSPORTING EXPLOSIVES.

(a) Any person operating any vehicle transporting explosives upon a street or highway shall at all times comply with the following requirements:

(1) Such vehicle shall be marked or placarded on each side and on the rear with the word "EXPLOSIVES" in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag not less than twenty-four inches square marked with the word "DANGER" in white letters six inches high, or shall be marked or placarded in accordance with Section 177.823 of the United States Department of Transportation Regulations.

(2) Such vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at convenient points on such vehicle. (ORC 4513.29)

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

(ORC 4513.99)

339.07 TOWING REQUIREMENTS.

(a) When one vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby, and such drawbar or other connection shall not exceed fifteen feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered.

(b) When one vehicle is towing another and the connection consists only of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches square.

(c) In addition to such drawbar or other connection, each trailer and each semitrailer which is not connected to a commercial tractor by means of a fifth wheel shall be coupled with stay chains or cables to the vehicle by which it is being drawn. The chains or cables shall be of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle in case the drawbar or other connection should break or become disengaged. In case of a loaded pole trailer, the connecting pole to the drawing vehicle shall be coupled to the drawing vehicle with stay chains or cables of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle.

(d) Every trailer or semitrailer, except pole and cable trailers and pole and cable dollies operated by a public utility, as defined in Ohio R.C. 5727.01, shall be equipped with a coupling device which shall be so designed and constructed that the trailer will follow substantially in the path of the vehicle drawing it, without whipping or swerving from side to side. Vehicles used to transport agricultural produce or agricultural production materials between a local place of storage and supply and the farm, when drawn or towed on a street or highway at a speed of twenty-five miles per hour or less, and vehicles designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less shall have a drawbar or other connection, including the hitch mounted on the towing vehicle, which shall be of sufficient strength to pull all the weight towed thereby. Only one such vehicle used to transport agricultural produce or agricultural production materials as provided in this section may be towed or drawn at one time, except as follows:

(1) An agricultural tractor may tow or draw more than one such vehicle;

(2) A pickup truck or straight truck designed by the manufacturer to carry a load of not less than one-half ton and not more than two tons may tow or draw not more than two such vehicles that are being used to transport agricultural produce from the farm to a local place of storage. No vehicle being so towed by such a pickup truck or straight truck shall be considered to be a motor vehicle. (ORC 4513.32)

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

(ORC 4513.99)

339.08 LOADS DROPPING OR LEAKING; REMOVAL REQUIRED; TRACKING MUD.

(a) No vehicle shall be driven or moved on any street, highway or other public place unless such vehicle is so constructed, loaded or covered as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand or other substances may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) Except for a farm vehicle used to transport agricultural produce or agricultural production materials or a rubbish vehicle in the process of acquiring its load, no vehicle loaded with garbage, swill, cans, bottles, waste paper, ashes, refuse, trash, rubbish, waste, wire, paper, cartons, boxes, glass, solid waste or any other material of an unsanitary nature that is susceptible to blowing or bouncing from a moving vehicle shall be driven or moved on any street, highway or other public place unless the load is covered with a sufficient cover to prevent the load or any part of the load from spilling onto the street, highway or other public place.

(ORC 4513.31)

(c) No person shall operate any vehicle so as to track or drop mud, stones, gravel or other similar material on any street, highway or other public place.

(d) It shall be the duty of the driver of a vehicle who unlawfully drops or deposits mud, stones, gravel or other similar material or permits the load or any portion thereof to be dropped or deposited upon any street, highway or other public place to immediately remove the same or cause it to be removed. (ORC 4513.31)

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

(ORC 4513.99)

339.09 SHIFTING LOAD; LOOSE LOADS.

(a) In addition to any other lawful requirements of load distribution, no person shall operate any vehicle upon a street or highway unless such vehicle is so laden as to prevent its contents from shifting or otherwise unbalancing the vehicle to such an extent as to interfere with the safe operation of the same.

(b) No motor vehicle or trailer shall be driven unless the tailboard or tailgate, tarpaulins, chains (except ground or contact chains), ropes, stakes, poles, and the like, or any part of the load, are securely fastened to prevent dangling, flapping, swinging or falling from the side, end or top of the load or body. All projecting cargo shall be properly guarded by a red flag or cloth or a red light or lantern as required by Section 337.08.

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

339.10 VEHICLES WITH SPIKES, LUGS AND CHAINS.

(a) No person shall drive over the improved streets of this Municipality a traction engine or tractor with tires or wheels equipped with ice picks,

spuds, spikes, chains or other projections of any kind extending beyond the cleats, or no person shall tow or in any way pull another vehicle over the improved streets of this Municipality, which towed or pulled vehicle has tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind. "Traction engine" or "tractor," as used in this section, applies to all self-propelling engines equipped with metal-tired wheels operated or propelled by any form of engine, motor or mechanical power. (ORC 5589.08)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 5589.99)

339.11 USE OF STUDDED TIRES AND CHAINS.

(a) For purposes of this section, "studded tire" means any tire designed for use on a vehicle, and equipped with metal studs or studs of wear-resisting material that project beyond the tread of the traction surface of the tire. "Motor vehicle," "street or highway," "public safety vehicle" and "school bus" have the same meanings as given those terms in Chapter 301.

(b) (1) Except as provided in subsection (b)(2) hereof, no person shall operate any motor vehicle, other than a public safety vehicle or bus, that is equipped with studded tires on any street or highway, except during the period extending from November 1 of each year through April 15 of the succeeding year.

(2) A person may operate a motor vehicle that is equipped with retractable studded tires with the studs retracted at any time of the year, but shall operate the motor vehicle with the studs extended only as provided in subsection (b)(1) hereof.

(c) This section does not apply to the use of tire chains when there is snow or ice on the streets or highways where such chains are being used, or the immediate vicinity thereof. (ORC 5589.081)

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 5589.99)

339.12 TRUCK ROUTES.

(a) In traveling through the City from a point outside the City to a destination outside the City, no person shall operate a commercial vehicle on any street or streets in the City other than State highways.

(b) In traveling from a point outside the City to a destination within the City, or from a point within the City to a destination outside the City, or from a point within the City to a destination within the City, no person shall operate a commercial vehicle on any street or streets in the City other than major thoroughfares as hereinafter defined, provided, however, it shall not be a violation to operate a commercial vehicle on the streets or alleys of the City other than major thoroughfares for the purpose of picking up or delivering goods at a location other than on a major thoroughfare if the operator thereof proceeds from a designated major thoroughfare of the City over the most direct and shortest route which will allow travel in the right direction on any street from the major thoroughfare to the destination and in returning to such major thoroughfare.

(c) The Mayor is hereby empowered to designate certain streets on which commercial vehicles are prohibited for the reason that the width, surface or condition of the street is such that use of the street by commercial vehicles will cause damage thereto. No operator of a commercial vehicle shall travel upon any street within the City designated by the Mayor as a street on which travel by commercial vehicles is prohibited and on which a sign is posted.

(d) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning:

(1) "Commercial Trucks" means any motor vehicle weighing in excess of 4,000 pounds net weight and bearing a commercial registration.

(2) "Major Thoroughfare" means State Route 309, State Route 61, State Route 19, State Route 598, and the following:

- A. Winchester Road: From Harding Way West to Township Road 44 (Biddle Road).
- B. Charles Street: From Cummings Avenue to East corporation limits.
- C. Edward Street: From Cummings Avenue to East corporation limits.
- D. Railroad Street: From South Boston Street to South corporation limits.
- E. Sherman Street: From Fairview Avenue to East Street.
- F. Payne Avenue: From N. Washington Street to Bloomer Street.
- G. South Boston Street: From Harding Way West to South Market Street.
- H. Market Street between North and South corporation limits.
- I. South Street: From Harding Way East to South corporation limits.
- J. Fairview Avenue: From Payne Avenue to North corporation limits.
- K. Knorr Road: From Edward Street to North corporation limits.
- L. King Avenue: From Sherman Street to North terminus.
- M. N. Washington Street: From Harding Way East to Payne Avenue.

The foregoing local streets shall be designated as truck routes and marked as such by appropriate traffic signs.
(Ord. 89-5734. Passed 3-7-89.)

(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.

CHAPTER 341

Commercial Drivers

341.01 Definitions.

341.02 Exemptions.

341.03 Prerequisites to operation of a commercial motor vehicle.

341.04 Prohibitions.

341.05 Criminal offenses.

341.06 Employment of drivers of commercial vehicles.

CROSS REFERENCES

See sectional histories for similar State law

Disqualification - see Ohio R.C. 4506.16

Suspension or revocation of license - see Ohio R.C. 4507.16

Warning devices when disabled on freeways - see Ohio R.C. 4513.28

Arrest notice of driver - see Ohio R.C. 5577.14

Load limits - see TRAF. Ch. 339

341.01 DEFINITIONS.

As used in this chapter:

- (a) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:
 - (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
 - (2) Two hundred ten liters of breath;
 - (3) One hundred milliliters of urine.
- (b) "Commercial driver's license" means a license issued in accordance with Ohio R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle.
- (c) "Commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:
 - (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
 - (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of 26,001 pounds or more;
 - (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;
 - (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than sixteen passengers including the driver;
 - (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;
 - (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.
- (d) "Controlled substance" means all of the following:
 - (1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;
 - (2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;
 - (3) Any drug of abuse.
- (e) "Disqualification" means any of the following:
 - (1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;
 - (2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;
 - (3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.
- (f) "Drive" means to drive, operate or be in physical control of a motor vehicle.
- (g) "Driver" means any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.
- (h) "Driver's license" means a license issued by the Ohio Bureau of Motor Vehicles that authorizes an individual to drive.
- (i) "Drug of abuse" means any controlled substance, dangerous drug as defined in Ohio R.C. 4729.01 or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.
- (j) "Employer" means any person, including the Federal Government, any state and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.
- (k) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.
 - (1) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor carrier, as defined in Ohio R.C. 4923.01.
- (m) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of a death.
- (n) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this State, regardless of the penalty that may be imposed.
- (o) "Foreign jurisdiction" means any jurisdiction other than a state.
- (p) "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.
- (q) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.
- (r) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer or semitrailer operated exclusively on a rail.
- (s) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, local, Canadian or Mexican jurisdiction declaring that a driver, commercial motor vehicle or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.
- (t) "Public safety vehicle" has the same meaning as in divisions (E)(1) and (3) of Ohio R.C. 4511.01.
- (u) "Recreational vehicle" includes every vehicle that is defined as a recreational vehicle in Ohio R.C. 4501.01 and is used exclusively for purposes other than engaging in business for profit.
- (v) "School bus" has the same meaning as in Ohio R.C. 4511.01.
- (w) "State" means a state of the United States and includes the District of Columbia.
- (x) "Tester" means a person or entity acting pursuant to a valid agreement entered into pursuant to Ohio R.C. 4506.09.
- (y) "United States" means the fifty states and the District of Columbia.
- (z) "Vehicle" has the same meaning as in Ohio R.C. 4511.01.

(ORC 4506.01)

341.02 EXEMPTIONS.

Section 341.02 has been deleted from the Codified Ordinances. Former Ohio R.C. 4506.02 from which Section 341.02 was derived was repealed by Am. Sub. H.B. No. 68, effective June 29, 2005. The exemptions are now contained in Section 341.03 .

341.03 PREREQUISITES TO OPERATION OF A COMMERCIAL MOTOR VEHICLE.

(a) Except as provided in subsections (b) and (c) of this section, the following shall apply:

(1) No person shall drive a commercial motor vehicle on a highway in this Municipality unless the person holds, and has in the person's possession, any of the following:

- A. A valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the Registrar of Motor Vehicles, or by another jurisdiction recognized by this State;
- B. A valid examiner's commercial driving permit issued under Ohio R.C. 4506.13;
- C. A valid restricted commercial driver's license and waiver for farm-related service industries issued under Ohio R.C. 4506.24;
- D. A valid commercial driver's license temporary instruction permit issued by the Registrar, provided that the person is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license and who meets the requirements of Ohio R.C. 4506.06(B).

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

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

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

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

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

(ORC 4506.03)

341.04 PROHIBITIONS.

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

- (1) Drive a commercial motor vehicle while having in the person's possession or otherwise under the person's control more than one valid driver's license issued by this State, any other state or by a foreign jurisdiction;
- (2) Drive a commercial motor vehicle on a highway in this Municipality in violation of an out-of-service order, while the person's driving privilege is suspended, revoked or canceled, or while the person is subject to disqualification;
- (3) Drive a motor vehicle on a highway in this Municipality under authority of a commercial driver's license issued by another state or a foreign jurisdiction, after having been a resident of this State for thirty days or longer.

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

(ORC 4506.04)

341.05 CRIMINAL OFFENSES.

(a) No person who holds a commercial driver's license, or commercial driver's license temporary instruction permit or who operates a motor vehicle for which a commercial driver's license or permit is required shall do any of the following:

- (1) Drive a commercial motor vehicle while having a measureable or detectable amount of alcohol or of a controlled substance in the person's blood, breath or urine;
- (2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more by whole blood or breath;
- (3) Drive a commercial motor vehicle while having an alcohol concentration of forty-eight-thousandths of one per cent or more by blood serum or blood plasma;
- (4) Drive a commercial motor vehicle while having an alcohol concentration of fifty-six-thousandths of one per cent or more by urine;
- (5) Drive a motor vehicle while under the influence of a controlled substance;
- (6) Drive a motor vehicle in violation of Ohio R.C. 4511.19 or a municipal OVI ordinance as defined in Ohio R.C. 4511.181;
- (7) Use a motor vehicle in the commission of a felony;
- (8) Refuse to submit to a test under Ohio R.C. 4506.17 or 4511.191;
- (9) Operate a commercial motor vehicle while the person's commercial driver's license or permit or other commercial driving privileges are revoked, suspended, canceled, or disqualified;
- (10) Cause a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter;
- (11) Fail to stop after an accident in violation of Sections 335.12 to 335.14;
- (12) Drive a commercial motor vehicle in violation of any provision of Ohio R.C. 4511.61 to 4511.63 or any federal or local law or ordinance

pertaining to railroad-highway grade crossings;

(13) Use a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in Ohio R.C. 3719.01 or the possession with intent to manufacture, distribute, or dispose a controlled substance.

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

(ORC 4506.15)

341.06 EMPLOYMENT OF DRIVERS OF COMMERCIAL VEHICLES.

(a) Each employer shall require every applicant for employment as a driver of a commercial motor vehicle to provide the applicant's employment history for the ten years preceding the date the employment application is submitted to the prospective employer. The following information shall be submitted:

(1) A list of the names and addresses of the applicant's previous employers for which the applicant was the operator of a commercial motor vehicle;

(2) The dates the applicant was employed by these employers;

(3) The reason for leaving each of these employers.

(b) No employer shall knowingly permit or authorize any driver employed by the employer to drive a commercial motor vehicle during any period in which any of the following apply:

(1) The driver's commercial driver's license is suspended, revoked or canceled by any state or a foreign jurisdiction;

(2) The driver has lost the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;

(3) The driver, the commercial motor vehicle the driver is driving, or the motor carrier operation is subject to an out-of-service order in any state or foreign jurisdiction;

(4) The driver has more than one driver's license.

(c) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of Section 341.05.

(d) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle if the driver does not hold a valid, current commercial driver's license or commercial driver's license temporary instruction permit bearing the proper class or endorsements for the vehicle.

No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of the restrictions on the driver's commercial driver's license or commercial driver's license temporary instruction permit.

(e) (1) Whoever violates subsection (a), (b) or (d) of this section is guilty of a misdemeanor of the first degree.

(2) Whoever violates subsection (c) of this section may be assessed a fine not to exceed ten thousand dollars.

(ORC 4506.20)

CHAPTER 343

Transportation of Hazardous Wastes

343.01 Markings.

343.02 Transportation restricted.

343.03 Parking prohibited.

343.04 Inspection of vehicles.

343.05 Notice of emergency stops.

343.06 Definitions.

343.07 Conflict; severability.

343.99 Penalty.

CROSS REFERENCES

Safety and equipment - see TRAF. Ch. 337

Commercial and heavy vehicles - see TRAF. Ch. 339

343.01 MARKINGS.

Any vehicle being utilized for the transportation or movement of hazardous materials and/or hazardous wastes within or through the City, shall be marked and placarded in accordance with the Ohio Revised Code and any regulations or rules of the Ohio Public Utilities Commission whether presently in effect or in the future put into effect.

343.02 TRANSPORTATION RESTRICTED.

No hazardous materials and/or hazardous wastes shall be transported in or through the City, on any streets, roads or highways unless such street, road or highway is being used for the sole purpose of making a legal and lawful delivery of hazardous materials and/or hazardous wastes to a residence, business, or other entity within the City.

343.03 PARKING PROHIBITED.

Any vehicle transporting hazardous materials and/or hazardous wastes within or through the City, shall not be stopped or parked for any reason other than an emergency breakdown or for a legal and lawful delivery.

343.04 INSPECTION OF VEHICLES.

Any vehicle being utilized for the delivery of hazardous materials and/or hazardous wastes shall be subject to inspection by the City, and any of its duly appointed and acting law enforcement officials. Such inspection may include but shall not necessarily be limited to inspection of any bills of lading, shipping documents or other documents indicating the point of origin and point of destination of the hazardous materials and/or hazardous wastes as well as inspection of the vehicle being utilized to transport the hazardous materials and/or hazardous wastes.

343.05 NOTICE OF EMERGENCY STOPS.

Should any vehicle transporting hazardous materials and/or hazardous wastes within or through the City, have any emergency condition which necessitates the vehicle stopping for any purpose other than a legal and lawful delivery of hazardous materials and/or hazardous wastes, the operator of such vehicle shall immediately notify the Police Department and Fire Department, that such an emergency condition has arisen as to necessitate its stopping for a purpose other than a legal and lawful delivery.

343.06 DEFINITIONS.

"Hazardous materials and/or hazardous wastes" means any such materials or wastes that have been deemed to be hazardous materials and/or wastes by the United States Government or any agency or department thereof and/or the State of Ohio or any agency or department thereof as well

as any materials that may from time to time be designated to be hazardous materials and/or hazardous wastes by Council.

343.07 CONFLICT; SEVERABILITY.

(a) All existing ordinances, not in specific conflict with this chapter shall remain in full force and effect and shall not be affected by the enactment of or the existence of this chapter.

(b) Any ordinances or portions thereof in direct conflict with this chapter are hereby repealed insofar as they are in direct conflict with this chapter.

(c) Should any section of this chapter or any part of any section of this chapter be declared to be unenforceable by a court of competent jurisdiction, such declaration and determination by such court of competent jurisdiction shall not affect the remaining sections and/or portions of sections of this chapter.

343.99 PENALTY.

Any person, corporation or other entity violating any provision of this chapter shall be guilty of a misdemeanor of the first degree provided, however, the Mayor may establish a fine for such violation which fine may for a first offense be paid by waiver upon a plea of guilty by the offender unless the Chief of Police or his designee after consultation with the Fire Chief or his designee determines that the plea of guilty and payment of a fine by waiver would not be in the best interests of the City.

TITLE SEVEN - Parking

Chap. 351. Parking Generally.

Chap. 355. Snow Parking Emergency Ban.

CHAPTER 351

Parking Generally

- 351.01 Police may remove unattended vehicle which obstructs traffic.**
- 351.02 Registered owner prima-facie liable for unlawful parking.**
- 351.03 Prohibited standing or parking places.**
- 351.04 Parking near curb; handicapped locations on public and private lots and garages.**
- 351.05 Manner of angle parking.**
- 351.06 Selling, washing or repairing vehicle upon roadway.**
- 351.07 Unattended vehicle: duty to stop engine, remove key, set brake and turn wheels.**
- 351.08 Opening vehicle door on traffic side.**
- 351.09 Truck loading zones.**
- 351.10 Bus stops and taxicab stands.**
- 351.11 Parking in alleys and narrow streets; exceptions.**
- 351.12 Prohibition against parking on streets or highways.**
- 351.13 Parking on posted private property.**
- 351.14 Parking more than 24 hours.**
- 351.15 Parking zones; violation; fines.**
- 351.16 Parking on public and private property.**
- 351.17 Parking in fire lanes.**
- 351.18 Parking oversized vehicles.**
- 351.19 Street cleaning; snow removal; leaf pick up.**
- 351.20 Parking within marked space.**
- 351.99 Penalty.**

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) Within an intersection;
- (4) Within ten feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within twenty feet of a crosswalk at an intersection;
- (7) Within thirty feet of, and upon the approach to, any flashing beacon, stop sign or traffic control device;
- (8) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the end of a safety zone, unless a different length is indicated by a traffic control device;
- (9) Within fifty feet of the nearest rail of a railroad crossing;

- (10) Within twenty feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within seventy- five feet of the entrance when it is properly posted with signs;
- (11) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
- (12) Alongside any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a street, or within a street tunnel;
- (14) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow, or at any place in excess of the maximum time limited by signs;
- (15) Within one foot of another parked vehicle;
- (16) On the roadway portion of a freeway, expressway or thruway.

(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.

(ORC 4511.68)

351.04 PARKING NEAR CURB; HANDICAPPED LOCATIONS ON PUBLIC AND PRIVATE LOTS AND GARAGES.

(a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the curb side wheels of such vehicle parallel with and not more than twelve inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.

(b) (1) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a state route unless an unoccupied roadway width of not less than twenty-five feet is available for free-moving traffic.

(2) A. No angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least twenty-five feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space.

B. Replacement, repainting or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.

(c) (1) A. Except as provided in subsection (c)(1)B. hereof, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.

B. The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.

(2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in subsection (c)(2) of this section irrespective of whether or not the space is metered.

(d) Notwithstanding any provision of this Code or any rule, air compressors, tractors, trucks and other equipment, while being used in the construction, reconstruction, installation, repair or removal of facilities near, on, over or under a street, may stop, stand or park where necessary in order to perform such work, provided a flagman is on duty, or warning signs or lights are displayed as may be prescribed by the Ohio Director of Transportation.

(e) Special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces shall be provided and designated by the Municipality and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators and ramps. All elevated signs posted in accordance with this subsection and Ohio R.C. 3781.111 (C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.

(f) (1) A. No person shall stop, stand or park any motor vehicle at special parking locations provided under subsection (e) hereof, or at special clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with subsection (e) hereof, unless one of the following applies:

1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates;

2. The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.

B. Any motor vehicle that is parked in a special marked parking location in violation of subsection (f)(1)A. of this section may be towed or otherwise removed from the parking location by the Police Department. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles.

C. If a person is charged with a violation of subsection (f)(1)A. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in Ohio R.C. 4503.44(A)(1).

(2) No person shall stop, stand or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal stripes and is located immediately adjacent to a special parking location provided under subsection (e) of this section or at a special clearly marked parking location provided in or on a privately owned parking lot, parking garage, or

other parking area and designated in accordance with that subsection.

(g) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or special license plates, or when a motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

(h) As used in this section:

(1) "Handicapped person" means any person who has lost the use of one or both legs, or one or both arms, who is blind, deaf or so severely handicapped as to be unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other handicapping condition.

(2) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in Ohio R.C. 4503.44.

(3) "Special license plates" and "removable windshield placard" mean any license plates or removable windshield placard or temporary removable windshield placard issued under Ohio R.C. 4503.41 or 4503.44, and also mean any substantially similar license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country or sovereignty. (ORC 4511.69)

(i) Whoever violates subsection (f) hereof shall be fined the sum of fifty dollars (\$50.00). The fine shall be paid within seventy-two hours subsequent to the time a notice of violation has been attached to any vehicle or been personally given to the operator, to the desk officer at the Police Station as a penalty for and in full satisfaction of the violation. Should the owner or operator of the vehicle fail to pay the fifty dollar (\$50.00) penalty, upon a conviction of a violation of subsection (f) hereof, the owner or operator shall be fined not more than fifty dollars (\$50.00) for each offense. Whoever aids, abets or assists in the violation of the provisions of this section shall be fined not more than fifty dollars (\$50.00) for each offense.

(Ord. 86-5535. Passed 3-4-86.)

351.05 MANNER OF ANGLE PARKING.

(a) Upon streets where angle parking is permitted, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway as is indicated by appropriate signs or markings. All vehicles shall be parked in such a manner that the front of the vehicle is headed towards the curb or edge of the roadway.

(b) This section does not apply to emergency vehicles, or vehicles temporarily parked for the purpose of loading or unloading heavy equipment or merchandise.

(Ord. 86-5561. Passed 9-16-86.)

351.06 SELLING, WASHING OR REPAIRING VEHICLE UPON ROADWAY.

No person shall stop, stand or park a vehicle upon any roadway for the principal purpose of:

(a) Displaying such vehicle for sale;

(b) Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

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

(a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake, and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.

The requirements of this section relating to the stopping of the engine, locking of the ignition and removing the key from the ignition of a motor vehicle do not apply to any of the following:

(1) A motor vehicle that is parked on residential property;

(2) A motor vehicle that is locked, regardless of where it is parked;

(3) An emergency vehicle;

(4) A public safety vehicle.

351.08 OPENING VEHICLE DOOR ON TRAFFIC SIDE.

No person shall open the door of a vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (ORC 4511.70(C))

351.09 TRUCK LOADING ZONES.

No person shall stop, stand or park a vehicle in the areas zoned commercial for the purpose of unloading and delivery or pickup and loading of materials in any place unless it is marked as a truck loading zone and only during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty minutes.

351.10 BUS STOPS AND TAXICAB STANDS.

(a) No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately posted, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone, and then only for a period not to exceed three minutes, if such stopping is not prohibited therein by posted signs.

(b) The operator of a bus shall not stop, stand or park such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop so designated and posted as such, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated and posted as such. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking provisions at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

351.11 PARKING IN ALLEYS AND NARROW STREETS; EXCEPTIONS.

No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when directed to by a police officer or traffic control signal.

Except as otherwise provided by law, no person shall stop, stand or park a vehicle within an alley except while actually loading and unloading, and then only for a period not to exceed thirty minutes.

351.12 PROHIBITION AGAINST PARKING ON STREETS OR HIGHWAYS.

Upon any street or highway outside a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the street or highway if it is practicable to stop, park or so leave such vehicle off the paved or main traveled part of such street or highway. In every event, a clear and unobstructed portion of the street or highway opposite such standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such street or highway.

This section does not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a street or highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position. (ORC 4511.66)

351.13 PARKING ON POSTED PRIVATE PROPERTY.

If an owner of private property posts on the property in a conspicuous manner, prohibition against parking on the property or conditions and regulations under which parking is permitted, no person shall do either of the following:

- (a) Park a vehicle on the property without the owner's consent;
- (b) Park a vehicle on the property in violation of any condition or regulation posted by the owner. (ORC 4511.681)

351.14 PARKING MORE THAN 24 HOURS.

The operator of a vehicle shall not park the vehicle on any of the public streets or alleys in the City for a continuous time longer than twenty-four hours. (Ord. 2931. Passed 2-20-51.)

351.15 PARKING ZONES; VIOLATION; FINES.

(a) No owner or operator of any vehicle shall permit the vehicle to remain parked for more than the time limit posted in any zone.

(b) Whoever violates subsection (a) hereof may, within seventy-two hours subsequent to the time a notice of violation has been attached to any vehicle, pay as a penalty for and in full satisfaction of the violation the sum of ten dollars (\$10.00) at the Police Station. Should the owner or operator fail to appear and pay such penalty, upon conviction of a violation of subsection (a) hereof, the owner or operator shall be fined not more than twenty dollars (\$20.00) for each offense. Any person who aids, abets or assists in the violation of the provisions of this section shall be fined not more than twenty dollars (\$20.00) for each offense.

(Ord. 2000-61. Passed 9-12-00.)

351.16 PARKING ON PUBLIC AND PRIVATE PROPERTY.

(a) The parking of vehicles on public or private property which has been posted with a "Restricted Parking" sign approved by the Mayor, excluding dedicated streets and ways set out for public travel and otherwise regulated by provisions of this Traffic Code, shall be prohibited without the consent of the owner of private property or the proper governmental agencies in charge of public property.

(b) Whoever violates subsection (a) hereof may, within seventy-two hours subsequent to the time a notice of violation has been attached to any vehicle, pay to the desk officer at the Police Station as a penalty for and in full satisfaction of the violation the sum of twenty-five dollars (\$25.00). Should the owner or operator fail to appear and pay the twenty-five dollar (\$25.00) penalty, upon conviction of a violation of subsection (a) hereof, the owner or operator shall be fined not more than fifty dollars (\$50.00) for each offense. Whoever aids, abets or assists in the violation of the provisions of this section shall be fined not more than fifty dollars (\$50.00) for each offense.

(Ord. 81-5132. Passed 11-3-81.)

351.17 PARKING IN FIRE LANES.

(a) No operator of a vehicle shall park within a fire lane as designated by appropriate sign and markings, which is established on public or private property by the Mayor.

(b) Whoever violates subsection (a) hereof may, within seventy-two hours subsequent to the time a notice of violation has been attached to any vehicle pay to the desk officer at the Police Station as a penalty for and in full satisfaction of the violation the sum of twenty-five dollars (\$25.00). Should the owner or operator fail to pay the twenty-five dollars (\$25.00) penalty, upon a conviction of a violation of subsection (a) hereof, the owner or operator shall be fined not more than twenty-five dollars (\$25.00) for each offense. Whoever aids, abets or assists in the violation of the provisions of this section shall be fined not more than twenty-five dollars (\$25.00) for each offense.

351.18 PARKING OVERSIZED VEHICLES.

(a) No person shall park or leave standing any semi-trailer, commercial tractor or commercial truck having a gross vehicle weight of 10,000 pounds or more on any street or alley in this City at any time:

- (1) In front of or along side of property used exclusively for residential purposes regardless of the Zoning classification of such property, or
- (2) In any area or district zoned for residential uses, except in front of, along side of, or at the rear of any property lawfully used for a business or industrial use within said district, unless the same obstructs or interferes with the flow of traffic.

(b) Whoever violates subsection (a) hereof may, within seventy-two hours subsequent to the time a notice of violation has been attached to any vehicle, pay to the desk officer at the Police Station as a penalty for and in full satisfaction of the violation the sum of twenty-five dollars (\$25.00) penalty, upon conviction of a violation of subsection (a) hereof, the owner or operator shall be fined not more than fifty dollars (\$50.00) for each offense. Whoever aids, abets or assists in the violation of the provisions of this section shall be fined not more than fifty dollars (\$50.00) for each offense. (Ord. 96-6239. Passed 11-12-96.)

351.19 STREET CLEANING; SNOW REMOVAL; LEAF PICK UP.

(a) The Mayor may prohibit the parking of vehicles upon the streets or parts of streets of the City at such times as are deemed necessary by the Mayor for street cleaning, snow removal or leaf pick up.

(b) The Mayor may close off streets at other times when emergencies exist or work on utilities or streets are occurring.

351.20 PARKING WITHIN MARKED SPACE.

Vehicles shall at all times be parked wholly within the parking spaces as marked. No person shall park vehicles in a way that the same shall not be wholly within the area designated by the lines for parking for the spaces.

351.99 PENALTY.

Whoever violates any provision of this chapter for which no penalty is provided may, within seventy-two hours subsequent to the time a notice of violation has been attached to any vehicle, pay the desk officer at the Police Department as a penalty for and in full satisfaction of the violation, the sum of ten dollars (\$10.00). Should the owner or operator fail to appear and pay the ten dollar (\$10.00) penalty, upon a conviction of a violation of any of such sections the owner or operator shall be fined not more than twenty dollars (\$20.00) for each offense. Whoever aids, abets or assists in the violation of the provisions of any of such sections shall be fined not more than twenty dollars (\$20.00) for each offense.

(Ord. 00-61. Passed 9-12-00.)

Snow Emergency Parking Ban

- 355.01 Parking after a 3-inch snowfall.**
- 355.02 Snow streets designated.**
- 355.03 Determination of 3-inch snowfall.**
- 355.04 Snow streets to be posted.**
- 355.99 Penalty.**

CROSS REFERENCES

Impounding vehicles - see TRAF. 303.08
 Snow removal equipment lights - see TRAF. 337.30

355.01 PARKING AFTER A 3-INCH SNOWFALL.

No owner or operator of any passenger car, truck, tractor, trailer, bus or other vehicle shall park the vehicle, or permit the vehicle to remain parked on any part of the public streets and ways named in Section 355.02 at any time within twenty-four hours after a snowfall of three inches or more has occurred, regardless of whether the snowfall is an original three-inch accumulation or an additional three-inch accumulation upon an already existing accumulation. Parking shall be permitted, if otherwise lawful, after snow accumulation upon a particular street has been removed or the street has been otherwise cleared of snow.
 (Ord. 87-5656. Passed 10-20-87.)

355.02 SNOW STREETS DESIGNATED.

The public streets and ways mentioned in Section 355.01 are hereby as follows:

STREET	BETWEEN
Harding Way East	All
Harding Way West	All
Church Street	All
North Jefferson Street	Between Church Street and Harding Way West
Liberty Street	Between Church Street and Atwood Street
Columbus Street	Between Church Street and Walnut Street
Market Street	All
Union Street	Between Church Street and Walnut Street
Atwood Street	Between Boston Street and Erie Railroad Tracks
Walnut Street	Between Union Street and Liberty Street
Boston Street	Between Harding Way West and Grove Avenue
Grove Avenue	Between Boston Street and Portland Way South

(Ord. 2014-36. Passed 4-22-14.)

355.03 DETERMINATION OF 3-INCH SNOWFALL.

For the purposes of this chapter, the Mayor shall determine when three inches or more of snow has fallen.
 (Ord. 87-5656. Passed 10-20-87.)

355.04 SNOW STREETS TO BE POSTED.

The Mayor shall cause the streets and ways listed in Section 355.02 to be properly posted and designated as snow streets.
 (Ord. 87-5656. Passed 10-20-87.)

355.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). Any vehicle found parked in violation of any provision of this chapter may be impounded by the City and the costs and expenses of impounding and storage shall be charged to the owner or operator of the vehicle, which charges shall be paid before the vehicle is released to the owner or operator.
 (Ord. 87-5656. Passed 10-20-87.)

TITLE NINE - Pedestrians, Bicycles and Motorcycles

- Chap. 371. Pedestrians.
- Chap. 373. Bicycles and Motorcycles.
- Chap. 375. Snowmobiles, Off-Highway Motorcycles, and All Purpose Vehicles.
- Chap. 377. Skateboards.

CHAPTER 371

Pedestrians

- 371.01 Right of way in crosswalk.**
- 371.02 Right of way of blind person.**
- 371.03 Crossing roadway outside crosswalk; diagonal crossings at intersections.**
- 371.04 Moving upon right half of crosswalk.**
- 371.05 Walking along highways.**
- 371.06 Use of highway for soliciting; riding on outside of vehicles.**
- 371.07 Right of way on sidewalk.**
- 371.08 Yielding to public safety vehicle.**
- 371.09 Walking on highway while under the influence.**
- 371.10 On bridges or railroad crossings.**
- 371.11 Persons operating motorized wheelchairs.**
- 371.12 Jogging and running along highways.**
- 371.13 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.

(e) This section does not relieve the operator of a vehicle from exercising due care to avoid colliding with any pedestrian upon any roadway.

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

(ORC 4511.48)

371.04 MOVING UPON RIGHT HALF OF CROSSWALK.

(a) Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

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

(ORC 4511.49)

371.05 WALKING ALONG HIGHWAYS.

(a) Where a sidewalk is provided and its use is practicable, no pedestrian shall walk along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.

(d) Except as otherwise provided in Section 313.03 and 371.01, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

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

(ORC 4511.50)

371.06 USE OF HIGHWAY FOR SOLICITING; RIDING ON OUTSIDE OF VEHICLES.

(a) No person while on a roadway outside a safety zone shall solicit a ride from the driver of any vehicle.

(b) (1) Except as provided in subsection (b)(2) hereof, no person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.

(2) Council, by ordinance, may authorize the issuance of a permit to a charitable organization to allow a person acting on behalf of the organization to solicit charitable contributions from the occupant of a vehicle by standing on a highway, other than a freeway, as provided in Ohio R.C. 4511.051(A), that is under the jurisdiction of the Municipality. The permit shall be valid for only one period or time, which shall be specified in the permit, in any calendar year. Council also may specify the locations where contributions may be solicited and may impose any other restrictions on or requirements regarding the manner in which the solicitations are to be conducted that Council considers advisable.

(3) As used herein, "charitable organization" means an organization that has received from the Internal Revenue Service a currently valid ruling or determination letter recognizing the tax-exempt status of the organization pursuant to Section 501(c)(3) of the "Internal Revenue Code."

(c) No person shall hang onto, or ride on the outside of any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.

(d) No operator shall knowingly permit any person to hang onto, or ride on the outside of, any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.

(e) No driver of a truck, trailer or semitrailer shall knowingly permit any person who has not attained the age of sixteen years to ride in the unenclosed or unroofed cargo storage area of the driver's vehicle if the vehicle is traveling faster than twenty-five miles per hour, unless either of the following applies:

- (1) The cargo storage area of the vehicle is equipped with a properly secured seat to which is attached a seat safety belt that is in compliance with federal standards for an occupant restraining device as defined in Ohio R.C. 4513.263(A)(2), the seat and seat safety belt were installed at the time the vehicle was originally assembled and the person riding in the cargo storage area is in the seat and is wearing the seat safety belt;
- (2) An emergency exists that threatens the life of the driver or the person being transported in the cargo storage area of the truck, trailer or semitrailer.

(f) No driver of a truck, trailer or semitrailer shall permit any person, except for those workers performing specialized highway or street maintenance or construction under authority of a public agency to ride in the cargo storage area or on a tailgate of the driver's vehicle while the tailgate is unlatched.

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

(2) Whoever violates subsection (e) or (f) of this section is guilty of a minor misdemeanor. (ORC 4511.51)

371.07 RIGHT OF WAY ON SIDEWALK.

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

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

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

371.08 YIELDING TO PUBLIC SAFETY VEHICLE.

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

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

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

(ORC 4511.452)

371.09 WALKING ON HIGHWAY WHILE UNDER THE INFLUENCE.

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

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

(ORC 4511.481)

371.10 ON BRIDGES OR RAILROAD CROSSINGS.

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

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

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

(ORC 4511.511)

371.11 PERSONS OPERATING MOTORIZED WHEELCHAIRS.

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

(ORC 4511.491)

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

(ORC 4511.99)

371.12 JOGGING AND RUNNING ALONG HIGHWAYS.

(a) Any pedestrian jogging or running along and upon a roadway shall jog or run as near as practicable to an outside edge of the roadway, and, if

on a two-way roadway, shall jog or run only on the left side of the roadway.

(b) Except as otherwise provided in Section 313.03 and 371.01, any person jogging or running upon a roadway shall yield the right of way to all vehicles upon the roadway.

(ORC 4511.50)

(c) No person shall jog or run upon a roadway, unless he or she is wearing reflective clothing or equipment during the hours of darkness.

(d) Joggers and runners shall yield the right of way to vehicular traffic using the roadway by jogging or running single file.

(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.

371.13 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;

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

(4) Operate the device on any portion of a street or highway that has an established speed limit of fifty-five miles per hour or more;

(5) Operate the device upon any path set aside for the exclusive use of pedestrians or other specialized use when an appropriate sign giving notice of the specialized use is posted on the path;

(6) If under eighteen years of age, operate the device unless wearing a protective helmet on the person's head with the chin strap properly fastened;

(7) If under sixteen years of age, operate the device unless, during the operation, the person is under the direct visual and audible supervision of another person who is eighteen years of age or older and is responsible for the immediate care of the person under sixteen years of age.

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

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

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

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

(1) The offender shall be fined ten dollars (\$10.00).

(2) If the offender previously has been convicted of or pleaded guilty to a violation of division (B) or (C) of Ohio R.C. 4511.512 or a substantially similar municipal ordinance, the court, in addition to imposing the fine required under subsection (f)(1) hereof, shall do one of the following:

A. Order the impoundment for not less than one day but not more than thirty days of the electric personal assistive mobility device that was involved in the current violation of that section. The court shall order the device to be impounded at a safe indoor location designated by the court and may assess storage fees of not more than five dollars (\$5.00) per day, provided the total storage, processing, and release fees assessed against the offender or the device in connection with the device's impoundment or subsequent release shall not exceed fifty dollars (\$50.00).

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

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

(ORC 4511.512)

CHAPTER 373

Bicycles and Motorcycles

373.01 Code application to bicycles.

373.02 Riding upon seats; handle bars; helmets and glasses.

373.03 Attaching bicycle or sled to vehicle.

373.04 Riding bicycles and motorcycles abreast.

373.05 Signal device on bicycle.

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373.07 Riding bicycle on right side of roadway; obedience to traffic rules; passing.

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373.09 Parking of bicycle. (Repealed)

373.10 Motorized bicycle operation, equipment and license.

373.11 Bicycles, mopeds, skateboards, on sidewalks.

373.12 Impounding of bicycles, skateboards, scooters or other motorized vehicles; redemption; sale of impounded vehicles.

373.13 Paths exclusively for bicycles.

373.14 Electric bicycles.

CROSS REFERENCES

See sectional histories for similar State law
Motorcycle protective equipment - see OAC Ch. 4501-17
Motorized bicycle equipment - see OAC Ch. 4501-23
Bicycle defined - see TRAF. 301.04
Motorcycle defined - see TRAF. 301.19
Bicycles prohibited on freeways - see TRAF. 303.06
Hand and arm signals - see TRAF. 331.15
Motorcycle operator's license required - see TRAF. 335.01(a)
Motorcycle headlight - see TRAF. 337.03
Motorcycle brakes - see TRAF. 337.18(b)

373.01 CODE APPLICATION TO BICYCLES.

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

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

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

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

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

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

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

(b) No person operating a bicycle 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.

(3) Subsections (i)(1) and (i)(2)A. of this section do not apply to a person who operates or is a passenger in an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.

(j) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle or electric bicycle.

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

(ORC 4511.53)

373.03 ATTACHING BICYCLE OR SLED TO VEHICLE.

(a) No person riding upon any motorcycle, bicycle, electric bicycle, coaster, roller skates, sled, skateboard or toy vehicle shall attach the same or self to any vehicle upon a roadway.

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

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

more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

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

373.04 RIDING BICYCLES AND MOTORCYCLES ABREAST.

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

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

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

373.05 SIGNAL DEVICE ON BICYCLE.

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

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

(ORC 4511.56)

373.06 LIGHTS AND REFLECTOR ON BICYCLE; BRAKES.

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

- (1) A lamp mounted on the front of either the bicycle or electric bicycle or the operator that shall emit a white light visible from a distance of at least five hundred feet to the front; and three hundred feet to the sides. A generator-powered lamp that emits light only when the bicycle or electric bicycle is moving may be used to meet this requirement.
- (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. (REPEALED)

(EDITOR'S NOTE: See Section 373.11(c) for current regulations.)

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 BICYCLES, MOPEDS, SKATEBOARDS ON SIDEWALKS.

(a) No person shall park, ride, or operate a bicycle, skateboard, scooter or other motorized vehicle on any sidewalk within a business district except authorized vehicles involved in sidewalk maintenance or snow removal or except for members of the Galion Bicycle Patrol while on duty on a police bicycle.

(b) Whenever a person is riding a bicycle, skateboard, scooter, or any other vehicle upon a sidewalk in a residential area, such person shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing any pedestrian.

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

(Ord. 97-6249. Passed 3-11-97.)

(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.

373.12 IMPOUNDING OF BICYCLES, SKATEBOARDS, SCOOTERS OR OTHER MOTORIZED VEHICLES; REDEMPTION; SALE OF IMPOUNDED VEHICLES.

(a) Police officers are authorized to provide for the removal and impounding of bicycles, skateboards, scooters or other motorized vehicles when they are left illegally parked and unattended upon any sidewalk in the business district.

(b) Police officers are authorized to provide for the removal and impounding of bicycles, skateboards, scooters or other motorized vehicles when they are left illegally parked and unattended in a residential area in such a manner as to unduly interfere with pedestrian traffic or upon a roadway so as to unduly interfere with vehicular traffic.

(c) Any bicycle, skateboard, scooter or other motorized vehicle that has been impounded, may be claimed by appearing at the Police Department and furnishing satisfactory evidence of identity and ownership or right to possession. A ten dollar (\$10.00) impoundment fee shall be paid prior to release.

(d) Whenever any bicycle, skateboard, scooter or other motorized vehicle impounded by a police officer remains in the possession of the City and unclaimed by any person having the right to possession for a period of sixty days, the bicycle, skateboard, scooter, or other motorized vehicle shall be sold at public auction to the highest bidder.

373.13 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)

373.14 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 375

Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles

375.01 Definitions.

375.02 Equipment.

- 375.03 Code application; prohibited operation.**
- 375.04 Permitted operation.**
- 375.05 Licensing requirements of operator.**
- 375.06 Registration of vehicles.**
- 375.07 Accident reports.**
- 375.08 Certificate of title.**

CROSS REFERENCES

See sectional histories for similar State law

Lights, brakes and muffler - see OAC Ch. 4501.29

Power of trial court of record to impound registration certificate for certain violations
- see Ohio R.C 4519.47

Power to regulate; municipal licensing prohibited - see Ohio R.C. 4519.48

Street or highway defined - see TRAF. 301.42

Required usage of helmets and safety glasses - see TRAF. 373.02(f)

375.01 DEFINITIONS.

As used in this chapter:

- (a) "Snowmobile" means any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners or caterpillar treads. (ORC 4519.01(A))
- (b) "All purpose vehicle" means any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all season vehicles, mini-bikes and trail bikes, but excluding any self-propelled vehicle not principally used for purposes of personal transportation, any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Ohio R.C. Chapter 4503 or Chapter 4561, and any vehicle excepted from definition as a motor vehicle by Section 301.20 of this Traffic Code. (ORC 4519.01(B))
- (c) "Owner" means any person, firm or corporation, other than a lienholder or dealer, having title to a snowmobile, off-highway motorcycle, or all purpose vehicle, or other right to the possession thereof. (ORC 4519.01(C))

- (d) "Operator" means any person who operates or is in actual physical control of a snowmobile, off-highway motorcycle or all purpose vehicle.
- (e) "Limited access highway" or "freeway" means a highway especially designed for through traffic and over which abutting property owners have no easement or right of access by reason of the fact that their property abuts upon such highway, and access to which may be allowed only at highway intersections designated by the Ohio Director of Transportation. (ORC 5511.02)
- (f) "Interstate highway" means any part of the interstate system of highways as defined in subsection (e), 90 Stat. 431 (1976), 23 U.S.C.A. 103, and amendments thereof.
- (g) "Off-highway motorcycle" means every motorcycle, as defined in Ohio R.C. 4511.01, that is designed to be operated primarily on lands other than a street or highway. (ORC 4519.01)

375.02 EQUIPMENT.

(a) Equipment of snowmobiles, off-highway motorcycles, and all purpose vehicles shall include, but not necessarily be limited to requirements for the following items:

- (1) At least one headlight having a minimum candlepower of sufficient intensity to reveal persons and objects at a distance of at least 100 feet ahead under normal atmospheric conditions during hours of darkness;
- (2) At least one red taillight having a minimum candlepower of sufficient intensity to be plainly visible from a distance of 500 feet to the rear under normal atmospheric conditions during hours of darkness;
- (3) Adequate brakes. Every snowmobile, while traveling on packed snow, shall be capable of carrying a driver who weighs 175 pounds or more, and, while carrying such driver, be capable of stopping in not more than forty feet from an initial steady speed of twenty miles per hour, or locking its traction belt.
- (4) A muffler system capable of precluding the emission of excessive smoke or exhaust fumes, and of limiting the engine noise of vehicles. On snowmobiles manufactured after January 1, 1973, such requirement shall include sound dampening equipment such that noise does not exceed eighty- two decibels on the "A" scale at fifty feet as measured according to SAE J192 (September 1970).

(b) No person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle in violation of this section, except that equipment specified in subsections (a)(1) and (2) hereof shall not be required on snowmobiles, off-highway motorcycles, or all purpose vehicles operated during the daylight hours.

(c) Except as otherwise provided in this subsection, whoever violates subsection (b) of this section shall be fined not more than fifty dollars (\$50.00). If the offender within the preceding year previously has committed a violation of subsection (b) of this section, whoever violates subsection (b) of this section shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00), imprisoned not more than three days, or both.

(ORC 4519.20)

375.03 CODE APPLICATION; PROHIBITED OPERATION.

(a) The applicable provisions of this Traffic Code shall be applied to the operation of snowmobiles, off-highway motorcycles, and all purpose vehicles; except that no snowmobile, off- highway motorcycle, or all purpose vehicle shall be operated as follows:

- (1) On any street or highway except for emergency travel only during such time and in such manner as the State or local authority having jurisdiction over such street or highway shall designate, and except as provided in Section 375.04;
- (2) Upon any property owned or leased by the Municipality except in areas designated for such purposes;
- (3) On any private property, or in any nursery or planting area, without the permission of the owner or other person having the right to possession of the property;
- (4) On any land or waters controlled by the State, except at those locations where a sign has been posted permitting such operation;
- (5) On tracks or right of way of any operating railroad;
- (6) For the purpose of chasing, pursuing, capturing or killing any animal or wild fowl, other than through the use of a firearm as defined in ORC §2923.11;
- (7) During the time from sunset to sunrise, unless displaying lighted lights as required by Section 375.02.

(Ord. 2019-76. Passed 11-26-19.)

(b) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisoned not less than three nor more than thirty days, or both. (ORC 4519.40)

375.04 PERMITTED OPERATION.

Snowmobiles, off-highway motorcycles, and all purpose vehicles may be operated as follows:

- (a) To make a crossing of a highway, other than a freeway or limited access highway, whenever the crossing can be made in safety and will not interfere with the movement of vehicular traffic approaching from any direction on the highway, and provided that the operator yields the right of way to any approaching traffic that presents an immediate hazard;
- (b) On highways in the County or Township road systems whenever the local authority having jurisdiction over such highway so permits;
- (c) Off and alongside a street or highway for limited distances from the point of unloading from a conveyance to the point at which the snowmobile, off-highway motorcycle, or all purpose vehicle is intended and authorized to be operated.
- (d) On the berm or shoulder of a highway, other than a highway as designated in Ohio R.C. 4519.40(A), when the terrain permits such operation to be undertaken safely and without the necessity of entering any traffic lane;
- (e) On the berm or shoulder of a county or township road, while traveling from one area of operation of the snowmobile, off-highway motorcycle, or all-purpose vehicle to another such area. (ORC 4519.41)

375.05 LICENSING REQUIREMENTS OF OPERATOR.

(a) No person who does not hold a valid, current motor vehicle driver's or commercial driver's license, motorcycle operator's endorsement or probationary license issued under Ohio R.C. Chapter 4506 or 4507, or a valid, current driver's license issued by another jurisdiction, shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any street or highway, on any portion of the right of way thereof, or on any public land or waters. This subsection shall not be construed to permit the holder of such a license to operate a snowmobile, off-highway motorcycle, or all purpose vehicle in violation of Section 375.03.

(b) No person who is less than sixteen years of age shall operate a snowmobile, off- highway motorcycle, or all purpose vehicle on any land or waters other than private property or waters owned by or leased to such person's parent or guardian, unless accompanied by another person who is eighteen years of age, or older, and who holds a license as provided in subsection (a) hereof, except that the Ohio Department of Natural Resources may permit such operation on State controlled land under its jurisdiction when such person is less than sixteen years of age and is accompanied by a parent or guardian who is a licensed driver eighteen years of age or older.

(c) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisoned not less than three nor more than thirty days, or both. (ORC 4519.44)

375.06 REGISTRATION OF VEHICLES.

(a) Except as provided in Ohio R.C 4519.02(B), (C) and (D), no person shall operate any snowmobile, off-highway motorcycle, or all purpose

vehicle unless the snowmobile, off-highway motorcycle, or all purpose vehicle is registered and numbered in accordance with Ohio R.C. 4519.03 and 4519.04.

(b) Except as otherwise provided in this subsection, whoever violates subsection (a) of this section shall be fined not more than twenty-five dollars (\$25.00). If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a) of this section, whoever violates subsection (a) of this section shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). (ORC 4519.02)

375.07 ACCIDENT REPORTS.

(a) The operator of a snowmobile, off-highway motorcycle, or all purpose vehicle involved in any accident resulting in bodily injury to or death of any person or damage to the property of any person in excess of one hundred dollars (\$100.00) shall report the accident within forty-eight hours to the Chief of Police, and, within thirty days, shall forward a written report of the accident to the Ohio Registrar of Motor Vehicles on a form prescribed by the Registrar. If the operator is physically incapable of making the reports and there is another participant in the accident not so incapacitated, the participant shall make the reports. In the event that there is no other participant, and the operator is other than the owner, the owner, within the prescribed periods of time, shall make the reports.

Any law enforcement officer or other person authorized by Ohio R.C. 4519.42 and 4519.43, who investigates or receives information of an accident involving a snowmobile, off-highway motorcycle, or all purpose vehicle shall forward to the Registrar a written report of the accident within forty-eight hours. (ORC 4519.46)

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

375.08 CERTIFICATE OF TITLE.

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

- (1) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle without having a certificate of title for the off-highway motorcycle or all-purpose vehicle, if such a certificate is required by Ohio R.C. Chapter 4519 to be issued for the off-highway motorcycle or all-purpose vehicle, or, if a physical certificate of title has not been issued for it, operate an off-highway motorcycle or all-purpose vehicle knowing that the ownership information relating to the motorcycle or vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;
- (2) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle if a certificate of title to the off-highway motorcycle or all-purpose vehicle has been issued and then has been canceled;
- (3) Fail to surrender any certificate of title upon cancellation of it by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4519;
- (4) Fail to surrender the certificate of title to a clerk of the court of common pleas as provided in Ohio R.C. Chapter 4519, in case of the destruction or dismantling of, or change in, the off-highway motorcycle or all-purpose vehicle described in the certificate of title;
- (5) Violate any provision of Ohio R.C. 4519.51 to 4519.70 or any lawful rules adopted pursuant to those sections;
- (6) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle knowing that the certificate of title to or ownership of the motorcycle or vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both. (ORC 4519.66)

CHAPTER 377

Skateboards

377.01 Skateboard defined.

377.02 Prohibition on sidewalks.

377.03 Prohibition on streets and alleys.

CROSS REFERENCES

Bicycles - see TRAF. Ch. 373

377.01 SKATEBOARD DEFINED.

As used in the within Traffic Code, "skateboard" means any vehicle or device capable of being operated or ridden by a person and consisting of a board, plank or platform mounted on wheels or rollers, whether propelled by gravity, muscle powers or mechanical means, which is not equipped with a positive, mechanical means of steering such vehicle or device.

377.02 PROHIBITION ON SIDEWALKS.

(a) No person shall operate or ride, or cause to be operated or ridden, a skateboard upon a sidewalk within a business district or hospital medical district of the City in accordance with the City Zoning Regulations and Zoning Maps and Codified Ordinances of this City as are on file in the office of the Building Inspector.

(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.

377.03 PROHIBITION ON STREETS AND ALLEYS.

(a) No person shall operate or ride, or cause to be operated or ridden, a skateboard on any street or alley within the City.

(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.

CODIFIED ORDINANCES OF GALION

PART FIVE - GENERAL OFFENSES CODE

Chap. 501. General Provisions and Penalty.

Chap. 505. Animals and Fowl.

Chap. 509. Disorderly Conduct and Peace Disturbance.

- Chap. 513. Drug Abuse Control.
- Chap. 515. Fair Housing Practices.
- Chap. 517. Gambling.
- Chap. 521. Health, Safety and Sanitation.
- Chap. 525. Law Enforcement and Public Office.
- Chap. 529. Liquor Control.
- Chap. 531. Minor's Curfew.
- Chap. 533. Obscenity and Sex Offenses.
- Chap. 535. Criminal Conduct in Sexually Oriented Businesses.
- Chap. 537. Offenses Against Persons.
- Chap. 541. Property Offenses.
- Chap. 545. Theft and Fraud.
- Chap. 549. Weapons and Explosives.
- Chap. 553. Railroads.
- Chap. 557. Trees and Shrubs.
- Chap. 559. Weeds and Litter.
- Chap. 563. Noise Pollution Regulations.
- Chap. 565. Noise Prohibitions.

CHAPTER 501

General Provisions and Penalty

- 501.01 Definitions.**
- 501.02 Classification of offenses.**
- 501.03 Common law offenses abrogated.**
- 501.04 Rules of construction.**
- 501.05 Criminal law jurisdiction.**
- 501.06 Limitation of criminal prosecution.**
- 501.07 Requirements for criminal liability.**
- 501.08 Culpable mental states.**
- 501.09 Attempt.**
- 501.10 Complicity.**
- 501.11 Organizational criminal liability.**
- 501.12 Personal accountability for organizational conduct.**
- 501.13 Special Code Enforcement Officers.**
- 501.14 Conspiracy.**
- 501.99 Penalties for misdemeanors.**

CROSS REFERENCES

See sectional histories for similar State law
 Limitation of prosecution for income tax violations - see Ohio R.C. 718.06
 Modification of sentence - see Ohio R.C. 2929.10(C), (D)
 Penalty considerations - see Ohio R.C. 2929.22
 Citation issuance for minor misdemeanors - see Ohio R.C. 2935.26 et seq.

501.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Force" means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) "Deadly force" means any force which carries a substantial risk that it will proximately result in the death of any person.
- (c) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) "Physical harm to property" means any tangible or intangible damage to property which, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (e) "Serious physical harm to persons" means any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - (2) Any physical harm which carries a substantial risk of death;
 - (3) Any physical harm which involves some permanent incapacity, whether partial or total, or which involves some temporary, substantial incapacity;
 - (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
 - (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) "Serious physical harm to property" means any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) "Offense of violence" means any of the following:
 - (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2903.04(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to

any section listed in subsection (i)(1) hereof;

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof.

(j) (1) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

(2) As used in this section, "trade secret" has the same meaning as in Ohio R.C. 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.

(3) As used in this section, "cable television service", "computer", "computer software", "computer system", "computer network", "data", and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

(k) "Law enforcement officer" means any of the following:

(1) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or State highway patrol trooper;

(2) An officer, agent or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, Charter or ordinance, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(3) A mayor or manager in the mayor's or manager's capacity as chief conservator of the peace within the mayor's or manager's municipal corporation;

(4) A member of an auxiliary police force organized by county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission;

(5) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;

(6) A person appointed by a mayor pursuant to Ohio R.C. 737.01 as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;

(7) A member of the organized militia of this State or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;

(8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor;

(9) A veterans' home police officer appointed under Ohio R.C. 5907.02;

(10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y);

(11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28;

(12) The Senate Sergeant of Arms and or Assistant Sergeant at Arms;

(13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States Department of Transportation as provided in Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.

(l) "Privilege" means an immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office or relationship, or growing out of necessity.

(m) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:

(1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device, or paraphernalia;

(2) Any unlawful gambling device, or paraphernalia;

(3) Any dangerous ordnance or obscene material.

(n) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in Ohio R.C. 2901.05, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.

(o) (1) A. Subject to subsection (o)(2) hereof, as used in any section contained in Part Five - General Offenses Code that sets forth a criminal offense, "person" includes all of the following:

1. An individual, corporation, business trust, estate, trust, partnership, and association;

2. An unborn human who is viable.

B. As used in any section contained in Part Five - General Offenses Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership and association.

C. As used in subsection (o)(1)A. hereof:

1. "Unborn human" means an individual organism of the species Homo sapiens from fertilization until live birth.

2. "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding subsection (o)(1)A. hereof, in no case shall the portion of the definition of the term "person" that is set forth in subsection (o)(1)A.2. hereof be applied or construed in any section contained in Part Five - General Offenses Code that sets forth a criminal offense in any of the following manners:

A. Except as otherwise provided in subsection (o)(2)A. hereof, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence,

but that does violate Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, may be punished as a violation of Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, as applicable. Consent is sufficient under this subsection if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with Ohio R.C. 2919.12.

B. In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

1. Her delivery of a stillborn baby;
 2. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;
 3. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;
 4. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;
 5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.
- (p) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.
- (q) "School", "school building" and "school premises" have the same meaning as in Ohio R.C. 2925.01.
- (r) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Ohio R.C. Chapter 3314; a governing body of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07.
- (s) "School bus" has the same meaning as in Ohio R.C. 4511.01. (ORC 2901.01)

501.02 CLASSIFICATION OF OFFENSES.

As used in the Codified Ordinances:

- (a) Offenses include misdemeanors of the first, second, third and fourth degree, minor misdemeanors and offenses not specifically classified.
- (b) Regardless of the penalty that may be imposed, any offense specifically classified as a misdemeanor is a misdemeanor.
- (c) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.
- (d) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following:
 - (1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars (\$100.00);
 - (2) For an offense committed on or after January 1, 2004, a fine not exceeding one hundred fifty dollars (\$150.00), community service under division (D) of Ohio R.C. 2929.27, or a financial sanction other than a fine under Ohio R.C. 2929.28.(ORC 2901.02)

501.03 COMMON LAW OFFENSES ABROGATED.

(a) No conduct constitutes a criminal offense against the Municipality unless it is defined as an offense in the Codified Ordinances or any other Municipal ordinance.

(b) An offense is defined when one or more sections of the Codified Ordinances state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty.

(c) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law to enforce an order, civil judgment or decree.

(ORC 2901.03)

501.04 RULES OF CONSTRUCTION.

(a) Except as otherwise provided in subsection (c) hereof, sections of the Codified Ordinances defining offenses or penalties shall be strictly construed against the Municipality and liberally construed in favor of the accused.

(b) Rules of criminal procedure and sections of the Ohio Revised Code providing for criminal procedure shall be construed so as to effect the fair, impartial, speedy and sure administration of justice.

(c) Any provision of a section of the Codified Ordinances that refers to a previous conviction of or plea of guilty to a violation of a section of the Codified Ordinances or Ohio Revised Code or of a division of a section of the Codified Ordinances or Ohio Revised Code shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this State, another state, or the United States or under an existing or former municipal ordinance.

(d) Any provision of the Codified Ordinances that refers to a section, or to a division of a section, of the Codified Ordinances that defines or specifies a criminal offense shall be construed to also refer to an existing or former law of this State, another state, or the United States, to an existing or former municipal ordinance, or to an existing or former division of any such existing or former law or ordinance that defines or specifies, or that defined or specified, a substantially equivalent offense. (ORC 2901.04)

501.05 CRIMINAL LAW JURISDICTION.

(a) A person is subject to misdemeanor prosecution and punishment in this Municipality if any of the following occur:

(1) The person commits an offense under the laws of this Municipality, any element of which takes place in this Municipality.

(2) While in this Municipality, the person attempts to commit, or is guilty of complicity in the commission of, an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, or, while in this Municipality, the person conspires to commit an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, and a substantial overt act in furtherance of the conspiracy is undertaken in this Municipality by the person or another person involved in the conspiracy, subsequent to the person's entrance into the conspiracy. In any case in which a person attempts to commit, is guilty of complicity in the commission of, or conspires to commit an offense in another jurisdiction as described in this subsection, the person is subject to criminal prosecution and punishment in this Municipality for the attempt, complicity, or conspiracy, and for any resulting offense that is committed or completed in the other jurisdiction.

(3) While out of this Municipality, the person conspires or attempts to commit, or is guilty of complicity in the commission of, an offense in this Municipality.

(4) While out of this Municipality, the person omits to perform a legal duty imposed by the laws of this Municipality, which omission affects a legitimate interest of the Municipality in protecting, governing or regulating any person, property, thing, transaction or activity in this Municipality.

(5) While out of this Municipality, the person unlawfully takes or retains property and subsequently brings any of the unlawfully taken or retained property into this Municipality.

(6) While out of this Municipality, the person unlawfully takes or entices another and subsequently brings the other person into this Municipality.

(7) The person, by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, causes or knowingly permits any writing, data, image, or other telecommunication to be disseminated or transmitted into this Municipality in violation of the law of this Municipality.

(b) This Municipality includes the land and water within its boundaries and the air space above such land and water, and real property outside the corporate limits, with respect to which this Municipality has either exclusive or concurrent legislative jurisdiction. Where the boundary between this Municipality and another jurisdiction is disputed, the disputed territory is conclusively presumed to be within this Municipality for purposes of this section.

(c) When an offense is committed under the laws of this Municipality, and it appears beyond a reasonable doubt that the offense or any element of the offense took place either in this Municipality or in another jurisdiction or jurisdictions, but it cannot reasonably be determined in which it took place, the offense or element is conclusively presumed to have taken place in this Municipality for purposes of this section.

(d) When a person is subject to criminal prosecution and punishment in this Municipality for an offense committed or completed outside of this Municipality, the person is subject to all specifications for that offense that would be applicable if the offense had been committed within this Municipality.

(e) Any act, conduct, or element that is a basis of a person being subject under this section to criminal prosecution and punishment in this Municipality need not be committed personally by the person as long as it is committed by another person who is in complicity or conspiracy with the person.

(f) This section shall be liberally construed, consistent with constitutional limitations, to allow this Municipality the broadest possible jurisdiction over offenses and persons committing offenses in, or affecting, this Municipality.

(g) For purposes of subsection (a)(2) of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(h) As used in this section, "computer", "computer system", "computer network", "information service", "telecommunication", "telecommunications device", "telecommunications service", "data", and "writing" have the same meaning as in Ohio R.C. 2913.01. (ORC 2901.11)

501.06 LIMITATION OF CRIMINAL PROSECUTION.

(a) Except as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

- (1) For misdemeanor other than a minor misdemeanor, two years;
- (2) For a minor misdemeanor, six months.

(b) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by his legal representative who is not himself a party to the offense.

(c) (1) If the period of limitation provided in this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:

- A. For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;
- B. For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.

(2) As used in this subsection:

- A. An "offense is directly related to the misconduct in office of a public servant" includes, but is not limited to, a violation of Ohio R.C. 101.71, 101.91, 121.61 or 2921.13, division (F) or (H) of Ohio R.C. 102.03, division (A) of Ohio R.C. 2921.02, division (A) or (B) of Ohio R.C. 2921.43, or division (F) or (G) of Ohio R.C. 3517.13, that is directly related to an offense involving misconduct in office of a public servant.
- B. "Public servant" has the same meaning as in Section 525.01.

(d) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

(e) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation or other process, unless reasonable diligence is exercised to execute the same.

(f) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.

(g) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused absented himself from this Municipality or concealed his identity or whereabouts is prima-facie evidence of his purpose to avoid prosecution.

(h) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information or process that commenced the prosecution is quashed or the proceedings on the indictment, information or process are set aside or reversed on appeal.

(i) The period of limitation for a violation of any provision of this General Offenses Code that involves a physical or mental wound, injury, disability or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen years of age or of a child with a developmental disability or physical impairment under twenty-one years of age shall not begin to run until either of the following occurs:

- (1) The victim of the offense reaches the age of majority.
- (2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred. (ORC 2901.13)

(j) This section shall not apply to prosecutions commenced within the period of limitations set forth in Ohio R.C. 718.12(B) for violations of the Municipal income tax ordinance.

501.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

(a) Except as provided in subsection (b) hereof, a person is not guilty of an offense unless both of the following apply:

- (1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;
- (2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the language defining the offense.

(b) When the language defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal

liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. The fact that one subsection of a section plainly indicates a purpose to impose strict liability for an offense defined in that subsection does not by itself plainly indicate a purpose to impose strict criminal liability for an offense defined in other subsections of the section that do not specify a degree of culpability.

(c) (1) When language defining an element of an offense that is related to knowledge or intent or to which mens rea could fairly be applied neither specifies culpability nor plainly indicates a purpose to impose strict liability, the element of the offense is established only if a person acts recklessly.

(2) Subsection (c)(1) of this section does not apply to offenses defined in the Traffic Code.

(3) Subsection (c)(1) of this section does not relieve the prosecution of the burden of proving the culpable mental state required by any definition incorporated into the offense.

(d) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

(e) As used in this section:

(1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.

(2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.

(3) "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 501.08 .

(4) "Intoxication" includes, but is not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.

(ORC 2901.21)

501.08 CULPABLE MENTAL STATES.

(a) A person acts purposely when it is the person's specific intention to cause a certain result, or when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is the offender's specific intention to engage in conduct of that nature.

(b) A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

(c) A person acts recklessly when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that such circumstances are likely to exist.

(d) A person acts negligently when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist.

(e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element.

(ORC 2901.22)

501.09 ATTEMPT.

(a) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct which, if successful, would constitute or result in the offense.

(b) It is no defense to a charge under this section that, in retrospect, commission of the offense which was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(c) No person who is convicted of committing a specific offense or of complicity in the commission of an offense, shall be convicted of an attempt to commit the same offense in violation of this section.

(d) It is an affirmative defense to a charge under this section that the actor abandoned the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(e) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other misdemeanor is a misdemeanor of the next lesser degree than the misdemeanor attempted. In the case of an attempt to commit an offense other than a violation of Ohio R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony under the Ohio Revised Code, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. An attempt to commit a minor misdemeanor is not an offense under this section.

(f) As used in this section, "drug abuse offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.02)

501.10 COMPLICITY.

(a) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

(1) Solicit or procure another to commit the offense;

(2) Aid or abet another in committing the offense;

(3) Cause an innocent or irresponsible person to commit the offense.

(b) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(c) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of Section 501.09.

(d) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense or an offense, the court when it charges the jury, shall state substantially the following:

"The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.

"It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(e) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(f) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.

(ORC 2923.03)

501.11 ORGANIZATIONAL CRIMINAL LIABILITY.

(a) An organization may be convicted of an offense under any of the following circumstances:

- (1) The offense is a minor misdemeanor committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.
- (2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.
- (3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.
- (4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated or performed by the board of directors, trustees, partners or by a high managerial officer, agent or employee acting in behalf of the organization and within the scope of such a board's or person's office or employment.

(b) If strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

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

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

501.12 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

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

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

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

501.13 SPECIAL CODE ENFORCEMENT OFFICERS.

(a) The Mayor may, if he deems it advisable and necessary, appoint the Building Inspector and/or any other designee as Special Code Enforcement Officers of the City of Galion for the purpose of enforcing the provisions of Sections 303.10, 521.04, 521.05, 521.06, 521.07 and 903.12 of the Galion Codified Ordinances, as amended, Chapters 559, 909, 1301, 1337 and 1339 of the Galion Codified Ordinances, Ordinance No. 87-5636, as amended, and Resolution No. 57 of the Galion City Board of Health. (A.O.)

(b) The Building Inspector or designee shall have and possess all the requisite powers with respect to the issuance of citations for minor misdemeanor violations and shall continue in such capacity as Code Enforcement Officers until such appointment is terminated by action of the Mayor. No such Special Code Enforcement Officer shall receive any compensation other than that compensation as may be provided for in the regular position of employment for such person.

(c) Any citation issued by any person authorized by this section shall be in writing on an appropriate form, contain the name and address of the defendant, describe the offense charged, refer to the numerical designation of the applicable statute or ordinance, state the name of the officer who issued the citation, and order the defendant to appear at a stated time and place.

(d) Citations issued for violations involving real property shall be served on the owner, occupant or agent either in person or by certified mail to the offending location or the tax mailing address as indicated by the Crawford County Treasurer.

(e) Citations shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within that stated time, appear personally at the office of the Clerk of Court and upon signing a plea of guilty and a waiver of trial pay a stated fine and court costs, if any. The citation shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within the stated time, sign the guilty plea and waiver of trial provision of the citation, and mail the citation and money order for the total amount of the fine and costs to the Office of the Clerk of Court. The citation shall inform the defendant that he may be arrested if he fails to appear at the Clerk's office or at the time and place stated in the citation.

(f) When a defendant appears, but does not sign a guilty plea and waiver of trial, the Court shall proceed in accordance with Rule 5 of the Ohio Rules of Criminal Procedure.

(g) The citation as herein provided shall be sufficient notice, summons, and legal service thereof for the purpose specified thereon, provided that the use of such citation shall not prohibit the issuance of either additional citations or legal notices of violations in the event that such violations is continued or repeated. (Ord. 2019-48. Passed 9-10-19.)

501.14 CONSPIRACY.

(a) No person, with purpose to commit or to promote or facilitate the commission of aggravated murder, murder, kidnapping, abduction,

compelling prostitution, promoting prostitution, trafficking in persons, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, engaging in a pattern of corrupt activity, corrupting another with drugs, a felony drug trafficking, manufacturing, processing or possession offense, theft of drugs, or illegal processing of drug documents, the commission of a felony offense of unauthorized use of a vehicle, illegally transmitting multiple commercial electronic mail messages or unauthorized access of a computer in violation of Ohio R.C. 2923.421 or the commission of a violation of any provision of Ohio R.C. Chapter 3734, other than Ohio R.C. 3734.18, that relates to hazardous wastes, shall do either of the following:

- (1) With another person or persons, plan or aid in planning the commission of any of the specified offenses;
- (2) Agree with another person or persons that one or more of them will engage in conduct that facilitates the commission of any of the specified offenses.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the accused or a person with whom the accused conspired, subsequent to the accused's entrance into the conspiracy. For purposes of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(c) When the offender knows or has reasonable cause to believe that a person with whom the offender conspires also has conspired or is conspiring with another to commit the same offense, the offender is guilty of conspiring with that other person, even though the other person's identity may be unknown to the offender.

(d) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the conspiracy was impossible under the circumstances.

(e) A conspiracy terminates when the offense or offenses that are its objects are committed or when it is abandoned by all conspirators. In the absence of abandonment, it is no defense to a charge under this section that no offense that was the object of the conspiracy was committed.

(f) A person who conspires to commit more than one offense is guilty of only one conspiracy, when the offenses are the object of the same agreement or continuous conspiratorial relationship.

(g) When a person is convicted of committing or attempting to commit a specific offense or of complicity in the commission of or attempt to commit the specific offense, the person shall not be convicted of conspiracy involving the same offense.

(h) (1) No person shall be convicted of conspiracy upon the testimony of a person with whom the defendant conspired, unsupported by other evidence.

- (2) If a person with whom the defendant allegedly has conspired testifies against the defendant in a case in which the defendant is charged with conspiracy and if the testimony is supported by other evidence, the court, when it charges the jury, shall state substantially the following:

"The testimony of an accomplice that is supported by other evidence does not become inadmissible because of the accomplice's complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect the witness' credibility and make the witness' testimony subject to grave suspicion, and requires that it be weighed with great caution.

It is for you, as jurors, in light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth".

- (3) "Conspiracy", as used in subsection (h)(1) of this section, does not include any conspiracy that results in an attempt to commit an offense or in the commission of an offense.

(i) The following are affirmative defenses to a charge of conspiracy:

- (1) After conspiring to commit an offense, the actor thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.
- (2) After conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor's abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor's participation in the conspiracy.

(j) Whoever violates this section is guilty of conspiracy, which is a misdemeanor of the first degree, when the most serious offense that is the object of the conspiracy is a felony of the fifth degree.

(k) This section does not define a separate conspiracy offense or penalty where conspiracy is defined as an offense by one or more sections of this Code, other than this section. In such a case, however:

- (1) With respect to the offense specified as the object of the conspiracy in the other section or sections, subsection (a) hereof defines the voluntary act or acts and culpable mental state necessary to constitute the conspiracy;
 - (2) Subsections (b) to (i) hereof are incorporated by reference in the conspiracy offense defined by the other section or sections of this Code.
- (l) (1) In addition to the penalties that otherwise are imposed for conspiracy, a person who is found guilty of conspiracy to engage in a pattern of corrupt activity is subject to divisions (B)(2) and (3) of Ohio R.C. 2923.32, division (A) of Ohio R.C. 2981.04 and division (D) of Ohio R.C. 2981.06.
- (2) If a person is convicted of or pleads guilty to conspiracy and if the most serious offense that is the object of the conspiracy is a felony drug trafficking, manufacturing, processing or possession offense, in addition to the penalties or sanctions that may be imposed for the conspiracy under subsection (j) hereof and Ohio R.C. Chapter 2929, both of the following apply:
 - A. The provisions of divisions (D), (F) and (G) of Ohio R.C. 2925.03, division (D) of Ohio R.C. 2925.04, division (D) of Ohio R.C. 2925.05, division (D) of Ohio R.C. 2925.06 and division (E) of Ohio R.C. 2925.11 that pertain to mandatory and additional fines, driver's or commercial driver's license or permit suspensions, and professionally licensed persons and that would apply under the appropriate provisions of those divisions to a person who is convicted of or pleads guilty to the felony drug trafficking, manufacturing, processing, or possession offense that is the most serious offense that is the basis of the conspiracy shall apply to the person who is convicted of or pleads guilty to the conspiracy as if the person had been convicted or pleaded guilty to the felony drug trafficking, manufacturing, processing or possession offense that is the most serious offense that is the basis of the conspiracy.
 - B. The court that imposes sentence upon the person who is convicted of or pleads guilty to the conspiracy shall comply with the provisions identified as being applicable under subsection (l)(2) of this section, in addition to any other penalty or sanction that it imposes for the conspiracy under subsection (j) of this section and Ohio R.C. Chapter 2929.

(m) As used in this section:

- (1) "Felony drug trafficking, manufacturing, processing or possession offense" means any of the following that is a felony:
 - A. A violation of Ohio R.C. 2925.03, 2925.04, 2925.05, or 2925.06;
 - B. A violation of Ohio R.C. 2925.11 that is not a minor drug possession offense.
- (2) "Minor drug possession offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.01)

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

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

If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.

If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five per cent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

- (2) Fines. A fine in the following amount:

- A. For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000);
- B. For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
- C. For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
- D. For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
- E. For a minor misdemeanor, not more than one hundred fifty dollars (\$150.00).

- (3) Reimbursement of costs of sanctions.

- A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:

- 1. All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021;
- 2. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.

- B. The amount of reimbursement ordered under subsection (a)(3)A. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions.

(ORC 2929.28)

- (b) Jail Terms.

- (1) Except as provided in Ohio R.C. 2929.22 or 2929.23 of the Revised Code, and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this General Offenses Code, the court shall impose a definite jail term that shall be one of the following:

- A. For a misdemeanor of the first degree, not more than one hundred eighty days;
- B. For a misdemeanor of the second degree, not more than ninety days;
- C. For a misdemeanor of the third degree, not more than sixty days;
- D. For a misdemeanor of the fourth degree, not more than thirty days.

- (2) A. A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in Ohio R.C. 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

- B. 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.

2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.

- (3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.

- (4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:

- A. The court shall specify both of the following as part of the sentence:

1. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
2. If the person does not dispute the bill described in subsection (b)(4)A.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.

B. The sentence automatically includes any certificate of judgment issued as described in subsection (b)(4)A.2. of this section.
(ORC 2929.24)

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

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

- (1) When an organization is convicted of an offense that is not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then the penalty so provided shall be imposed in lieu of the penalty provided in this subsection (c).
- (2) When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is provided in this subsection (c), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.
- (3) This subsection (c) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to this subsection (c).

(ORC 2929.31)

CHAPTER 505

Animals and Fowl

- 505.01 Domestic animals running at large.**
- 505.02 Impounding and disposition; records.**
- 505.03 Annual registration of dogs; tags required.**
- 505.04 Abandoning animals.**
- 505.05 Killing or injuring animals.**
- 505.06 Poisoning animals.**
- 505.07 Cruelty to animals generally.**
- 505.071 Cruelty to companion animals.**
- 505.08 Nuisance conditions prohibited.**
- 505.09 Barking or howling dogs.**
- 505.10 Animal bites; reports and quarantine.**
- 505.11 Hunting prohibited; exception.**
- 505.12 Farm animals.**
- 505.13 Report of escape of exotic or dangerous animal.**
- 505.14 Dangerous and vicious dogs.**
- 505.15 Animal defecation as a nuisance.**
- 505.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
 Owner or keeper liable for damages - see Ohio R.C 951.10
 Dog registration - see Ohio R.C. 955.01

505.01 DOMESTIC ANIMALS RUNNING AT LARGE.

(a) No person being the owner of domestic animals such as dogs or cats shall permit them to run at large upon any public place, or upon any unenclosed lands or upon the premises of another.

(b) No owner, keeper or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper or harbinger at any time the dog is in heat, unless the dog is properly in leash.

(c) No owner, keeper or harbinger of any dog shall fail at any time to keep it either physically confined or restrained upon the premises of the owner, keeper or harbinger by a leash, tether, adequate fence, supervision or secure enclosure to prevent escape, or under reasonable control of some person. (ORC 955.22)

(d) The running at large of any such animal in or upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section.

(ORC 951.02)

(e) Whoever violates this subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 951.99)

(f) (1) Whoever violates subsection (b) or (c) hereof is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.

(2) In addition to the penalties prescribed in subsection (f)(1) hereof, if the offender is guilty of a violation of subsection (b) or (c) hereof, the court may order the offender to personally supervise the dog that he owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both. (ORC 955.99)

505.02 IMPOUNDING AND DISPOSITION; RECORDS.

(a) A police officer or animal warden may impound every domestic animal found in violation of Section 505.01. If the dog is not wearing a

valid registration tag and the owner is not otherwise reasonably determined, notice shall be posted in the pound or animal shelter both describing the dog and place where seized and advising the unknown owner that unless the dog is redeemed within three days, it may thereafter be sold or destroyed according to law. If the dog is wearing a valid registration tag or the identity of the owner, keeper or harbinger is otherwise reasonably determined, notice shall be given by certified mail to such owner, keeper or harbinger that the dog has been impounded and unless redeemed within fourteen days of the date of notice, it may thereafter be sold or destroyed according to law. Any dog seized and impounded may be redeemed by its owner, keeper or harbinger at any time prior to the applicable redemption period upon payment of all lawful costs assessed against the animal and upon providing the dog with a valid registration tag if it has none.

(b) A record of all dogs impounded, the disposition of the same, the owner's name and address where known, and a statement of any costs assessed against the dog shall be kept by any poundkeeper.

505.03 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.

(a) Except for guide dogs registered under Ohio R.C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R.C. 955.16.

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense. (ORC 955.99(D)).

505.04 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)

(b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(ORC 959.99 (E)(3))

505.05 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity, or to trespassing animals as set forth in Ohio R.C. 959.04.

(b) Whoever violates this section, if the value of the animal killed or the injury done amounts to less than three hundred dollars (\$300.00), is guilty of a misdemeanor of the second degree; if the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, such person is guilty of a misdemeanor of the first degree. (ORC 959.99(B))

505.06 POISONING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry or other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another. This section does not apply to trespassing animals as set forth in Ohio R.C. 959.04.

(ORC 959.03)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 959.99(C))

505.07 CRUELTY TO ANIMALS GENERALLY.

(a) No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;
- (2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This subsection (a)(2) does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means a man-made enclosure, windbreak, sunshade or natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation;
- (3) Carry or convey an animal in a cruel or inhuman manner;

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

505.071 CRUELTY TO COMPANION ANIMALS.

(a) As used in this section:

- (1) "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in Ohio R.C. 956.01. "Companion animal" does not include livestock or any wild animal.
- (2) "Cruelty", "torment" and "torture" have the same meanings as in Ohio R.C. 1717.01.
- (3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
- (4) "Practice of veterinary medicine" has the same meaning as in Ohio R.C. 4741.01.
- (5) "Wild animal" has the same meaning as in Ohio R.C. 1531.01.
- (6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
- (7) "Dog kennel" means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.

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

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

- (1) Torture, torment or commit an act or cruelty against the companion animal;
- (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement

with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;

- (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.
- (d) No owner, manager or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:
 - (1) Torture, torment, or commit an act of cruelty against the companion animal;
 - (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
 - (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.
- (e) Subsections (b), (c) and (d) of this section do not apply to any of the following:
 - (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
 - (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Chapter 4741;
 - (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
 - (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
 - (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Chapter 4741.

(ORC 959.131)

- (f) (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
- (3) Whoever violates subsection (d) hereof is guilty of a misdemeanor of the first degree.
- (4) A. A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.
B. A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.
- (5) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(ORC 959.99)

505.08 NUISANCE CONDITIONS PROHIBITED.

- (a) No person shall keep or harbor any animal or fowl in the Municipality so as to create noxious, or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.
- (b) Whoever violates this section is guilty of a minor misdemeanor.

505.09 BARKING OR HOWLING DOGS.

- (a) No person shall keep or harbor any dog within the Municipality which, by frequent and habitual barking, howling or yelping, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the Municipality. Any person who shall allow any dog habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure, which he occupies or owns, shall be considered as harboring such dog.

(b) Whoever violates this section shall be guilty of a minor misdemeanor on a first offense; on a second offense occurring within two years shall be guilty of a misdemeanor of the fourth degree; and on any subsequent offense within two years such person shall be guilty of a misdemeanor of the third degree.

(Ord. 93-6023. Passed 5-25-93.)

505.10 ANIMAL BITES; REPORTS AND QUARANTINE.

- (a) Whenever any person is bitten by a dog or other animal, report of such bite shall be made to the Health Commissioner within twenty-four hours. Whenever it is reported to the Health Commissioner that any dog or cat has bitten a person, that dog or cat shall be quarantined under an order issued by the Health Commissioner. The dog or cat shall be quarantined by its owner or by a harborer, or shall be quarantined in a pound or kennel. In all cases, such quarantine shall be under the supervision of the Health Commissioner and shall be at the expense of the owner or harborer. Quarantine shall continue until the Health Commissioner determines that the dog or cat is not afflicted with rabies. The quarantine period hereby required shall not be less than ten days from the date on which the person was bitten. If at any time during the quarantine, the Health Commissioner requires the dog or cat to be examined for symptoms of rabies, then the examination shall be by a licensed doctor of veterinary medicine. The veterinarian shall report to the Health Commissioner the conclusions reached as a result of the examinations. The examination by a veterinarian shall be at the expense of the owner or harborer. No dog or cat shall be released from the required quarantine unless and until it has been properly vaccinated against rabies.

No person shall fail to comply with the requirements of this section or with any order of the Health Commissioner made pursuant thereto, nor fail to immediately report to the Health Commissioner any symptoms or behavior suggestive of rabies.

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

505.11 HUNTING PROHIBITED; EXCEPTION.

(a) No person shall hunt, kill, or attempt to kill any animal or fowl by the use of any means other than the use of a firearm as defined in ORC §2923.11 within the corporate limits of the Municipality.

(b) Notwithstanding the prohibition of subsection (a) hereof, the hunting of nuisance animals by throwing or shooting missiles as defined in Section 537.20 shall be permitted on lands located in an RE Zoning District in accordance with the regulations of the Ohio Department of Natural Resources, Division of Wildlife, and upon proper notification of the Galion Police Department.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 2019-76. Passed 11-26-19.)

505.12 FARM ANIMALS.

Farm animals such as cows, horses, pigs, chickens, sheep, goats, ducks and the like shall not be harbored within any zoned district of the City, except those areas zoned agricultural.

505.13 DANGEROUS WILD ANIMALS AND RESTRICTED SNAKES.

(a) For purposes of this section, "dangerous wild animal" and "restricted snake" have the same meanings as set forth in Ohio R.C. 935.01.

(b) (1) Except for a restricted snake specified in Ohio R.C. 935.01(L)(1), no person shall sell or offer for sale at auction a dangerous wild animal or restricted snake.

(2) Except for a microchip removed for purposes of a medical emergency by a veterinarian that is qualified to provide veterinary care to the dangerous wild animal, no person shall knowingly remove a microchip that is implanted in a dangerous wild animal as required in Ohio R.C. 935.04.

(3) No person that possesses a dangerous wild animal or restricted snake shall fail to post and display any of the following:

- A. On each cage in which a dangerous wild animal is confined, signs warning the public that a dangerous wild animal is confined in the cage;
- B. At each entrance to the property where a dangerous wild animal is confined, a sign warning the public that a dangerous wild animal is on the property;
- C. On each container in which a restricted snake is confined, a sign warning the public that a restricted snake is in the container;
- D. At the main entrance to each structure where a restricted snake is confined, a sign warning the public that a restricted snake is in the structure;
- E. On a vehicle that is used to transport a dangerous wild animal or restricted snake, a sign warning that a dangerous wild animal or restricted snake, as applicable, is in the vehicle.

The signs shall comply with standards established in rules adopted by the State Director of Agriculture.

(4) No person shall allow a dangerous wild animal or restricted snake to roam off the property where it is confined.

(5) No person shall remove any teeth or claws from a dangerous wild animal or restricted snake, as applicable, unless determined to be medically necessary by a veterinarian. (ORC 935.18)

(c) Whoever violates this section is guilty of a misdemeanor of the first degree on the first offense. On a second or subsequent offense, such person is guilty of a felony and shall be prosecuted under appropriate State law. (ORC 935.99)

505.14 DANGEROUS DOGS.

(a) Except when a dangerous dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger of a dangerous dog shall fail to do either of the following:

(1) While that dog is on the premises of the owner, keeper or harbinger, securely confine it at all times in a building, in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top;

(2) While that dog is off the premises of the owner, keeper or harbinger, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:

A. Keep that dog in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top;

B. Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie or affix the leash or tether to the ground or stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person;

C. Muzzle that dog.

(b) No owner, keeper or harbinger of a dangerous dog shall fail to do the following:

(1) Obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence because of damage or bodily injury to or death of a person caused by the dangerous dog if so ordered by a court and provide proof of that liability insurance upon request to any law enforcement officer, County Dog Warden, or public health official charged with enforcing this section;

(2) Obtain a dangerous dog registration certificate from the County Auditor pursuant to Ohio R.C. 955.22(I), affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times;

(3) Notify the local Dog Warden immediately if any of the following occurs:

A. The dog is loose or unconfined.

B. The dog bites a person, unless the dog is on the property of the owner of the dog, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property.

C. The dog attacks another animal while the dog is off the property of the owner of the dog.

(4) If the dog is sold, given to another person, or dies, notify the County Auditor within ten days of the sale, transfer or death.

(ORC 955.22)

(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to subsection (b) hereof. The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the Dog Warden or the humane society at the owner's expense.

(d) (1) Whoever violates subsection (b)(2) hereof is guilty of a misdemeanor of the fourth degree.

(2) Whoever violates subsections (b)(1), (3) or (4) hereof is guilty of a minor misdemeanor. (ORC 955.99)

505.15 ANIMAL DEFECATION AS A NUISANCE.

(a) The defecation of any animal is hereby declared to be a nuisance, creating an unsanitary and unhealthful condition, causing an accumulation of insects and bacteria, and in violation of the regulations of this section, is hereby declared to be unlawful.

(b) No person being the owner or in charge or control of any animal shall permit such animal to defecate upon any public land or any private land other than the land where the owner or person in charge of such animal resides.

(c) Where the owner or person in charge or control of any animal which defecates on any such prohibited land shall immediately clean such and

cause its removal to a proper receptacle, such nuisance shall be considered abated.

(d) The terms of this section shall not apply to any animal which has been expressly invited to enter upon private property by the owner of such property, to any animal engaging or being used in the pursuit of hunting while accompanied by a licensed hunter, or to any dog trained and used as a seeing eye or guide dog.

(e) The owner or person in charge of any animal shall keep the property where he resides in a clean and sanitary condition by regularly removing the defecation of his animal to prevent accumulations.

(f) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 95-6144. Passed 5-23-95.)

505.99 PENALTY.

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

CHAPTER 509

Disorderly Conduct and Peace Disturbance

509.01 Riot.

509.011 Inciting to violence.

509.02 Failure to disperse.

509.03 Disorderly conduct; intoxication.

509.04 Disturbing a lawful meeting.

509.05 Misconduct at an emergency.

509.06 Inducing panic.

509.07 Making false alarms.

509.08 Conduct towards a police officer.

509.09 Disturbing the peace.

509.10 State of emergency.

509.11 Unlawful congregation.

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 this subsection (e)(3), 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.
- (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) 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.

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 CONDUCT TOWARDS A POLICE OFFICER.

- (a) No person shall knowingly and willfully challenge to fight, assault, strike, resist, verbally abuse or make derogatory remarks to a police officer in the performance of his duties. (Ord. 67-3983. Passed 1-3-67.)
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree.

509.09 DISTURBING THE PEACE.

- (a) No person shall disturb the peace and good order of the City by fighting, quarreling, wrangling, threatening violence to the person or property of others, or by riot, tumult, lascivious, obscene, profane or scandalous language, or by making outcries, clamor or noise in the night, or by intoxication, drunkenness, or by lewd or lascivious behaviour, or by indecent exposure of his or her person, or by abusing his or her family or any member thereof by inflicting personal violence or any other gross abuse, or by being under the influence of narcotic or hypnotic drugs or opiates not prescribed by and taken under the supervision of a physician or surgeon admitted to the practice of medicine in the State of Ohio.
- (b) Whoever violates this section shall be guilty of a minor misdemeanor on a first offense; on a second offense occurring within two years shall be guilty of a misdemeanor of the fourth degree; and on any subsequent offense within two years such person shall be guilty of a misdemeanor of the third degree. (Ord. 93-6022. Passed 5-25-93.)

509.10 STATE OF EMERGENCY.

(a) The Mayor is authorized, in times of public emergency or when existing circumstances or state of facts presents imminent and substantial danger of bodily harm to large numbers of people and/or widespread destruction of property, such as, but not to be limited to natural disorders caused by an act of God, explosions, fires, tumult, diffusing explosive vapors, diffusing dangerous chemicals or liquids, civil emergency, power failures, or aircraft accidents, to proclaim in writing a state of emergency and coincident to the proclamation, the City Manager shall issue notice of a special meeting of Council to be held within twelve hours of the time of the proclamation.

- (b) As part of such proclamation or by subsequent written order after such proclamation is issued, the Mayor may, in his discretion, as he deems necessary to the public safety:
- (1) Delineate the boundaries of any area threatened by emergency condition and restrict or prohibit persons from entering such area except when carrying on necessary and legitimate pursuits, and control and regulate movement of persons within and from such area;
 - (2) Establish a curfew within such area under regulations set by the Mayor or Council and prohibit persons from being out-of-doors during

such curfew;

(Ord. 69-4185. Passed 10-6-69.)

- (3) Prohibit the sale, offering for sale, dispensing, and regulate or control the transportation of deadly weapons with the exception of firearms as defined in ORC §2923.11, dynamite and other dangerous explosives, incendiary devices and any necessary ingredient thereof.

(Ord. 2019-76. Passed 11-26-19.)

(c) When the danger has passed, the Mayor or Council shall forthwith make a proclamation that the emergency has ended and any proclamation, order, or regulation issued pursuant to this section shall then become void.

(d) The powers conferred by this section are in addition to any other power which may be conferred by law and nothing in this section shall be construed to modify or limit such authority, powers, duties and responsibilities of any officer or public official as may be provided by law. Nothing in this section shall be construed to permit suspension of the privilege to a writ of habeas corpus.

(Ord. 69-4185. Passed 10-6-69.)

(e) Whoever violates any prohibition contained in or knowingly fails to perform any duty required by a proclamation, order or regulation issued and in effect pursuant to this section, shall be guilty of a misdemeanor of the fourth degree.

509.11 UNLAWFUL CONGREGATION.

(a) No person shall congregate with others on the sidewalk, street corner or within the parks or public grounds, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned by the serious annoyance to pedestrians or by threatening, insulting or abusive conduct, and refuse to move on when ordered by a police officer.

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

509.99 PENALTY.

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

CHAPTER 513

Drug Abuse Control

513.01 Definitions.

513.02 Gift of marihuana.

513.03 Drug abuse; controlled substance possession or use.

513.04 Possessing drug abuse instruments.

513.05 Permitting drug abuse.

513.06 Illegal cultivation of marihuana.

513.07 Possessing or using harmful intoxicants.

513.08 Illegally dispensing drug samples.

513.09 Controlled substance or prescription labels.

513.10 Hypodermic possession, display and dispensing.

513.11 Harmful intoxicants; possessing nitrous oxide in motor vehicle.

513.12 Drug paraphernalia.

513.121 Marihuana drug paraphernalia.

513.13 Counterfeit controlled substances.

513.14 Loitering for the purpose of engaging in drug-related activity. (Repealed)

513.15 Frequenting places where drugs are possessed.

513.16 Offender may be required to pay for controlled substance tests.

513.17 Prohibition on the use, possession, and sale of synthetic cannabinoids and other synthetic drugs.

513.99 Penalty; mandatory fines.

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.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words, terms and phrases and their derivatives used in this chapter which are not defined in this section shall have the meanings given to them in the Ohio Revised Code.

(a) "Administer." Has the same meaning as in Ohio R.C. 3719.01.

(b) "Adulterate." To cause a drug to be adulterated as described in Ohio R.C. 3715.63.

(c) "Bulk amount." Of a controlled substance, means any of the following:

- (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in subsection (c)(2), (5), or (6) of this definition, whichever of the following is applicable:
 - A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;
 - B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
 - C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;
 - D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;
 - E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;

- F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
- G. An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws;
- (2) An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
- (3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III opiate or opium derivative;
- (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance;
- (5) An amount equal to or exceeding 200 solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid;
- (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, if the defendant is charged with a violation of Ohio R.C. 2925.11 and the sentencing provisions set forth in Ohio R.C. 2925.11(C)(10)(b) and (C)(11) will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (1), (2), (3), (4), or (5) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.
- (d) "Certified grievance committee." A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.
- (e) "Cocaine." Any of the following:
- (1) A cocaine salt, isomer or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.
- (2) Coca leaves or a salt, compound, derivative or preparation of coca leaves, including ecgonine, a salt, isomer or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.
- (3) A salt, compound, derivative or preparation of a substance identified in subsection (e)(1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.
- (f) "Committed in the vicinity of a juvenile." An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (g) "Committed in the vicinity of a school." An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.
- (h) "Controlled substance." Has the same meaning as in Ohio R.C. 3719.01.
- (i) "Controlled substance analog." Has the same meaning as in Ohio R.C. 3719.01.
- (j) "Counterfeit controlled substance." Any of the following:
- (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to the trademark, trade name or identifying mark.
- (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.
- (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.
- (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its markings, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (k) "Cultivate." Includes planting, watering, fertilizing or tilling.
- (l) "Dangerous drug." Has the same meaning as in Ohio R.C. 4729.01.
- (m) "Deception." Has the same meaning as in Ohio R.C. 2913.01.
- (n) "Disciplinary counsel." The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.
- (o) "Dispense." Has the same meaning as in Ohio R.C. 3719.01.
- (p) "Distribute." Has the same meaning as in Ohio R.C. 3719.01.
- (q) "Drug." Has the same meaning as in Ohio R.C. 4729.01.
- (r) "Drug abuse offense." Any of the following:
- (1) A violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs, or any violation of Ohio R.C. 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37.
- (2) A violation of an existing or former law of any municipality, state or of the United States, that is substantially equivalent to any section listed in subsection (r)(1) of this definition.
- (3) An offense under an existing or former law of any municipality, state or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element.
- (4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under subsection (r)(1), (2) or (3) of this definition.
- (s) "Drug dependent person." Has the same meaning as in Ohio R.C. 3719.011.
- (t) "Drug of abuse." Has the same meaning as in Ohio R.C. 3719.011.
- (u) "Felony drug abuse offense." Any drug abuse offense that would constitute a felony under the laws of this state, any other state or the United States.
- (v) "Fentanyl-related compound." Any of the following:
- (1) Fentanyl;
- (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (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]-phenylpropanamide);

- (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide);
- (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (10) Alfentanil;
- (11) Carfentanil;
- (12) Remifentanil;
- (13) Sufentanil;
- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide); and
- (15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:
- A. A chemical scaffold consisting of both of the following:
 1. A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;
 2. An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.
 - B. A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;
 - C. An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and
 - D. The compound has not been approved for medical use by the United States food and drug administration.
- (w) "Harmful intoxicant." Does not include beer or intoxicating liquor, but means any of the following:
- (1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes but is not limited to any of the following:
 - A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline or other preparation containing a volatile organic solvent.
 - B. Any aerosol propellant.
 - C. Any fluorocarbon refrigerant.
 - D. Any anesthetic gas.
 - (2) Gamma Butyrolactone;
 - (3) 1,4 Butanediol.
- (x) "Hashish." 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.
- (y) "Hypodermic." Has the same meaning as in Ohio R.C. 3719.01.
- (z) "Juvenile." A person under eighteen years of age.
- (aa) "Licensed health professional authorized to prescribe drugs." Has the same meaning as in Ohio R.C. 4729.01.
- (bb) "L.S.D." Lysergic acid diethylamide.
- (cc) "Major drug offender." Has the same meaning as in Ohio R.C. 2929.01.
- (dd) "Mandatory prison term." Has the same meaning as in Ohio R.C. 2929.01.
- (ee) "Manufacture." To plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.
- (ff) "Manufacturer." Has the same meaning as in Ohio R.C. 3719.01.
- (gg) "Marihuana." Has the same meaning as in Ohio R.C. 3719.01, except that it does not include hashish.
- (hh) "Methamphetamine." Methamphetamine, any salt, isomer or salt of an isomer of methamphetamine, or any compound, mixture, preparation or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.
- (ii) "Minor drug possession offense." Either of the following:
- (1) A violation of Ohio R.C. 2925.11, as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
 - (2) A violation of Ohio R.C. 2925.11, as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.
- (jj) "Official written order." Has the same meaning as in Ohio R.C. 3719.01.
- (kk) "Person." Has the same meaning as in Ohio R.C. 3719.01.
- (ll) "Pharmacist." Has the same meaning as in Ohio R.C. 3719.01.
- (mm) "Pharmacy." Has the same meaning as in Ohio R.C. 3719.01.
- (nn) "Possess" or "possession." Having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (oo) "Prescription." Has the same meaning as in Ohio R.C. 4729.01.
- (pp) "Presumption for a prison term" or "presumption that a prison term shall be imposed." A presumption as described in Ohio R.C. 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under Ohio R.C. 2929.11.
- (qq) "Professional license." Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate or temporary registration that is described in Ohio R.C. 2925.01(W)(1) to (W)(37) and that qualifies a person as a professionally licensed person.
- (rr) "Professionally licensed person." Any of the following:
- (1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Ohio R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;
 - (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Ohio R.C. Chapter 4703;
 - (3) A person who is registered as a landscape architect under Ohio R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
 - (4) A person licensed under Ohio R.C. Chapter 4707;
 - (5) A person who has been issued a certificate of registration as a registered barber under Ohio R.C. Chapter 4709;
 - (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Ohio R.C. Chapter 4710;
 - (7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Ohio R.C. Chapter 4713;
 - (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license or a dental hygienist's teacher's certificate under Ohio R.C. Chapter 4715;
 - (9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Ohio R.C. Chapter 4717;
 - (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Ohio R.C. Chapter 4723;
 - (11) A person who has been licensed to practice optometry or to engage in optical dispensing under Ohio R.C. Chapter 4725;
 - (12) A person licensed to act as a pawnbroker under Ohio R.C. Chapter 4727;
 - (13) A person licensed to act as a precious metals dealer under Ohio R.C. Chapter 4728;
 - (14) A person licensed under Ohio R.C. Chapter 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

- (15) A person licensed under Ohio R.C. Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
- (16) A person who is authorized to practice as a physician assistant under Ohio R.C. Chapter 4730;
- (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Ohio R.C. Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist or school psychologist under Ohio R.C. Chapter 4732;
- (19) A person registered to practice the profession of engineering or surveying under Ohio R.C. Chapter 4733;
- (20) A person who has been issued a license to practice chiropractic under Ohio R.C. Chapter 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under Ohio R.C. Chapter 4735;
- (22) A person registered as a registered sanitarian under Ohio R.C. Chapter 4736;
- (23) A person licensed to operate or maintain a junkyard under Ohio R.C. Chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under Ohio R.C. Chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under Ohio R.C. Chapter 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Ohio R.C. Chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Ohio R.C. Chapter 4747;
- (28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under Ohio R.C. Chapter 4749;
- (29) A person licensed to practice as a nursing home administrator under Ohio R.C. Chapter 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under Ohio R.C. Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under Ohio R.C. Chapter 4755;
- (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Ohio R.C. Chapter 4757;
- (33) A person issued a license to practice dietetics under Ohio R.C. Chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under Ohio R.C. Chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under Ohio R.C. Chapter 4763;
- (36) A person who has been issued a home inspector license under Ohio R.C. Chapter 4764;
- (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.
- (ss) "Public premises." Any hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort.
- (tt) "Sale." Has the same meaning as in Ohio R.C. 3719.01.
- (uu) "Sample drug." A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (vv) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" or "Schedule V." Have the same meaning as in Ohio R.C. 3719.01.
- (ww) "School." Any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (xx) "School building." Any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (yy) "School premises." Either of the following:
 - (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (zz) "Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (aaa) "Unit dose." An amount or unit or a compound, mixture or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
- (bbb) "Wholesaler." Has the same meaning as in Ohio R.C. 3719.01.
(ORC 2925.01)

513.02 GIFT OF MARIHUANA.

- (a) No person shall knowingly give or offer to make a gift of twenty grams or less of marihuana.
- (b) Whoever violates this section is guilty of trafficking in marihuana, a misdemeanor of the first degree. (Ord. 85-5484. Passed 8-6-85.)
- (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. (A.O.)

- (2) If the drug is marihuana and the amount is less than the bulk amount as defined in Section 513.01(s)(3), drug abuse is a misdemeanor of the first degree. (Ord. 85-5484. Passed 8-6-85.)
- (3) If the drug involved is an anabolic steroid included in Schedule III, drug abuse is a misdemeanor of the third degree and, in lieu of sentencing an offender to a definite or indefinite term of imprisonment in a detention facility, the court may place the offender on conditional probation pursuant to Ohio R.C. 2925.11(G) or 2951.02(H), unless the offender previously has been convicted of a drug abuse offense, in which case drug abuse is a misdemeanor of the second 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.

(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.

(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(D))

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, marihuana;

(9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;

(10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;

(11) A container or device for storing or concealing a controlled substance;

(12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;

(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 LOITERING FOR THE PURPOSE OF ENGAGING IN DRUG-RELATED ACTIVITY. (REPEALED) (EDITOR'S NOTE: Former Section 513.14 was repealed by Ordinance 99-6394, passed August 24, 1999.)

513.15 FREQUENTING PLACES WHERE DRUGS ARE POSSESSED.

(a) No person shall knowingly keep, operate, live in, resort to, frequent, loiter in, be employed in or be found in any house, home, room, establishment, building, vehicle or any place where drugs of abuse are sold, kept, possessed, furnished, smoked, inhaled or used, in violation of any City ordinance, State or Federal law.

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

513.16 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)

513.17 PROHIBITION ON THE USE, POSSESSION AND SALE OF SYNTHETIC CANNABINOIDS AND OTHER SYNTHETIC DRUGS.

(a) The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(1) "Synthetic Cannabinoids" means any material, compound, mixture, or preparation containing any detectable quantity of synthetically produced cannabinoids, their salts, isomers and salts of isomer, unless specifically excepted elsewhere in this section. Since nomenclature of these synthetically produced cannabinoids are not internationally standardized and may continually evolve, these structures or compounds of these structures shall be included under this subsection, regardless of their specific numerical designation of atomic positions covered, so long as it can be determined through some form of scientific testing or analysis that the substance contains properties that fit within one or more of the following categories:

A. Tetrahydrocannabinols :

Meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers Delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

B. Naphthoylindoles:

Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

C. Naphthylmethylindoles:

Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

D. Naphthoylpyrroles:

Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

E. Naphthylmethylindenes:

Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.

F. Phenylacetylindoles:

Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

G. Cyclohexylphenols:

Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent

H. Benzoylindoles:

Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

I. 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone

Some trade or other names: WIN 55,212-2

J. Tricyclic Benzopyrans:

Any compound, except nabilone or compounds listed under a different schedule, structurally derived from 6,6'-dimethyl-benzo[c]chromene by substitution at the 3-position with either alkyl (C3 to C8), methyl cycloalkyl, or adamantyl groups, whether or not the compound is further modified in any of the following ways, that is to say-

1. by partial to complete saturation of the C-ring;
2. by substitution at the 1-position with a hydroxyl or methoxy group;
3. by substitution at the 9-position with a hydroxyl, methyl, or methylhydroxyl group; or,
4. by modification of the possible 3-alkyl group with a 1,1' dimethyl moiety, a 1,1' cyclic moiety, an internal methylene group, an internal acetylene group, or a terminal halide, cyano, azido, or dimethylcarboxamido group.

Some trade and other names HU-210, JWH-051, JWH-139, JWH-161, JWH-229 & JWH-359

These products include, but are not limited to being contained in preparations such as incense, potpourri, plant fertilizers, insect repellent and are marketed with brand names including but not limited to K2, K3, K4, Spice and Spike.

(Ord. 2011-43. Passed 6-28-11.)

K. Tetramethylcyclopropanoylindoles:

Any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, 2-(4-morpholinyl) ethyl, 1-(N-methyl-2-pyrrolidinyl) methyl, 1-(N-methyl-3-morpholinyl) methyl, or tetrahydropyranylmethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent.

Some trade and other names: UR-144, XLR11, 5-fluoropentyl UR 144, URB-602, URB-754.

L. PB-22 (1-pentyl-8-quinolinyl ester-1H-indole-3-carboxylic acid).

M. 5-fluoro PB-22 (8-quinolinyl ester-1-(5-fluoropentyl)-1H-indole-3-carboxylic acid).

N. BB-22 (1-(cyclohexylmethyl)-8-quinolinyl ester-1H-indole-3-carboxylic acid).

(Ord. 2013-68. Passed 8-27-13.)

(2) "Substituted Cathinones" means any compound (except bupropion), mixture, or preparation structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is modified in any of the following ways, that is to say-

A. By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;

B. By substitution at the 3-position with an acyclic alkyl substituent;

C. By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

These include but are not limited to 3,4-Methylenedipxyrovalerone (MDPV), 4-methylmethcathinone (mephedrone, 4-MMC), 4-fluoromethcathinone (flephedrone), 3,4-methylenedioxymethcathinone (methylone), butylone, and naphyrone.

These compounds are often found in a class of novelty products commonly sold as "bath salts" these substances are sold with trade names including but not limited to MDPK, Magic, Super Coke, PV, POSH, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Vanilla Sky, Bonzai Grow, Blue Silk, Serenity Now, Lovey Dovey, Euphoria, Aura, Red Dove and White Dove.

(3) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of synthetic cannabinoids or synthetic drugs, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabinoids or synthetic drugs or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabinoids or synthetic drugs as an incident to lawful research, teaching or chemical analysis and not for sale.

(4) "Person" means any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

(5) "Possession" possession may be either actual or constructive:

A. Actual possession means exercising physical dominion.

B. Constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabinoids, synthetic drug or drug paraphernalia.

(6) "Sale" means 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.

(b) It shall be unlawful for any person to knowingly or under circumstances where one reasonably should know, to sell, give, exchange, manufacture, or otherwise distribute to any persons any product containing the substances included in the definition of Synthetic Cannabinoids or Substituted Cathinones.

(c) It shall be unlawful for any person, to knowingly, or under any circumstances where one reasonably should know, to display for sale or possess with intent to distribute any product containing the substances included in the definition of Synthetic Cannabinoids or Substituted Cathinones.

(d) It shall be unlawful for any person to use, or to possess with intent to use, ingest, inhale, or otherwise introduce into the human body any product containing the substances included in the definition of Synthetic Cannabinoids or Substituted Cathinones.

(e) Whoever violates this section is guilty of using, possessing, or selling Synthetic Cannabinoids or other synthetic drugs, a misdemeanor of the first degree.

(Ord. 2011-43. Passed 6-28-11.)

513.99 PENALTY.

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

CHAPTER 515

Fair Housing Practices

515.01 Designation of policy.

515.02 Definitions.

515.03 Unlawful housing practices.

515.04 Posting of notices.

515.05 Fair Housing Board.

515.06 Procedures and enforcement.

515.07 Scope.

515.08 Other legal action.

515.09 Severability.

CROSS REFERENCES

Fair housing - see Ohio R.C. Ch. 4112

Interfering with civil rights - see GEN. OFF. 525.13

515.01 DESIGNATION OF POLICY.

It is hereby designated to be the continuing policy of the City to do all things necessary and proper to secure for all its citizens their right to equal housing opportunities regardless of their race, color, creed, sex, marital status, religious belief, national origin, age, familial status and handicap. (Ord. 89-5782. Passed 11-7-89.)

515.02 DEFINITIONS.

As used in this chapter, the following terms shall have these meanings:

(a) "Real estate agent" includes any real estate broker, real estate salesman or an agent thereof, or any other person, partnership, association or corporation who for consideration sells, purchases, exchanges, rents, negotiates, offers, or attempts to negotiate the sale, purchase, exchange or rental of real property or holds himself out as engaged in the business of selling, purchasing, exchanging, renting or otherwise transferring any interest in real property.

(b) "Board" means the Fair Housing Board created by this chapter.

(c) "Discrimination", "discriminating" or "discriminate" means to render any difference in treatment to any person in the sale, lease, rental or financing of a dwelling or housing unit because of a person's race, color, creed, sex, marital status, religious belief, national origin, age, familial status or handicap.

(d) "Housing" includes any building, facility or structure or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied as the home, residence or sleeping place of one or more persons, groups or families and any vacant land offered for sale or lease for the construction or location thereon of such building, facility or structure.

(e) "Lending institution" means any bank, insurance company, savings and loan association or any other person or organization regularly engaged in the business of lending money or guaranteeing loans.

(f) "Person" means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(g) "Handicap" means with respect to a person:

(1) A physical or mental impairment which substantially limits one or more of such person's major life activities.

(2) A record of having such an impairment, or

(3) Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802).

(h) "Familial status" means one or more individuals (who have not attained the age of eighteen years) being domiciled with:

(1) A parent or another person having legal custody of such an individual or individuals; or

(2) The designee of such parent or other persons having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant, or in the process of securing legal custody of any individual who has not attained the age of eighteen.

(Ord. 89-5782. Passed 11-7-89.)

515.03 UNLAWFUL HOUSING PRACTICES.

It shall be an unlawful housing practice and a violation of this chapter:

(a) For any person or real estate agent:

(1) To discriminate against any person in the selling, leasing, subleasing, renting, assigning, or otherwise transferring of any interest in a housing unit.

(2) To discriminate against any person by refusing to negotiate, failing to transmit a bonafide offer, making false representations on the availability of the housing unit which is for inspection, sale, lease, sublease, rental or withdrawing a housing unit from the market which is for sale, lease, sublease or rental.

(3) To include the terms, conditions, or privileges of any sale, lease, sublease, rental, assignment or other transfer of any housing, any clause, condition, or restriction discriminating against any person in the use or occupancy of such housing.

(4) To discriminate in the furnishing of any facilities, repairs, improvements, or services or in the terms, conditions, privileges, or tenure of occupancy of any person.

(b) For any lending institution to discriminate in lending money, guaranteeing loans, accepting a deed or trust or mortgage or otherwise making available funds for the purchase, acquisition, construction, alteration, rehabilitation, repair, or maintenance of any housing or discriminate in the fixing of the rates, terms, conditions, or provisions of any such financial assistance.

(c) For any person or real estate agent, with respect to any prohibited act specified in this chapter, to publish or circulate or cause to be published or circulated, any notice, statement, listing or advertisement, or to announce a policy or to make any record in connection with the prospective sale, lease, sublease, rental or financing of any housing which indicates reliance, determination or decision based on race, color, creed, sex, familial status, marital status, age, religious belief, national origin or handicap.

(d) For any person or real estate agent to assist in, compel, or coerce the doing of any act declared to be unlawful housing practice under this chapter, or to obstruct or prevent enforcement or compliance with provisions of this chapter, or to attempt directly or indirectly to commit any act declared by this chapter to an unlawful housing practice.

(e) For any person or real estate agent:

(1) To induce or attempt to induce the sale, transfer of interest, or listing for sale of any housing by making representations regarding the existing or potential proximity of real property owned, used, or occupied by any person, of any particular race, color, creed, sex, marital status, religious belief, national origin, familial status or handicap by direct or indirect methods.

(2) To make any representations to a prospective purchaser or lessee that any housing in a particular block, neighborhood or area may undergo, in undergoing or has undergone a change with respect to racial, color, creed, sex, marital, familial, religious, nationality or ethnic composition of such block, neighborhood or area.

(3) To induce or attempt to induce the sale or listing for sale of any housing by representing that the presence or anticipated presence of persons of any particular race, color, creed, sex, marital status, religious belief, national origin, familial status, age or handicap in the area will or may result in:

A. The lowering of property values.

B. A change in the racial, color, religious, marital, age, familial, nationality or ethnic composition of the block, neighborhood or area in which the property is located.

C. An increase in criminal or antisocial behavior in the area.

D. A decline in quality of the schools serving the area.

(f) For any person or real estate agent to cause or coerce or attempt to cause or coerce retaliation against any person because such person has lawfully opposed any act or failure to act that is a violation of this chapter or has, in good faith, filed a complaint, testified, participated or assisted in any way in any proceeding under this chapter.

(g) To deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting housing or discriminate against a person in the terms or conditions of such access, membership or participation.

(h) To do any other thing or engage in conduct which would otherwise make unavailable equal housing opportunities.

(Ord. 89-5782. Passed 11-7-89.)

515.04 POSTING OF NOTICES.

(a) Every real estate agent shall post in a conspicuous location in that portion of his place of business normally used by him for negotiating the terms of a sale or lease of housing, and each person who operates a multi-unit residential building containing more than two units shall post at all times when prospective tenants are being interviewed, in a conspicuous location in that portion of this housing business normally used by him for negotiating the rental of a housing unit therein, a notice prepared by the Board which contains the following language, printed in black on a lightcolored background, in not less than fourteen-point type: "It is a violation of Title VIII of the Civil Rights Act of 1968, which includes the Fair Housing Amendments Act of 1988 for any real estate agent, or for any person owning or managing a multi-unit apartment dwelling to:

(1) Deny housing to any person because of race, color, creed, sex, familial status, marital status, religious belief, national origin, age or handicap.

(2) Discriminate against any person because of that person's race, color, creed, sex, familial status, marital status, age, religious belief, national origin, or handicap with respect to the terms, conditions or privileges of housing accommodations or in the furnishing of facilities or services in connection therewith."

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST CONTACT THE CITY OF GALION FAIR HOUSING BOARD, THE OHIO CIVIL RIGHTS COMMISSION OR THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(Ord. 89-5782. Passed 11-7-89.)

515.05 FAIR HOUSING BOARD.

(a) There is hereby created the Fair Housing Board to consist of three members who are area residents of the City and shall not hold any public office at the municipal, county, state or federal level at any time while a member of the Board. Any duly appointed Board member who is running for any public office shall be automatically disqualified from further membership on the Board. The day the Board member files petitions with the County Board of Elections shall be the date of the disqualification. No Board member shall be appointed who is employed in any real estate or lending institution.

(b) The Board members shall be appointed by the Mayor. Of the members first appointed, one shall hold office for a term of one year; one for a term of two years; and the other for a term of three years; and their successors shall be appointed for terms of three years. The Mayor shall fill all vacancies by appointment for the unexpired term. A Board member whose term has expired shall be eligible for re-appointment to the Board.

(c) The executive secretary of the Board shall be appointed by the Mayor and shall be an employee or under contract with the City of Galion.

(d) The Mayor may remove any member of the Board for neglect of duty or malfeasance in office. The Mayor may remove a member of the Board from office after having first given to such member a copy of the charges against him and an opportunity to be publicly heard in person or by counsel in his own defense; and any such removal shall be final.

(e) Two members of the Board shall constitute a quorum for the purpose of conducting the business thereof. A vacancy on the Board shall not impair the right of the other members to exercise all the powers of the Board.

(f) Each member of the Board shall serve without salary, but may be paid necessary and actual expenses expended in performing the business of the Board.

(g) The Board is charged with the following duties to implement the state policy of this chapter:

(1) To investigate all complaints of unlawful housing practices which are filed with it.

(2) To initiate complaints of unlawful practices on the basis of auditing or testing carried out by its staff or volunteers authorized by the Board.

(3) To endeavor by conciliation, to resolve such complaints.

(4) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the Board.

(5) To recommend to the Mayor, when it deems necessary, educational and other programs designed to promote the purposes stated in the chapter.

(6) To adopt rules and procedures for the conduct of its business.

(7) To do such other acts that are necessary and proper in order to perform those duties with which it is charged under the terms of this chapter.

(Ord. 89-5782. Passed 11-7-89.)

515.06 PROCEDURES AND ENFORCEMENT.

(a) Any person subjected to an unlawful housing practice may file within 180 days of the alleged violation with the Board a complaint in writing, sworn to or affirmed, which shall state the name and address of the person alleged to have committed the violation complained of and the particulars thereof, and such other information as may be required by the Board. The Board may also corroborate or initiate compliance on the basis of testing carried out by its staff or volunteers authorized by the Board.

(b) Upon the filing of a complaint the executive secretary of the Board shall make such investigation as he deems appropriate to ascertain facts and issues. If the executive secretary shall determine that there are reasonable grounds to believe a violation has occurred, he shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representatives as the parties may choose to assist them. Conciliation conferences shall be informal and nothing said or done during such initial conferences shall be made public by the Board or any member of the Board or its staff unless the parties agree thereto in writing.

(c) The terms of conciliation agreed to by the parties shall be reduced to writing and incorporated into a consent agreement to be signed by the parties, which agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated. Consent agreements shall be signed on behalf of the Board by its chairman.

(d) The Board is authorized to seek the cooperation and aid of the Ohio Real Estate Board or Ohio Civil Rights Commission in any investigation under this chapter.

(e) If the executive secretary determines that the complaint lacks reasonable grounds under which to base a violation of this chapter, he shall so inform the Board and the Board may in its discretion dismiss such complaint or order such further investigation as may be necessary; provided, that the Board shall not dismiss such complaint without first affording the complainant an opportunity to appear before the Board. (Ord. 89-5782.

Passed 11-7-89.)

(f) If the executive secretary, with respect to a matter which involves a violation of this chapter, fails to conciliate a complaint after the parties have in good faith attempted such conciliation, fails to effect an informal conciliation agreement or a formal consent agreement or determines that a complaint is not susceptible of conciliation, he shall notify the Board immediately and the Board shall thereafter schedule a public hearing to determine whether a violation of this chapter has been committed. The Board shall serve upon the respondent a statement of charges and a summons and shall serve upon all interested parties a notice of the time and place of hearing. The respondent or his authorized counsel may file such statements with the Board prior to the hearing date as it deems necessary in support of its position. The hearing shall be opened to the public, except that the respondent may request in writing a private hearing; the determination of such request shall be discretionary with the Board. The hearing shall be held not less than fifteen days after service of the statement of charges and summons. The summons so issued must be signed by two members of the Board and the issuance of such summons shall require the attendance of named persons and the production of relevant documents and records. The failure to comply with a summons shall constitute a violation of this chapter. The interested parties may, at their option, appear before the Board in person or by duly authorized representative and may have the assistance of an attorney. The parties may present testimony and evidence, and the right to cross examine witnesses shall be preserved. All testimony and evidence shall be given under oath or by affirmation. The Executive Secretary shall keep a full record of the hearing, which record shall be public and open to inspection by any person, and upon request by any principal party to the proceeding, the Board shall furnish such party a copy of the hearing record, if any, at such cost as the Board deems appropriate.

(g) If at the conclusion of the review, and if the Board determines upon the preponderance of the evidence that the person complained against has violated this chapter, the Board shall, after consultation with the Law Director in executive session, state its findings to and cause the Law Director to prepare and issue an order under Board directive requiring the person complained against to cease and desist from such unlawful conduct and to take such affirmative action as will effectuate the purposes of this chapter, with notice that if the Board determines that the person complained against has not after fifteen calendar days following service of the Board's order complied with the order, the Board will recertify the matter to the Law Director for enforcement.

(h) Upon recertification to the Law Director for enforcement, he shall seek compliance by appropriate civil action brought in the name of the Fair Housing Board of the City of Galion before a court of competent jurisdiction. In any such proceeding, where the court determines that there has been a violation of this chapter, the court shall award compensatory damages and, where appropriate, punitive damages, along with attorney fees. The court may also order such other relief as it deems necessary or appropriate.

(i) If at the conclusion of the hearing the Board shall determine upon the preponderance of the evidence of the record that the person complained against has not violated this chapter, the Board shall state and publish its findings and issue its order dismissing the complaint.

(Ord. 89-5782. Passed 11-7-89.)

515.07 SCOPE.

The provision of this chapter shall apply to all housing located within the City.

(Ord. 89-5782. Passed 11-7-89.)

515.08 OTHER LEGAL ACTION.

Nothing contained in this chapter shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled or from filing any complaint with any other agency or court of law or equity.

(Ord. 89-5782. Passed 11-7-89.)

515.09 SEVERABILITY.

Section and sub-sections of this chapter and the several parts and provisions thereof are hereby declared to be independent sections, sub-sections, parts, and provisions and the holding of any such section, sub-section, part or provision thereof to be unconstitutional, void or ineffective for any cause, shall not effect nor render invalid any other such section, sub-section, part, or provisions thereof.

CHAPTER 517

Gambling

517.01 Definitions.

517.02 Gambling.

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517.06 Methods of conducting a bingo game; prohibitions.

517.07 Instant bingo conduct.

517.08 Raffles.

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517.13 Bingo exceptions.

517.14 Instant bingo conduct by a veteran's or fraternal organization.

517.15 Skill-based amusement machines.

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CROSS REFERENCES

See sectional histories for similar State law

Lotteries prohibited; exception - see Ohio Const., Art. XV, Sec. 6

Contributing to delinquency of minors - see Ohio R.C. 2151.41

Search warrants - see Ohio R.C. 2933.21(E)

Licensing charitable bingo games - see Ohio R.C. 2915.08

517.01 DEFINITIONS.

As used in this chapter:

(a) "Bookmaking" means the business of receiving or paying off bets.

(b) "Bet" means the hazarding of anything of value upon the result of an event, undertaking or contingency, but does not include a bona fide business risk.

(c) "Scheme of chance" means a slot machine unless authorized under Ohio R.C. Chapter 3772, lottery unless authorized under Ohio R.C. Chapter 3770, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. "Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:

- (1) Less than fifty per cent of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;
- (2) Less than fifty per cent of participants who purchase goods or services at any one location do not accept, use or redeem the goods or services sold or purportedly sold;
- (3) More than fifty per cent of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in Ohio R.C. 3772.01;
- (4) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
- (5) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
- (6) A participant may use the electronic device to purchase additional game entries;
- (7) A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
- (8) A scheme of chance operator pays out in prize money more than twenty per cent of the gross revenue received at one location; or
- (9) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.

As used in this subsection, "electronic device" means a mechanical, video, digital or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries or contractors.

- (d) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.
- (e) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.
- (f) "Gambling device" means any of the following:
- (1) A book, totalizer or other equipment for recording bets;
 - (2) A ticket, token or other device representing a chance, share or interest in a scheme of chance or evidencing a bet;
 - (3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
 - (4) Any equipment, device, apparatus or paraphernalia specially designed for gambling purposes;
 - (5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.
- (g) "Gambling offense" means the following:
- (1) A violation of Ohio R.C. 2915.02 to 2915.092, 2915.10 or 2915.11;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (g)(1) hereof or a violation of Ohio R.C. 2915.06 as it existed prior to July 1, 1996;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing an offense under subsection (g)(1), (2) or (3) hereof.
- (h) Except as otherwise provided in this chapter, "charitable organization" means either of the following:
- (1) An organization that is and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
 - (2) A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal, income taxation under subsection 501(c)(4), (c)(7), (c)(8), (c)(10) or (c)(19) of the Internal Revenue Code.
- To qualify as a charitable organization, an organization shall have been in continuous existence as such in this State for a period of two years immediately preceding either the making of an application for a bingo license under Ohio R.C. 2915.08 or the conducting of any game of chance as provided in division (D) of Ohio R.C. 2915.02.
- (i) "Religious organization" means any church, body of communicants or group that is not organized or operated for profit, that gathers in common membership for regular worship and religious observances.
- (j) "Veteran's organization" means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this subsection, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States congress or has a national dues-paying membership of at least five thousand persons.
- (k) "Volunteer firefighter's organization" means any organization of volunteer firefighters, as defined in Ohio R.C. 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.
- (l) "Fraternal organization" means any society, order, state headquarters, or association within this State, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge or chapter of a national or state organization, that exists exclusively for the common business of sodality of its members.
- (m) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization as defined in Ohio R.C. 4765.01.
- (n) "Charitable bingo game" means any bingo game described in subsection (o)(1) or (2) of this section that is conducted by a charitable organization that has obtained a license pursuant to Ohio R.C. 2915.08 and the proceeds of which are used for a charitable purpose.
- (o) "Bingo" means either of the following:
- (1) A game with all of the following characteristics:

- A. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into twenty-five spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space.
 - B. The participants cover the space on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator.
 - C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically from a receptacle that contains seventy-five objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five possible combinations of a letter and a number that can appear on the bingo cards or sheets.
 - D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in subsection (o)(1)C. hereof, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by a participant.
- (2) Instant bingo, punch boards and raffles.
 - (p) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.
 - (q) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.
 - (r) "Participant" means any person who plays bingo.
 - (s) "Bingo session" means a period that includes both of the following:
 - (1) Not to exceed five continuous hours for the conduct of one or more games described in subsection (o)(1) of this section, instant bingo, and seal cards;
 - (2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in subsection (s)(1) of this section.
 - (t) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:
 - (1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.
 - (2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.
 - (3) The food and beverages are sold at customary and reasonable prices.
 - (u) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or a police officer of a municipal corporation or has successfully completed a peace officer's training course pursuant to Ohio R.C. 109.71 to 109.79 and who is hired to provide security for the premises on which bingo is conducted.
 - (v) "Charitable purpose" means that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:
 - (1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
 - (2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five per cent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in division (B)(12) of Ohio R.C. 5739.02, is used for awarding scholarships to or for attendance at an institution mentioned in division (B)(12) of Ohio R.C. 5739.02, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;
 - (3) A fraternal organization that has been in continuous existence in this State for fifteen years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals if contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code;
 - (4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in subsection (k) of this section.
 - (w) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter amended.
 - (x) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association.
 - (y) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:
 - (1) It owns, operates and maintains playing fields that satisfy both of the following:
 - A. The playing fields are used at least one hundred days per year for athletic activities by one or more organizations not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association;
 - B. The playing fields are not used for any profit-making activity at any time during the year,
 - (2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance and improvement of its playing fields of the type described in paragraph (1) hereof.

- (z) "Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.
- (aa) "Instant bingo" means a form of bingo that shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, and may also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. In all "instant bingo" the prize amount and structure shall be predetermined. "Instant bingo" does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.
- (bb) "Seal card" means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.
- (cc) "Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. "Raffle" does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:
- (1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event; and
 - (2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.
- (dd) "Punch board" means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.
- (ee) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.
- (ff) "Net profit" means gross profit minus expenses.
- (gg) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:
- (1) The purchase or lease of bingo supplies;
 - (2) The annual license fee required under Ohio R.C. 2915.08;
 - (3) Bank fees and service charges for a bingo session or game account described in Ohio R.C. 2915.10;
 - (4) Audits and accounting services;
 - (5) Safes;
 - (6) Cash registers;
 - (7) Hiring security personnel;
 - (8) Advertising bingo;
 - (9) Renting premises in which to conduct a bingo session;
 - (10) Tables and chairs;
 - (11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
 - (12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
 - (13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under division (B)(1) of Ohio R.C. 2915.08.
- (hh) "Person" has the same meaning as in Ohio R.C. 1.59 and includes any firm or any other legal entity, however organized.
- (ii) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (jj) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (kk) "Distributor" means any person who purchases or obtains bingo supplies and who does either of the following:
- (1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this State;
 - (2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this State.
- (ll) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.
- (mm) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in subsection (o)(1) of this section plus the annual net profit derived from the conduct of bingo described in subsection (o)(2) of this section.
- (nn) "Instant bingo ticket dispenser" means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:
- (1) It is activated upon the insertion of United States currency.
 - (2) It performs no gaming functions.
 - (3) It does not contain a video display monitor or generate noise.
 - (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.
 - (5) It does not simulate or display rolling or spinning reels.
 - (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.
 - (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.
 - (8) It is not part of an electronic network and is not interactive.
- (oo) (1) "Electronic bingo aid" means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:
- A. It provides a means for a participant to input numbers and letters announced by a bingo caller.
 - B. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.
 - C. It identifies a winning bingo pattern.
- (2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.
- (pp) "Deal of instant bingo tickets" means a single game of instant bingo tickets all with the same serial number.
- (qq) (1) "Slot machine" means either of the following:

- A. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;
 - B. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.
- (2) "Slot machine" does not include a skill-based amusement machine or an instant bingo ticket dispenser.
- (tr) "Net profit from the proceeds of the sale of instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies, and, in the case of instant bingo conducted by a veteran's, fraternal or sporting organization, minus the payment by that organization of real property taxes, and assessments levied on a premises on which instant bingo is conducted.
- (ss) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to Ohio R.C. 2915.13.
- (tt) "Game flare" means the board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information for the game:
- (1) The name of the game;
 - (2) The manufacturer's name or distinctive logo;
 - (3) The form number;
 - (4) The ticket count;
 - (5) The prize structure, including the number of winning instant bingo tickets by denomination and the respective winning symbol or number combinations for the winning instant bingo tickets;
 - (6) The cost per play;
 - (7) The serial number of the game.
- (uu) (1) "Skill-based amusement machine" means mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:
- A. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed ten dollars;
 - B. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than ten dollars;
 - C. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than ten dollars times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
 - D. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.

A card for the purchase of gasoline is a redeemable voucher for purposes of division (uu)(1) of this section even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.
- (2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:
- A. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game.
 - B. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;
 - C. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game.
 - D. The success of any player is or may be determined by a chance event that cannot be altered by player actions.
 - E. The ability of any player to succeed at the game is determined by game features not visible or known to the player.
 - F. The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
- (3) All of the following apply to any machine that is operated as described in subsection (uu)(1) of this section:
- A. As used in subsection (uu) of this section, "game" and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.
 - B. Advance play for a single game, play, contest, competition or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single noncontest, competition or tournament play.
 - C. To the extent that the machine is used in a contest, competition or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition or tournament.
- (4) For purposes of subsection (uu)(1) of this section, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine. (A.O.)
- (vv) "Merchandise prize" means any item of value, but shall not include any of the following:
- (1) Cash, gift cards, or any equivalent thereof;
 - (2) Plays on games of chance, state lottery tickets, bingo, or instant bingo;
 - (3) Tobacco, or alcoholic beverages; or
- (Ord. 2019-76. Passed 11-26-19.)
- (4) A redeemable voucher that is redeemable for any of the items listed in subsection (vv)(1), (2) or (3) of this section.
- (ww) "Redeemable voucher" means any ticket, token, coupon, receipt, or other noncash representation of value.
- (xx) "Pool not conducted for profit" means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.
- (yy) "Sporting organization" means a hunting, fishing or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the league of Ohio sportsmen, and that has been in continuous existence in this State for a period of three years.

(zz) "Community action agency" has the same meaning as in Ohio R.C. 122.66.

(aaa) (1) "Sweepstakes terminal device" means a mechanical, video, digital or electronic machine or device that is owned, leased or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:

- A. The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
- B. The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
- C. The device selects prizes from a predetermined finite pool of entries.
- D. The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
- E. The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
- F. The device utilizes software to create a game result.
- G. The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.
- H. The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

(2) As used in this subsection and in Section 517.02:

- A. "Enter" means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.
 - B. "Entry" means one event from the initial activation of the sweepstakes terminal device until all of the sweepstakes prize results from that activation are revealed.
 - C. "Prize" means any gift, award, gratuity, good, service, credit, reward or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.
 - D. "Sweepstakes terminal device facility" means any location in this Municipality where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in Ohio R.C. 2915.02(G).
- (bbb) "Sweepstakes" means any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. "Sweepstakes" does not include bingo as authorized under this chapter, pari-mutuel wagering as authorized by Ohio R.C. Chapter 3769, lotteries conducted by the State Lottery Commission as authorized by Ohio R.C. Chapter 3770, and casino gaming as authorized by Ohio R.C. Chapter 3772.

(ORC 2915.01)

517.02 GAMBLING.

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

- (1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;
 - (2) Establish, promote, or operate or knowingly engage in conduct that facilitates any game of chance conducted for profit or any scheme of chance;
 - (3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or any scheme of chance;
 - (4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood;
 - (5) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility and either:
 - A. Give to another person any item described in subsection (vv)(1), (2), (3) or (4) of Section 517.01 as a prize for playing or participating in a sweepstakes; or
 - B. Give to another person any merchandise prize, or a redeemable voucher for a merchandise prize, the wholesale value of which is in excess of ten dollars and which is awarded as a single entry for playing or participating in a sweepstakes. Redeemable vouchers shall not be redeemable for a merchandise prize that has a wholesale value of more than ten dollars.
 - (6) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility without first obtaining a current annual "certificate of registration" from the Attorney General as required by division (F) of Ohio R.C. 2915.02.
 - (7) With purpose to violate subsection (a)(1), (2), (3), (4), (5) or (6) of this section, acquire, possess, control, or operate any gambling device.
- (b) For purposes of subsection (a)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of subsection (a)(2) of this section, a person facilitates a game of chance conducted for profit or a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme.

(c) This section does not prohibit conduct in connection with gambling expressly permitted by law.

(d) This section does not apply to any of the following:

- (1) Games of chance, if all of the following apply:
 - A. The games of chance are not craps for money or roulette for money.
 - B. The games of chance are conducted by a charitable organization that is, and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is, exempt from Federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.
 - C. The games of chance are conducted at festivals of the charitable organization that are conducted not more than a total of five days a calendar year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance.

A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof if the veteran's or fraternal organization has already leased the premises twelve times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under Section 517.06(b)(1) when it leases

premises from another charitable organization to conduct bingo games.

- D. All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated or otherwise transferred to, any organization that is described in subsection 509(a)(1), (2) or (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
- E. The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to Section 517.13.

No person shall receive any commission, wage, salary, reward, tip, donations, gratuity or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance.

- (2) Any tag fishing tournament operated under a permit issued under Ohio R.C. 1533.92, as "tag fishing tournament" is defined in Ohio R.C. 1531.01.

- (3) Bingo conducted by a charitable organization that holds a license issued under Ohio R.C. 2915.08.

(e) Subsection (d) hereof shall not be construed to authorize the sale, lease or other temporary or permanent transfer of the right to conduct games of chance, as granted by subsection (d) hereof, by any charitable organization that is granted that right.

(f) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, gambling is a felony and shall be prosecuted under appropriate State law. (ORC 2915.02)

517.03 OPERATING A GAMBLING HOUSE.

- (a) No person, being the owner or lessee, or having custody, control or supervision of premises, shall:

- (1) Use or occupy such premises for gambling in violation of Section 517.02;
- (2) Recklessly permit such premises to be used or occupied for gambling in violation of Section 517.02.

(b) Whoever violates this section is guilty of operating a gambling house, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, operating a gambling house is a felony and shall be prosecuted under appropriate State law.

(c) Premises used or occupied in violation of this section constitute a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2915.03)

517.04 PUBLIC GAMING.

(a) No person, while at a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall make a bet or play any game of chance or scheme of chance.

(b) No person, being the owner or lessee, or having custody, control, or supervision, of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit those premises to be used or occupied in violation of subsection (a) of this section.

- (c) Subsections (a) and (b) of this section do not prohibit conduct in connection with gambling expressly permitted by law.

(d) Whoever violates this section is guilty of public gaming. Except as otherwise provided in this subsection, public gaming is a minor misdemeanor. If the offender previously has been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

(e) Premises used or occupied in violation of subsection (b) of this section constitute a nuisance subject to abatement under Ohio R.C. Chapter 3767.

(ORC 2915.04)

517.05 CHEATING.

(a) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of any of the following:

- (1) The subject of a bet;
- (2) A contest of knowledge, skill, or endurance that is not an athletic or sporting event;
- (3) A scheme or game of chance;
- (4) Bingo.

(b) Whoever violates this section is guilty of cheating. Except as otherwise provided in this subsection cheating is a misdemeanor of the first degree. If the potential gain from the cheating is one thousand dollars (\$1,000) or more, or if the offender previously has been convicted of any gambling offense or of any theft offense as defined in Ohio R.C. 2913.01, cheating is a felony and shall be prosecuted under appropriate State law.

(ORC 2915.05)

517.06 METHODS OF CONDUCTING A BINGO GAME; PROHIBITIONS.

- (a) No charitable organization that conducts bingo shall fail to do any of the following:

- (1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;
- (2) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo, other than instant bingo, for a charitable purpose listed in its license application and described in Section 517.01(v), or distribute all of the net profit from the proceeds of the sale of instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101.

- (b) No charitable organization that conducts a bingo game described in Section 517.01(o)(1) shall fail to do any of the following:

- (1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of six hundred dollars (\$600.00) per bingo session or forty-five per cent of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality but not in excess of four hundred fifty dollars (\$450.00) per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars (\$450.00) per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three other charitable organizations per calendar week for conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three charitable organizations per calendar week for conducting bingo

sessions on the premises. In no case shall more than nine bingo sessions be conducted on any premises in any calendar week.

- (2) Display its license conspicuously at the premises where the bingo session is conducted;
 - (3) Conduct the bingo session in accordance with the definition of bingo set forth in Section 517.01(o)(1).
- (c) No charitable organization that conducts a bingo game described in Section 517.01(o)(1) shall do any of the following:
- (1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
 - (2) Pay consulting fees to any person for any services performed in relation to the bingo session;
 - (3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;
 - (4) Except as otherwise provided in subsection (c)(4) of this section, conduct more than three bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than three bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;
 - (5) Pay out more than six thousand dollars (\$6,000) in prizes for bingo games described in Section 517.01(o)(1) during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo;
 - (6) Conduct a bingo session at any time during the eight-hour period between two a.m. and ten a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to Ohio R.C. 2915.12, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. Subsection (c)(6) of this section does not prohibit the sale of instant bingo tickets beginning at nine a.m. for a bingo session that begins at ten a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney General for an amended license, pursuant to division (F) of Ohio R.C. 2915.08. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;
 - (7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen to work as a bingo game operator;
 - (8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
 - (9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;
 - (10) Purchase or lease bingo supplies from any person except a distributor issued a license under Ohio R.C. 2915.081;
 - (11) A. Use or permit the use of electronic bingo aids except under the following circumstances:
 1. For any single participant, not more than ninety bingo faces can be played using an electronic bingo aid or aids.
 2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
 3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.
 4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.
 5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.
 6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.B. The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the Attorney General to verify the number of bingo cards or sheets played during each bingo session.
 - (12) Permit any person the charitable organization knows, or should have known, to be under eighteen years of age to play bingo described in Section 517.01(o)(1).
- (d) (1) Except as otherwise provided in subsection (d)(3) hereof, no charitable organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.
- (2) Except as otherwise provided in subsection (d)(3) hereof, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting instant bingo other than at a bingo session at the site of instant bingo other than at a bingo session.
 - (3) Nothing in subsection (d) hereof prohibits an employee of a fraternal organization, veteran's organization, or sporting organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.
- (e) Notwithstanding subsection (b)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the Attorney General in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the

sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the Attorney General prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the Attorney General prior to December 6, 1977.

(f) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.

(g) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (2), (b)(1), (2), or (3), (c)(1) to (11) or (d) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of subsection (a)(1) or (2), (b)(1), (2) or (3), (c)(1) to (11), or (d) of this section, a violation of subsection (a)(1) or (2), (b)(1), (2) or (3) or (c)(1) to (11) or (d) of this section is a misdemeanor of the first degree. Whoever violates subsection (c)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c)(12) of this section, a violation of subsection (c)(12) is a felony and shall be prosecuted under appropriate State law.

(ORC 2915.09)

517.07 INSTANT BINGO CONDUCT.

(a) No charitable organization that conducts instant bingo shall do any of the following:

- (1) Fail to comply with the requirements of divisions (A)(1), (2), and (3) of Ohio R.C. 2915.09;
- (2) Conduct instant bingo unless either of the following applies:

A. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(3) of the Internal Revenue Code, is a charitable organization as defined in Section 517.01, is in good standing in the State pursuant to Ohio R.C. 2915.08, and is in compliance with Ohio R.C. Chapter 1716;

B. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under Section 517.14.

- (3) Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to Ohio R.C. 2915.08;
- (4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo;
- (5) Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under Ohio R.C. 2915.081;
- (6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare;
- (7) Sell an instant bingo ticket or card to a person under eighteen years of age;
- (8) Fail to keep unsold instant bingo tickets or cards for less than three years;
- (9) Pay any compensation to a bingo game operator for conducting instant bingo that is conducted by the organization or for preparing, selling, or serving food or beverages at the site of the instant bingo game, permit any auxiliary unit or society of the organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at an instant bingo game conducted by the organization, or permit any auxiliary unit or society of the organization to prepare, sell, or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
- (10) Pay fees to any person for any services performed in relation to an instant bingo game, except as provided in Section 517.09(d);
- (11) Pay fees to any person who provides refreshments to the participants in an instant bingo game;
- (12) A. Allow instant bingo tickets or cards to be sold to bingo game operators at a premises at which the organization sells instant bingo tickets or cards or to be sold to employees of a D permit holder who are working at a premises at which instant bingo tickets or cards are sold;
B. Subsection (a)(12)A. of this section does not prohibit a licensed charitable organization or a bingo game operator from giving any person an instant bingo ticket as a prize in place of a cash prize won by a participant in an instant bingo game. In no case shall an instant bingo ticket or card be sold or provided for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare.
- (13) Fail to display its bingo license, and the serial numbers of the deal of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards;
- (14) Possess a deal of instant bingo tickets or cards that was not purchased from a distributor licensed under Ohio R.C. 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Section 517.11(f);
- (15) Fail, once it opens a deal of instant bingo tickets or cards, to continue to sell the tickets or cards in that deal until the tickets or cards with the top two highest tiers of prizes in that deal are sold;
- (16) Possess bingo supplies that were not obtained in accordance with Ohio R.C. 2915.01 to 2915.13.

(b) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards.

(c) Whoever violates subsection (a) of this section or a rule adopted under Ohio R.C. 2915.091(C) is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (a) of this section or of such a rule, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.

(ORC 2915.091)

517.08 RAFFLES.

(a) (1) Subject to subsection (a)(2) of this section, a charitable organization, a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code may conduct a raffle to raise money for the organization or school and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.

(2) If a charitable organization that is described in subsection (a)(1) of this section, but that is not also described in subsection 501(c)(3) of the Internal Revenue Code, conducts a raffle, the charitable organization shall distribute at least fifty per cent of the net profit from the raffle to a charitable purpose described in Section 517.01(v) or to a department or agency of the federal government, the state, or any political subdivision.

(b) Except as provided in subsection (a) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not

for profit.

(c) Whoever violates subsection (b) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this subsection, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (b) of this section, illegal conduct of a raffle is a felony and shall be prosecuted under appropriate State law.

(ORC 2915.092)

517.09 CHARITABLE INSTANT BINGO ORGANIZATIONS.

(a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.

(b) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.

(2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.

(c) Except as provided in subsection (f) of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.

(d) The owner or lessor of a location that enters into a contract pursuant to subsection (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

The charitable instant bingo organization shall pay six per cent of the total gross receipts of any deal of instant bingo tickets for the purpose of reimbursing the owner or lessor for expenses described in this subsection.

As used in this subsection, "expenses" means those items provided for in subsections (gg)(4), (5), (6), (7), (8), (12) and (13) of Section 517.01 and that percentage of the owner's or lessor's rent for the location where instant bingo is conducted. "Expenses" in the aggregate, shall not exceed six per cent of the total gross receipts of any deal of instant bingo tickets.

As used in this subsection, "full gross profit" means the amount by which the total receipts of all instant bingo tickets, if the deal had been sold in full, exceeds the amount that would be paid out if all prizes were redeemed.

(e) A charitable instant bingo organization shall provide the Attorney General with all of the following information:

- (1) That the charitable instant bingo organization has terminated a contract entered into pursuant to subsection (b) of this section with an owner or lessor of a location;
- (2) That the charitable instant bingo organization has entered into a written contract pursuant to subsection (b) of this section with a new owner or lessor of a location;
- (3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of this chapter or Ohio R.C. Chapter 2915.

(f) Subsection (c) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those five years, had gross receipts of at least one million five hundred thousand dollars. (ORC 2915.093)

517.10 LOCATION OF INSTANT BINGO.

(a) No owner or lessor of a location shall assist a charitable instant bingo organization in the conduct of instant bingo other than at a bingo session at that location unless the owner or lessor has entered into a written contract, as described in Section 517.09, with the charitable instant bingo organization to assist in the conduct of instant bingo other than at a bingo session.

(b) The location of the lessor or owner shall be designated as a location where the charitable instant bingo organization conducts instant bingo other than at a bingo session.

(c) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate any provision of Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of Ohio R.C. Chapter 2915.

(d) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate the terms of the contract.

(e) (1) Whoever violates subsection (c) or (d) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c) or (d) of this section, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.

(2) If an owner or lessor of a location knowingly, intentionally, or recklessly violates subsection (c) or (d) of this section, any license that the owner or lessor holds for the retail sale of any goods on the owner's or lessor's premises that is issued by the State or a political subdivision is subject to suspension, revocation, or payment of a monetary penalty at the request of the Attorney General. (ORC 2915.094)

517.11 BINGO OR GAME OF CHANCE RECORDS.

(a) No charitable organization that conducts bingo or a game of chance pursuant to Section 517.02(d), shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:

- (1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number;
- (2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo or instant bingo, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;
- (3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number, and the name, address, and social security number of all persons who are winners of prizes of six hundred dollars (\$600.00) or more in value;

- (4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in Section 517.01(v), Section 517.02(d), or Ohio R.C. 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;
- (5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;
- (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from "gross receipts" Section 517.01(t);
- (7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.

(b) A charitable organization shall keep the records that it is required to maintain pursuant to subsection (a) of this section at its principal place of business in this State or at its headquarters in this State and shall notify the Attorney General of the location at which those records are kept.

(c) The gross profit from each bingo session or game described in Section 517.01(o)(1) or (2) shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks or electronic fund transfers drawn on the bingo session or game account.

(d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.

(e) The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.

(f) A distributor shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this State. The record shall include all of the following for each instance:

- (1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;
- (2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;
- (3) A description that clearly identifies the bingo supplies;
- (4) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.

(g) A manufacturer shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this State. The record shall include all of the following for each instance:

- (1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;
- (2) A description that clearly identifies the bingo supplies, including serial numbers;
- (3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.

(h) The Attorney General, or any law enforcement agency, may do all of the following:

- (1) Investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization;
- (2) Examine the accounts and records of the organization;
- (3) Conduct inspections, audits, and observations of bingo or games of chance;
- (4) Conduct inspections of the premises where bingo or games of chance are conducted;
- (5) Take any other necessary and reasonable action to determine if a violation of any provision of this chapter has occurred and to determine whether Section 517.12 has been complied with.

If any law enforcement agency has reasonable grounds to believe that a charitable organization or an officer, agent, trustee, member, or employee of the organization has violated any provision of this chapter, the law enforcement agency may proceed by action in the proper court to enforce this chapter, provided that the law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this subsection.

(i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance or premises where bingo or a game of chance is conducted, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the Attorney General or a law enforcement agency pursuant to subsection (h) of this section.

(j) Whoever violates subsection (a) or (i) of this section is guilty of a misdemeanor of the first degree. (ORC 2915.10)

517.12 BINGO OPERATOR PROHIBITIONS.

- (a) No person shall be a bingo game operator unless he is eighteen years of age or older.
- (b) No person who has been convicted of a felony or a gambling offense in any jurisdiction shall be a bingo game operator.
- (c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the third degree.
- (d) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 2915.11)

517.13 BINGO EXCEPTIONS.

(a) Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter do not apply to bingo games that are conducted for the purpose of amusement only. A bingo game is conducted for the purpose of amusement only if it complies with all of the requirements specified in either subsection (a)(1) or (2) hereof:

- (1) A. The participants do not pay any money or any other thing of value including an admission fee, or any fee for bingo cards, sheets, objects to cover the spaces or other devices used in playing bingo, for the privilege of participating in the bingo game or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game.
- B. All prizes awarded during the course of the game are nonmonetary, and in the form of merchandise, goods or entitlements to goods or services only, and the total value of all prizes awarded during the game is less than one hundred dollars (\$100.00).
- C. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
- D. The bingo game is not conducted either during or within ten hours of any of the following:
 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 2. A scheme or game of chance or bingo described in Section 517.01(o)(2).
- E. The number of players participating in the bingo game does not exceed fifty.
- (2) A. The participants do not pay money or any other thing of value as an admission fee, and no participant is charged more than twenty-five cents (25¢) to purchase a bingo card or sheet, objects to cover the spaces or other devices used in playing bingo.

- B. The total amount of money paid by all of the participants for bingo cards or sheets, objects to cover the spaces or other devices used in playing bingo does not exceed one hundred dollars (\$100.00).
- C. All of the money paid for bingo cards or sheets, objects to cover spaces or other devices used in playing bingo is used only to pay winners monetary and nonmonetary prizes and to provide refreshments.
- D. The total value of all prizes awarded during the game does not exceed one hundred dollars (\$100.00).
- E. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
- F. The bingo game is not conducted during or within ten hours of either of the following:
 - 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 - 2. A scheme of chance or game of chance or bingo described in Section 517.01(o)(2).
- G. All of the participants reside at the premises where the bingo game is conducted.
- H. The bingo games are conducted on different days of the week and not more than twice in a calendar week.

(b) The Attorney General, or any local law enforcement agency, may investigate the conduct of a bingo game that purportedly is conducted for purposes of amusement only if there is reason to believe that the purported amusement bingo game does not comply with subsection (a) hereof. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the Attorney General when commencing the action. (ORC 2915.12)

517.14 INSTANT BINGO CONDUCT BY A VETERAN'S OR FRATERNAL ORGANIZATION.

- (a) A veteran's organization, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to Ohio R.C. 2915.01 to 2915.12 may conduct instant bingo other than at a bingo session if all of the following apply:
- (1) The veteran's organization, fraternal organization or sporting organization limits the sale of instant bingo to twelve hours during any day, provided that the sale does not begin earlier than ten a.m. and ends not later than two a.m.
 - (2) The veteran's organization, fraternal organization or a sporting organization limits the sale of instant bingo to its own premises and to its own members and invited guests.
 - (3) The veteran's organization, fraternal organization, or sporting organization is raising money for an organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State and executes a written contract with that organization as required in subsection (b) of this section.
- (b) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo pursuant to subsection (a) of this section is raising money for another organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State, the veteran's organization, fraternal organization, or sporting organization shall execute a written contract with the organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State in order to conduct instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veteran's, fraternal or sporting organization will be distributing to the organization that is described in subsection 509(a)(1), 509(a)(2) or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State.
- (c) (1) If a veteran's organization, fraternal organization or a sporting organization authorized to conduct instant bingo pursuant to subsection (a) of this section has been issued a liquor permit under Ohio R.C. Chapter 4303, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization, fraternal organization, or a sporting organization violates a provision of this chapter or Ohio R.C. Chapter 2915.
- (2) No veteran's organization, fraternal organization, or a sporting organization that enters into a written contract pursuant to subsection (b) of this section shall violate any provision of this chapter or Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of this chapter or Ohio R.C. Chapter 2915.
- (d) A veteran's organization, fraternal organization, or a sporting organization shall give all required proceeds earned from the conduct of instant bingo to the organization with which the veteran's organization, fraternal organization, or a sporting organization has entered into a written contract.
- (e) Whoever violates this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.

(ORC 2915.13)

517.15 SKILL-BASED AMUSEMENT MACHINES.

- (a) (1) No person shall give to another person any item described in Section 517.01(vv)(1), (2), (3), or (4) in exchange for a noncash prize, toy, or novelty received as a reward for playing or operating a skill-based amusement machine or for a free or reduced-prize game won on a skill-based amusement machine.
- (2) Whoever violates subsection (a)(1) of this section is guilty of skill-based amusement machine prohibited conduct. Except as provided herein, a violation of subsection (a)(1) is a misdemeanor of the first degree for each redemption of a prize that is involved in the violation. If the offender previously has been convicted of a violation of subsection (a)(1), a violation of subsection (a)(1) is a felony and shall be prosecuted under appropriate State law.

(ORC 2915.06)

(b) Any regulation of skill-based amusement machines shall be governed by this chapter and Ohio R.C. Chapter 2915 and not by Ohio R.C. Chapter 1345.

(ORC 2915.061)

517.99 PENALTY.

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

CHAPTER 521

Health, Safety and Sanitation

521.01 Abandoned refrigerators and airtight containers.

- 521.02 Venting of heaters and burners.**
- 521.03 Barricades and warning lights; abandoned excavations.**
- 521.04 Sidewalk obstructions; damage or injury.**
- 521.05 Notice to fill lots, remove putrid substances.**
- 521.06 Duty to keep sidewalks in repair and clean.**
- 521.07 Fences.**
- 521.08 Littering and deposit of garbage, rubbish, junk, ice, snow, organic material, etc.**
- 521.09 Noxious or offensive odors.**
- 521.10 Nonsmoking areas in places of public assembly.**
- 521.11 Storage of unlicensed vehicles.**
- 521.12 Leaves and organic debris on streets and gutters.**
- 521.13 Unauthorized collection of recyclable waste materials. (Repealed)**
- 521.14 Disposal of garbage or refuse in public containers prohibited.**
- 521.15 Numbering of residential and nonresidential buildings.**
- 521.16 Control of repair of motor vehicles on residential property.**
- 521.17 Graffitiism.**
- 521.18 Throwing or distributing handbills.**
- 521.19 Unlawfully using, obstructing or interfering with fire hydrants.**
- 521.20 Discharge of water from premises onto street or sidewalk.**
- 521.21 Duty to keep tree lawns, sidewalks and adjacent public property maintained.**
- 521.22 Storage of junk tires. (Repealed)**
- 521.23 Obstructing drainage or watercourses.**
- 521.24 Sale of used motor vehicles.**
- 521.25 Water use restrictions.**
- 521.26 Mosquito and other insect control.**
- 521.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
 Flagpole installation in sidewalk - see Ohio R.C. 723.012
 Excavation liability - see Ohio R.C. 723.49 et seq.
 Removal of noxious weeds or litter - see Ohio R.C. 731.51 et seq.
 Nuisances - see Ohio R.C. Ch. 3767
 Tampering with safety devices - see GEN. OFF. 541.04

521.01 ABANDONED REFRIGERATORS AND AIRTIGHT CONTAINERS.

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

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

521.02 VENTING OF HEATERS AND BURNERS.

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

(1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed and maintained as to vent the products of combustion outdoors; except in storage, factory or industrial buildings which are provided with sufficient ventilation to avoid the danger of carbon monoxide poisoning;

(2) When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed or structure in which persons are temporarily present, shall be vented as provided in subsection (a) hereof, or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

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

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

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

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

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

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

(h) No device that prohibits any safety feature on a kerosene, natural gas or liquid petroleum gas space heater from operating shall be sold,

offered for sale or used in connection with any kerosene, natural gas or liquid petroleum gas space heater.

(i) No person shall sell or offer for sale any kerosene-fired, natural gas or liquid petroleum gas-fired heater that is not exempt from subsection (a) hereof unless it is marked conspicuously by the manufacturer on the container with the phrase "Not Approved For Home Use."

(j) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82. (ORC 3701.82)

(k) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3701.99(C))

521.03 BARRICADES AND WARNING LIGHTS; ABANDONED EXCAVATIONS.

(a) No person shall abandon or knowingly permit to remain on public or private property, any excavation, well, cesspool or structure which is in the process of construction, reconstruction, repair or alteration unless the same is adequately protected by suitable barricades and guarded by warning devices or lights at night so that the condition will not reasonably prove dangerous to life or limb.

(b) No person shall destroy, remove, damage or extinguish any barricade or warning light that is placed for the protection of the public so as to prevent injury to life or limb.

(c) Any owner or agent in control of a premises upon which a basement, cellar, well or cistern has been abandoned due to demolition, failure to build or any other reason shall cause the same to be filled to the ground surface with rock, gravel, earth or other suitable material.

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

521.04 SIDEWALK OBSTRUCTIONS; DAMAGE OR INJURY.

(a) No person shall place or knowingly drop upon any part of a sidewalk, playground or other public place any tacks, bottles, wire, glass, nails or other articles which may damage property of another or injure any person or animal traveling along or upon such sidewalk or playground.

(b) No person shall walk on, or allow any animal upon, or injure or deface in any way, any soft or newly laid sidewalk pavement. (A.O.)

(c) No person shall place, deposit, sell or maintain any merchandise, goods, material or equipment, signs, banners or anything of a tangible nature including canopies and structures on or over any street, right-of-way or public property, sidewalk or park within the City unless permitted by subsequent provisions of this chapter. Only publicly-owned signs publicly-owned planters and appurtenances are permitted in the City right-of-way, such as directional signs, trash receptacles, and utilities, subject to the following provisions:

(1) The United States Post Office is permitted to locate depository boxes on streets and residential boxes on the City right-of-way, providing that the location thereof is abutting the curbing and does not obstruct pedestrian traffic.

(2) Flags of the United States, State of Ohio, and Galion High School may be displayed on poles insertable in the sidewalk one foot inside the curb line.

(3) Organizations desiring to conduct special events, such as Pickle Run, Oktoberfest, Galion Day and others in the area of the City zoned B-3 and the City parks, shall obtain a permit from the City at least sixty days prior to the date of the event to be held. Sponsors of such events shall provide the City with an affidavit keeping the City safe and harmless from all claims resulting from the event; and provide necessary insurance covering the City for the event.

(4) The above provisions shall not prevent the loading or unloading of merchandise onto the sidewalk, for the purpose of moving into a building, for a period not to exceed thirty minutes.

(5) Each retail store, business, or owner of building must obtain a permit from the Zoning Inspector for any sign, banner, or anything of a tangible nature, including canopies and structures currently, or requested in the future, on or over any street, sidewalk, right-of-way or public property. Each permit applicant must complete a statement holding the City safe and harmless from any liability resulting from accident or injury caused by issuance of such permit or in the alternative must provide proof of insurance satisfactory to the City before a permit may be issued. If neither of these alternatives is complied with and an encroachment occurs, such encroachment shall be removed by the owner within five days of notification from the Zoning Inspector. If the owner fails to so remove the encroachment or comply with the aforementioned provisions, the encroachment shall immediately thereafter be removed by the City at the expense of the owner.

(6) No canopies shall be permitted which extend beyond the curb line.

(Ord. 88-5698. Passed 8-16-88.)

(d) No person shall unload upon, or transport any heavy merchandise, goods, material or equipment over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury. The affected area shall be rendered safe and free from danger.

(e) No person shall allow any cellar or trap door, coal chute or elevator or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous condition.

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

521.05 NOTICE TO FILL LOTS, REMOVE PUTRID SUBSTANCES.

(a) No person shall fail to fill or drain any lot or land or remove any putrid substances therefrom, or remove all obstructions from culverts, covered drains or natural water courses as provided in Ohio R.C. 715.47 within the lawful time after service or publication of the notice or resolution is made as required by law.

(b) No person shall dump, cause to be dumped, permit to be dumped, or allow on any publicly or privately owned land, water, watercourse, creek, brook, branch, or drainage ditch so as to impede, divert or interfere with the flow of water therein, any of the following:

(1) Any garbage, wood or wood products, paper, cardboard, scrap metal or metal products, liquid or semi-liquid products or other scrap or waste materials of any nature whatsoever, and

(2) Any earth, stone, bricks, broken concrete, broken asphalt, and similar nonorganic materials.

Upon written information that any of the obstructions described in this division have been dumped or placed in violation of this prohibition, Council may by resolution direct the owner of the property to remove such obstruction(s) within the time therein specified and cause a copy of such resolution to be served or published upon the owner of the property as required by law.

(c) In the event that the owner of such property fails or refuses to comply with any resolution described in this section, the work required thereby may be done at the expense of the City and the amount of money shall be a lien on such property and shall be recovered from the owner before any court of competent jurisdiction.

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

(Ord. 90-5798. Passed 2-13-90.)

521.06 DUTY TO KEEP SIDEWALKS IN REPAIR AND CLEAN.

(a) No owner or occupant of abutting lands shall fail to keep the sidewalks, curbs or gutters in repair and free from snow, ice or any nuisance. (ORC 723.011)

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

521.07 FENCES.

(a) No person shall erect or maintain any fence charged with electrical current.

(b) No person shall erect or maintain a barbed wire fence which abuts or is adjacent to any public street or sidewalk. This subsection (b) does not prevent the placement and use of not more than three strands of barbed wire on top of a fence other than a barbed wire fence, provided such strands are not less than seventy-two inches from the ground.

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

521.08 LITTERING AND DEPOSIT OF GARBAGE, RUBBISH, JUNK, ICE, SNOW, ORGANIC MATERIAL, ETC.

(a) No person shall throw, place or deposit, or permit to be thrown, placed or deposited, or permit to remain, in any manner whatsoever, any glass, tacks, nails, bottles, dirt, paper, filth, sweepings, ashes, shavings, filthy water, offal, scrap, manure, wastewater, rubbish of any kind whatsoever, brush or other organic material, or any liquid or substance which is dangerous, offensive or unwholesome to persons or to the public generally, upon any lot, land, street, sidewalk or public ground within the City limits unless contained in ratproof receptacles.

(b) No person shall throw, place or deposit, or permit to be thrown, placed or deposited, or permit to remain, in any manner whatsoever, any grass, grass clippings, leaves, brush or other organic materials on public land and easement, lot, sidewalk, street, or street right of way, unless it is placed in an appropriate container, and is scheduled to be picked up within twenty-four hours by a hauler licensed to operate within the City limits.

(c) No person shall throw, place or deposit, or permit to be thrown, placed or deposited, or permit to remain, in any manner whatsoever, any ice or snow on public land, a lot, easement, sidewalk, street or street right of way which originated on private property.

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

521.09 NOXIOUS OR OFFENSIVE ODORS.

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

(ORC 3767.13)

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

521.10 NONSMOKING AREAS IN PLACES OF PUBLIC ASSEMBLY.

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

(1) Enclosed theaters, except the lobby; opera houses; auditoriums; classrooms; elevators; rooms in which persons are confined as a matter of health care, including but not limited to a hospital room and a room in a rest home serving as the residence of a person living in such rest home;

(2) All buildings and other enclosed structures owned by the State, its agencies or political subdivisions, including but not limited to hospitals and State institutions for the mentally ill and persons with intellectual disabilities; university and college buildings, except rooms within those buildings used primarily as the residences of students or other persons affiliated with the university or college; office buildings; libraries; museums; and vehicles used in public transportation. That portion of a building or other enclosed structure that is owned by the State, a State agency or a political subdivision and that is used primarily as a food service establishment is not a place of public assembly.

(3) Each portion of a building or enclosed structure that is not included in subsection (a)(1) or (2) hereof is a place of public assembly if it has a seating capacity of fifty or more persons and is available to the public. Restaurants, food service establishments, dining rooms, cafes, cafeterias or other rooms used primarily for the service of food, as well as bowling alleys and places licensed by the Department of Liquor Control to sell intoxicating beverages for consumption on the premises, are not places of public assembly.

(b) For the purpose of separating persons who smoke from persons who do not smoke for the comfort and health of persons not smoking, in every place of public assembly there shall be an area where smoking is not permitted, which shall be designated a no smoking area. Provided that, no more than one-half of the rooms in any health care facility in which persons are confined as a matter of health care may be designated as smoking areas in their entirety. The designation shall be made before the place of public assembly is made available to the public. In places included in subsection (a)(1) hereof the local fire authority having jurisdiction shall designate no smoking area. In places included in subsection (a)(2) hereof that are owned by the Municipality, Council shall designate an officer who shall designate the area. In places included in subsection (a)(3) hereof, the person having control of the operations of the place of public assembly shall designate the no smoking area. In places included in subsection (a)(2) hereof which are also included in subsection (a)(1) hereof, the officer who has authority to designate the area in places in subsection (a)(2) hereof shall designate the no smoking area. A no smoking area may include the entire place of public assembly. Designations shall be made by the placement of signs that are clearly visible and that state "NO SMOKING". No person shall remove signs from areas designated as no smoking areas.

(c) This section does not affect or modify the prohibition contained in Ohio R.C. 3313.751(B).

(d) No person shall smoke in any area designated as a no smoking area in accordance with subsection (b) hereof or Ohio R.C. 3791.031.

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

(ORC 3791.031)

521.11 STORAGE OF UNLICENSED VEHICLES.

(a) No person shall store or permit to be stored upon any lot or land, for a period of more than twenty days, any motor vehicle that does not have displayed thereon license plates for the current year, unless the vehicle is stored in a completely enclosed building or garage. The twenty days time period shall mean any twenty days and shall not mean twenty consecutive days. This section shall not apply to persons doing business in properly zoned areas for the sale, salvage, repair or impounding of motor vehicles.

(b) In addition, the owner must produce on request, verification of insurance papers as required by State law as to the minimum insurance requirements for each vehicle in violation of subsection (a) hereof.

(c) Any motor vehicle stored for more than twenty days in violation of subsection (a) hereof may be towed and impounded.

(d) Whoever violates any of this section is guilty of a minor misdemeanor. Any person convicted of a subsequent violation of either of this section within one year shall be guilty of a misdemeanor of the first degree.

521.12 LEAVES AND ORGANIC DEBRIS ON STREETS AND GUTTERS.

(a) No owner, occupant or person having control of lands abutting a street or alley shall place leaves and other organic debris onto the paved surface of such street or alley, or any gutter thereof.

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

(Ord. 89-5789. Passed 11-21-89.)

521.13 UNAUTHORIZED COLLECTION OF RECYCLABLE WASTE MATERIALS. (REPEALED)

(EDITOR'S NOTE: Former Section 521.13 has been reenacted and recodified as Section 719.10 pursuant to Ordinance 2006-47, passed July 11, 2006.)

521.14 DISPOSAL OF GARBAGE OR REFUSE IN PUBLIC CONTAINERS PROHIBITED.

(a) No person shall transport from a household or place of business and place anywhere in a Municipality any garbage or refuse in a public receptacle not specifically owned by the individual so placing, any garbage, refuse, or ashes, which has been created by ordinary household activities or commercial activities.

(b) The public is encouraged to use public waste disposal receptacle on the public streets and sidewalks in the Municipality for immediate disposal of small items normally discarded by pedestrians and passing motorists while they are in transit, and this section shall not prohibit this type of disposal.

(c) No person shall tamper with, interfere with, carry away or destroy any of the garbage cans or garbage receptacles of another located in any of the streets or alleys, or in any other place within the Municipality.
(Ord. 2018-26. Passed 5-22-18.)

521.15 NUMBERING OF RESIDENTIAL AND NONRESIDENTIAL BUILDINGS.

(a) All businesses, houses and dwellings situated within the corporate limits of the City shall be numbered in the manner as set forth in this section and according to the system prescribed in this section.

(b) The owner, agent, lessee, occupant or other person having control of and/or ownership of any business, house, dwelling, or building or other structure in the City upon a street to which street numbers have been assigned shall cause the proper Arabic numbers to be placed on and continuously maintained on the fanlight, transom, door, entrance, steps or gate, or conspicuous place on the front of such building, dwelling, house or other structure in such a manner that the number may at all times be legible and visible from the street pavement in front of such building, dwelling, house or other structure. If a building, dwelling, house or other structure stands back more than forty-five feet from the front lot line, the numbers shall be conspicuously displayed at or near the walk, driveway or common entrance to such building, dwelling, house or other structure at the streetline or on a gate post, fence, tree or post or other appropriate place so as to be legible and visible from the street pavement. Such requirement of conspicuous display of numbers on such building, dwelling, house or other structure standing back more than forty-five feet from the front lot line shall not be interpreted or construed to mean that the numbers need not be placed on the building, dwelling, house or other structure as set forth hereinabove but shall require a second numbering as set forth herein. As used in this section, "front" means that side of the building, dwelling, house or other structure which faces the street on which the number of the building or premises on which such building, dwelling, house or other structure is situated, has been allotted, and that the numbers shall be displayed on such side of such building, dwelling, house or other structure and/or premises.

(c) No person, corporation or other entity without just cause shall remove, alter or deface any house number properly assigned and placed on or near a building, dwelling, house or other structure. Nor shall any person, corporation or entity without just cause place or retain on any building, dwelling, house or other structure any number other than the number duly assigned if such additional number could reasonably be mistaken for the assigned street number.

(d) All owners of any building, dwelling, business, house or other structure, office or tenement blocks of buildings, having two or more stories therein shall have numbers affixed to all rooms above the first story and have permanently affixed and placed on the side or sides of the first entrance or stairway adjacent to any street, a complete directory of the businesses, firms, offices, tenants or lessees occupying the upper stories of such businesses, offices, or tenement blocks, or buildings. The directory shall be placed affixed in a conspicuous position and so arranged as to have the names of other designations thereon easily changed. The provisions of this subsection shall not apply to single family residence dwellings.

(e) No person, corporation or entity shall fail to install or maintain the proper numbers and/or directories as required by this section. The numbers shall be Arabic, shall not be less than three inches in height and the color of numbers shall contrast with the color of the surface on which they are mounted, applied or appear and shall be visible and legible from the sidewalk and street. The owner, agent, lessee, occupant or other person having ownership and/or control of such building, dwelling, house or other structure, may post additional sets of address numbers provided that one set complies with the provisions of this section.

(f) Whoever violates or fails to comply with the provisions of this section shall be guilty of a minor misdemeanor. Any such violation or failure to comply with the terms of this section shall constitute a separate offense on each successive day such violation or failure to comply is continued.

521.16 CONTROL OF REPAIR OF MOTOR VEHICLES ON RESIDENTIAL PROPERTY.

(a) The record owner of residential property in the City as shown in the office of the Treasurer of Crawford County, Ohio shall not permit any of the following on such residential property:

- (1) Major mechanical or body repairs to a motor vehicle lasting more than five days except in a garage or other enclosure;
- (2) More than one such motor vehicle being repaired on such residential property at any time;
- (3) The repair of motor vehicles for profit or for resale on such residential property;
- (4) Repairs to motor vehicles owned by other than residents or tenants of the residential premises;
- (5) The repair of motor vehicles so as to constitute a fire hazard or other nuisance.

(b) Whoever violates this section shall be deemed guilty of a minor misdemeanor.

521.17 GRAFFITISM.

(a) As used in this section, "graffitism" means the act of defacing, damaging or destroying any public or private, real or personal property, without the privilege to do so, by drawing, marking, painting, tagging or writing any inscription, design, word, figure or mark of any type of any building, bridge, fence, gate, rock, structure, tree, wall or other property visible to the public.

(b) As used in this section, "graffiti" means any inscription, design, word, figure or mark of any type drawn, marked, painted, tagged or written upon any building, bridge, fence, gate, rock, structure, tree, wall or other property visible to the public which defaces, damages or destroys any public or private, real or personal property, without the privilege to do so.

(c) As used in this section, "graffitist" means a person who commits graffitism.

(d) As used in this section, "spray paint" means any paint packaged in an aerosol container.

(e) No person, without privilege to do so, shall commit graffitism upon any public or private, real or personal property.

(f) Whoever violates subsection (e) of this section is guilty of graffitism, a misdemeanor of the first degree.

(g) In addition to any other punishment imposed, the court shall, as a separate and independent penalty for such offense, order any person convicted of graffitism to make restitution by monetary payment for the loss or damage incurred; or restoration by physical labor to the property's former condition.

(h) In the event a minor convicted of graffitism establishes indigency at a hearing, the court may order his or her parent or legal guardian to pay the fine and any restitution required up to the sum of three thousand dollars (\$3,000).

(i) Any person who violates subsection (e) hereof, on application to, and approval by, the judge hearing such complaint, in lieu of paying the fine, restitution or restoration imposed, may remove graffiti other than that at the location identifiably linked to the violator for which he or she is to make restitution or restoration under (g) above, as the judge shall require; and upon completion of such public work, the fine, restitution or restoration, shall be reduced by an amount equal to the federal minimum hourly wage than in effect for each such hour of service to the extent of such fine, restitution or restoration.

(j) Possession of and all rights to any paint, brush, spray paint or other material or tool used in the commission of the offense of graffitism shall

be forfeited.

(k) The provisions of this section shall be in addition to the provisions of any other law concerning offenses against property rights and shall in no way limit such other provisions.

521.18 THROWING OR DISTRIBUTING HANDBILLS.

(a) No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the City. Nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

(b) No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(c) No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(d) No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any matter that the occupants of such premises do not desire to be molested or have their right of privacy disturbed, or have any such handbills left upon such premises.

(e) (1) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.

(2) The provision of this section shall not apply to the distribution of mail by the United States, nor to newspapers, as defined herein, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(f) No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object.

(g) No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law.

(h) Whoever violates any provision of this section is guilty of a misdemeanor of the fourth degree.

521.19 UNLAWFULLY USING, OBSTRUCTING OR INTERFERING WITH FIRE HYDRANTS.

(a) No person, unless authorized by the City or except in the case of fire, shall tamper with, turn on, or use water from any fire hydrant, valve box, stopcock, pipe, apparatus or other fixture installed for the supplying of water or in any way use water therefrom for private use.

(b) No person, unless authorized by the City, shall interfere with or obstruct or permit to be obstructed or interfere with or cause to be obstructed any fire hydrant, valve box, stopcock, pipe, apparatus, or other fixture installed for the purpose of supplying water for the purposes of quenching fires in an emergency, by hiding or covering the same or permitting conditions to occur by which such apparatus or fire hydrants are hidden from public view.

(c) No person shall in any manner obstruct or cause or permit the obstruction from plain view of any fire hydrant.

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

521.20 DISCHARGE OF WATER FROM PREMISES ONTO STREET OR SIDEWALK.

(a) When storm drains are available, no person shall allow to be discharged from the premises of such person the water from any fountain or pipe from any building upon the surface of any part of any sidewalk, street or other public ground within the City, when, in the opinion of the Zoning Inspector, a public nuisance is caused by so doing. The Zoning Inspector may notify any person not to allow water to be discharged upon any sidewalk, street or other public ground in violation of this section.

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

521.21 DUTY TO KEEP TREE LAWNS, SIDEWALKS AND ADJACENT PUBLIC PROPERTY MAINTAINED.

(a) Every owner, occupant or person having charge of any tenement, building, lot or land fronting upon any avenue, street, alley or public highway of the Municipality shall keep the entire width of the tree lawn, sidewalk, or public property from the street line or curb to the lot line free and clear of all structures, vehicles, earth, sand, brick, stone, ice, snow, rubbish, dead trees and dead branches of trees, or other material which from any cause whatever shall have accumulated or may accumulate upon the tree lawn, sidewalk, or public property between the street line or curb line and the lot line above the established grade of the same, and free of all weeds, grass and vegetable growths that are more than four inches in height.

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

521.22 STORAGE OF JUNK TIRES. (REPEALED)

(EDITOR'S NOTE: Former Section 521.22 was repealed by Ordinance 2006-46, passed July 11, 2006.)

521.23 OBSTRUCTING DRAINAGE OR WATERCOURSES.

(a) Permit Required; Fee; Application. No person, firm or corporation shall obstruct or cause the obstruction of any ditch, drain or watercourse of any kind, natural or artificial, in the Municipality, by constructing or erecting therein a culvert, dam or by making any other obstruction of any kind therein or thereon, without first obtaining a permit to do so from the Building Inspector. A fee of five dollars (\$5.00) and all engineering costs shall be charged for such permit. The person, firm or corporation desiring such permit shall apply in person or by duly authorized representative to the Building Inspector. Such application shall be accompanied by an engineer's drawing showing the location of the intended culvert, dam or other obstruction of any kind, the property upstream which would be affected thereby, elevations, contours, etc., and any other information needed by the City Engineers who must advise the Building Inspector. No permit shall be granted by the Building Inspector for the construction or erection of a culvert, dam or other obstruction of any kind which would cause the water to flow back and flood any public street or alley, or to become stagnant in a way prejudicial to the public health, or which would not be of sufficient size and capacity to accommodate the quantity of storm water runoff. The City Engineer must approve the project before the Building Inspector may issue a permit.

(b) Notice to Remove Obstruction; Failure to Comply. The Building Inspector shall serve notice upon the owner or upon the person having the care and control of any lot or parcel of land through which any ditch, drain or watercourse of any kind, natural or artificial, passes to remove within fifteen days after the service of such notice, any culvert, dam or other obstruction of any kind which causes water to flow back and flood any public street or alley, or to become stagnant in a way prejudicial to the public health and which is not of sufficient size and capacity to accommodate the flow of water resulting from a storm occurring with a frequency of once in 100 years. Failure or refusal of the owner or of the person having the

care and control of such lot or parcel of land to comply with such notice shall be deemed a misdemeanor and subject to the penalty hereafter provided. If the owner or the person having the care and control of such lot or parcel of land fails or refuses to comply with such notice, the City Engineer may also authorize the work required by such notice to be done at the expense of the City, and the amount of money so civil action in any court of competent jurisdiction.

(c) Any person, firm or corporation convicted of violating any of the provisions of this chapter shall be fined not less than twenty-five dollars (\$25.00) and not more than five hundred dollars (\$500.00) and the cost of prosecution. Each day such owner or person fails to comply with any order issued shall constitute a separate offense.

521.24 SALE OF USED MOTOR VEHICLES.

(a) No person, firm or corporation shall display for sale a used motor vehicle, boat or recreational vehicle except that such provision shall not apply in the following specific instances:

(1) One used motor vehicle, boat or recreational vehicle may be displayed for sale one time each calendar year for a period of time not to exceed two weeks if such motor vehicle, boat or recreational vehicle is titled in the name of occupant of property.

(2) Such used motor vehicles are displayed by duly and proper licensed automobile dealers and such display occurs in areas properly zoned to conduct such a business.

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

521.25 WATER USE RESTRICTIONS.

(a) "Water Use Restrictions", means restriction of use of water from City lines for a period of time as determined by the Mayor when there exists insufficient or inadequate water supply or pressure to provide safe and adequate water service to the City or portions thereof.

(b) The Mayor is hereby authorized to declare a water use restriction for the entire City or a portion thereof whenever he determines in his discretion that significant water supply or pressure problems exist within the City or portions thereof, to warrant such action. Such restriction shall exist from the time it is formally announced until the time it is formally canceled.

(c) Whenever a water use restriction is declared, the Mayor shall request that the local news media announce the existence of the restriction, its time of operation and the area in which it will apply. Cancellation shall be accomplished in the same manner.

(d) Whenever a water use restriction is in effect, all forms of non-essential water use including lawn sprinkling, car washing or uses specifically set forth by the Mayor within the water use restriction shall be prohibited except as the water use comes from a private water supply.

(e) Whoever violates this section is guilty of violating the water use restriction, a minor misdemeanor, with a maximum fine of one hundred dollars (\$100.00) with each day of violation as a separate offense. Upon a third offense, such violation shall result in the immediate shut off of water service.

(Ord. 88-5696. Passed 7-9-88.)

521.26 MOSQUITO AND OTHER INSECT CONTROL.

(a) No owner, person, occupant, tenant, lessee, or developer of any public or private premises shall permit the accumulation upon that person's premises of water in puddles, depressions, ditches, or containers for periods of time long enough to afford mosquito breeding or other insect breeding.

(b) When conditions are found to exist where mosquitos or other insects are breeding, the Health Commissioner or his/her designee shall give notice and the party or parties concerned shall proceed to eliminate such conditions by draining and/or filling or in some manner eliminating the stagnant water or apply such other methods as necessary to eliminate, prevent, and control mosquito breeding or other insect breeding.

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

(Ord. 2006-48. Passed 7-11-06.)

521.99 PENALTY.

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

CHAPTER 525

Law Enforcement and Public Office

525.01 Definitions.

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525.15 Misuse of 911 communications.

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525.17 False allegation of peace officer misconduct.

525.18 Refusal to disclose personal information in public place.

525.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Law enforcement officer defined - see GEN. OFF. 501.01(k)

Misconduct at an emergency - see GEN. OFF. 509.05

Making false alarms - see GEN. OFF. 509.07

Personating an officer to defraud - see GEN. OFF. 545.16

As used in this chapter:

- (a) "Public official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision thereof, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges and law enforcement officers. "Public official" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.
- (b) "Public servant" means any of the following:
 - (1) Any public official;
 - (2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor or consultant;
 - (3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this subsection if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person's name placed on the ballot in a primary, general or special election, or if the person campaigns as a write-in candidate in any primary, general or special election. "Public servant" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.
- (c) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which the person directs, conducts or participates in directing or conducting party affairs at any level of responsibility.
- (d) "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary or other person taking testimony or a deposition in connection with an official proceeding.
- (e) "Detention" means arrest, confinement in any vehicle subsequent to an arrest, confinement in any public or private facility for custody of persons charged with or convicted of a crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States; hospitalization, institutionalization or confinement in any public or private facility that is ordered pursuant to or under the authority of Ohio R.C. 2945.37, 2945.371, 2945.38, 2945.39 or 2945.40, 2945.401 or 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation, except as provided in this subsection, supervision by any employee of any facility of any of those natures; that is incidental to hospitalization, institutionalization or confinement in the facility but that occurs outside the facility; supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a State correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this State into this State by a private person or entity pursuant to a contract entered into under Ohio R.C. 311.29(E) or Ohio R.C. 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to Ohio R.C. 5147.30, "detention" includes time spent at an assigned work site and going to and from the work site.
- (f) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States.
- (g) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.
- (h) "Campaign committee," "contribution," "political action committee," "legislative campaign fund," "political party" and "political contributing entity" have the same meanings as in Ohio R.C. 3517.01.
- (i) "Provider agreement" has the same meaning as in Ohio R.C. 5164.01.
(ORC 2921.01)

525.02 FALSIFICATION.

- (a) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:
 - (1) The statement is made in any official proceeding.
 - (2) The statement is made with purpose to incriminate another.
 - (3) The statement is made with purpose to mislead a public official in performing the public official's official function.
 - (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance as defined in Ohio R.C. 9.66; or other benefits administered by a governmental agency or paid out of a public treasury.
 - (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release or provider agreement.
 - (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
 - (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.
 - (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.
 - (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.
 - (10) The statement is knowingly made to a probate court in connection with any action, proceeding or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint or other pleading, or an inventory, account or report.
 - (11) The statement is made on an account, form, record, stamp, label or other writing that is required by law.
 - (12) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the Secretary of State, a county recorder, or the clerk of a court of record.
 - (13) The statement is required under Ohio R.C. 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.
- (b) It is no defense to a charge under subsection (a)(6) hereof that the oath or affirmation was administered or taken in an irregular manner.
- (c) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.
- (d) (1) Whoever violates any provision of subsection (a)(1) to (8) or (10) to (13) hereof is guilty of falsification, a misdemeanor of the first degree.

(2) Whoever violates subsection (a)(9) hereof is guilty of falsification in a theft offense, a misdemeanor of the first degree. If the value of the property or services stolen is one thousand dollars (\$1,000) or more, falsification in a theft offense is a felony and shall be prosecuted under appropriate State law.

(e) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this section. A civil action under this section is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.
(ORC 2921.13)

525.03 IMPERSONATION OF PEACE OFFICER.

(a) As used in this section:

- (1) "Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation or township constable who is employed by a political subdivision of this State; a member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D); a member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y), a State university law enforcement officer appointed under Ohio R.C. 3345.04; a veterans' home police officer appointed under Ohio R.C. 5907.02; a special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28; an officer, agent, or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within limits of that statutory duty and authority; or a State highway patrol trooper whose primary duties are to preserve the peace, to protect life and property and to enforce the laws, ordinances or rules of the State or any of its political subdivisions.
- (2) "Private police officer" means any security guard, special police officer, private detective or other person who is privately employed in a police capacity.
- (3) "Federal law enforcement officer" means an employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.
- (4) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.
- (5) "Impersonate" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

(b) No person shall impersonate a peace officer, private police officer, federal law enforcement officer or investigator of the Bureau of Criminal Identification and Investigation.

(c) No person, by impersonating a peace officer, private police officer, federal law enforcement officer, or investigator of the Bureau of Criminal Identification and Investigation, shall arrest or detain any person, search any person or search the property of any person.

(d) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the State or the Municipality or investigator of the Bureau of Criminal Identification and Investigation.

(e) It is an affirmative defense to a charge under subsection (b) hereof that the impersonation of the peace officer was for a lawful purpose.

(f) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree. Whoever violates subsections (c) or (d) hereof is guilty of a misdemeanor of the first degree. If the purpose of a violation of subsection (d) hereof is to commit or facilitate the commission of a felony, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 2921.51)

525.04 COMPOUNDING A CRIME.

(a) No person shall knowingly demand, accept or agree to accept anything of value in consideration of abandoning or agreeing to abandon a pending criminal prosecution.

(b) It is an affirmative defense to a charge under this section when both of the following apply:

(1) The pending prosecution involved is for violation of Sections 545.05, 545.07, 545.09 or 545.10(b)(2), or Ohio R.C. 2913.02, 2913.11, 2913.21(B)(2) or 2913.47, of which the actor under this section was the victim.

(2) The thing of value demanded, accepted or agreed to be accepted, in consideration of abandoning or agreeing to abandon the prosecution, did not exceed an amount that the actor reasonably believed due him as restitution for the loss caused him by the offense.

(c) When a prosecuting witness abandons or agrees to abandon a prosecution under subsection (b) hereof, the abandonment or agreement in no way binds the State or Municipality to abandoning the prosecution.

(d) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree. (ORC 2921.21)

525.05 FAILURE TO REPORT A CRIME, INJURY OR KNOWLEDGE OF DEATH.

(a) (1) Except as provided in subsection (a)(2) hereof, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(2) No person, knowing that a violation of division (B) of Ohio R.C. 2913.04 has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.

(b) Except for conditions that are within the scope of subsection (e) of this section, no person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the person, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence.

(c) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For purposes of this subsection (c), "advanced practice registered nurse" does not include a certified registered nurse anesthetist.

(d) No person shall fail to provide upon request of the person to whom a report required by subsection (c) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.

(e) (1) As used in this subsection, "burn injury" means any of the following:

- A. Second or third degree burns;
 - B. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;
 - C. Any burn injury or wound that may result in death;
 - D. Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.
- (2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (4) No person who is required to report any burn injury under subsection (e)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the State Fire Marshal. The report shall comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).
- (5) Anyone participating in the making of reports under subsection (e) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under subsection (e) of this section.
- (f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.
- (2) Notwithstanding Ohio R.C. 4731.22, the physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.
- (g) Subsections (a) and (d) of this section do not require disclosure of information, when any of the following applies:
- (1) The information is privileged by reason of the relationship between attorney and client; physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.
 - (2) The information would tend to incriminate a member of the actor's immediate family.
 - (3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.
 - (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.
 - (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio R.C. 5119.36.
 - (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.
- (h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.
- (i) Whoever violates subsection (a) or (b) of this section is guilty of failure to report a crime. Violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. Violation of subsection (a)(2) or (b) of this section is a misdemeanor of the second degree.
- (j) Whoever violates subsection (c) or (d) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.
- (k) (1) Whoever negligently violates subsection (e) of this section is guilty of a minor misdemeanor.
 (2) Whoever knowingly violates subsection (e) of this section is guilty of a misdemeanor of the second degree.
- (l) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse.
 (ORC 2921.22)

525.06 FAILURE TO AID A LAW ENFORCEMENT OFFICER.

(a) No person shall negligently fail or refuse to aid a law enforcement officer, when called upon for assistance in preventing or halting the commission of an offense, or in apprehending or detaining an offender, when such aid can be given without a substantial risk of physical harm to the person giving it.

(b) Whoever violates this section is guilty of failure to aid a law enforcement officer, a minor misdemeanor. (ORC 2921.23)

525.07 OBSTRUCTING OFFICIAL BUSINESS.

(a) No person, without privilege to do so and with purpose to prevent, obstruct or delay the performance by a public official of any authorized act within the public official's official capacity, shall do any act that hampers or impedes a public official in the performance of the public official's lawful duties.

(b) Whoever violates this section is guilty of obstructing official business. Except as otherwise provided in this subsection (b), obstructing official business is a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm to any person, obstructing official business is a felony and shall be prosecuted under appropriate State law.
(ORC 2921.31)

525.08 OBSTRUCTING JUSTICE.

(a) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for a misdemeanor, or to assist another to benefit from the commission of a misdemeanor, and no person, with purpose to hinder the discovery, apprehension, prosecution, adjudication as a delinquent child, or disposition of a child for an act that if committed by an adult would be a misdemeanor or to assist a child to benefit from the commission of an act that if committed by an adult would be a misdemeanor, shall do any of the following:

- (1) Harbor or conceal the other person or child;
- (2) Provide the other person or child with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension;
- (3) Warn the other person or child of impending discovery or apprehension;
- (4) Destroy or conceal physical evidence of the misdemeanor, or act, or induce any person to withhold testimony or information or to elude legal process summoning the person to testify or supply evidence;
- (5) Communicate false information to any person.
- (6) Prevent or obstruct any person, by means of force, intimidation, or deception, from performing any act to aid in the discovery, apprehension, or prosecution of the other person or child.

(b) A person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of subsection (a) hereof, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed shall be used under subsection (c) hereof in determining the penalty for the violation of subsection (a) hereof, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed.

(c) (1) Whoever violates this section is guilty of obstructing justice.

- (2) If the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be a misdemeanor if committed by an adult, obstructing justice is a misdemeanor of the same degree as the misdemeanor committed by the person aided or a misdemeanor of the same degree that the act committed by the child aided would be if committed by an adult.

(d) As used in this section:

- (1) "Adult" and "child" have the same meanings as in Ohio R.C. 2151.011.
- (2) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.

(ORC 2921.32)

525.09 RESISTING ARREST.

(a) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another.

(b) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the resistance or interference, cause physical harm to a law enforcement officer.

(c) Whoever violates this section is guilty of resisting arrest. A violation of subsection (a) hereof is a misdemeanor of the second degree. A violation of subsection (b) hereof is a misdemeanor of the first degree. (ORC 2921.33)

525.10 HAVING AN UNLAWFUL INTEREST IN A PUBLIC CONTRACT.

(a) No public official shall knowingly do any of the following:

- (1) During the public official's term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by the public official or by a legislative body, commission or board of which the public official was a member at the time of authorization unless the contract was let by competitive bidding, to the lowest and best bidder;
- (2) Have an interest in the profits or benefits of a public contract entered into by or for the use of the Municipality or governmental agency or instrumentality with which the public official is connected;
- (3) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law, and that involves more than one hundred fifty dollars (\$150.00).

(b) In the absence of bribery or a purpose to defraud, a public official, member of a public official's family or any of a public official's business associates shall not be considered as having an interest in a public contract if all of the following apply:

- (1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested;
- (2) The shares owned or controlled by that person do not exceed five percent (5%) of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed five percent (5%) of the total indebtedness of the corporation or other organization;
- (3) That person, prior to the time the public contract is entered into, files with the Municipality or governmental agency or instrumentality involved, an affidavit giving that person's exact status in connection with the corporation or other organization.

(c) This section does not apply to a public contract in which a public official, member of a public official's family, or one of a public official's business associates, has an interest, when all of the following apply:

- (1) The subject of the public contract is necessary supplies or services for the Municipality or governmental agency or instrumentality involved;
 - (2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the Municipality or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the Municipality or governmental agency or instrumentality involved;
 - (3) The treatment accorded the Municipality or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;
 - (4) The entire transaction is conducted at arm's length, with full knowledge by the Municipality or governmental agency or instrumentality involved, of the interest of the public official, member of the public official's family or business associate, and the public official takes no part in the deliberations or decisions of the Municipality or governmental agency or instrumentality with respect to the public contract.
- (d) Subsection (a)(4) does not prohibit participation by a public employee in any housing program funded by public moneys if the public

employee otherwise qualifies for the program and does not use the authority or influence of the public employee's office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not constitute an unlawful interest in a public contract in violation of this section.

(e) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of this section is a misdemeanor of the first degree.

(f) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with Ohio R.C. 309.06 and 2921.421, or for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with Ohio R.C. 733.621 and 2921.421.

(g) Any public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable. Any contract securing the investment of public funds in which a public official, a member of the public official's family, or any of the public official's business associates has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees and that was entered into in violation of this section is void and unenforceable.

(h) As used in this section:

(1) "Public contract" means any of the following:

A. The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the State, any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the State, any of its political subdivisions, or any agency or instrumentality of either.

B. A contract for the design, construction, alteration, repair or maintenance of any public property.

(2) "Chief legal officer" has the same meaning as in Ohio R.C. 733.621. (ORC 2921.42)

525.11 SOLICITING OR RECEIVING IMPROPER COMPENSATION.

(a) No public servant shall knowingly solicit or accept and no person shall knowingly promise or give to a public servant either of the following:

(1) Any compensation, other than is allowed by Ohio R.C. 102.03(G), (H), and (I) or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;

(2) Additional or greater fees or costs than are allowed by law to perform the public servant's official duties.

(b) No public servant for the public servant's own personal or business use and no person for the person's own personal or business use or for the personal or business use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:

(1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;

(2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

(c) No person for the benefit of a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity shall coerce any contribution in consideration of either of the following:

(1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;

(2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

(d) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.

(e) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment or position of trust in this Municipality for a period of seven years from the date of conviction.

(f) Subsections (a), (b) and (c) hereof do not prohibit a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity or prohibit a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity from accepting voluntary contributions. (ORC 2921.43)

525.12 DEREELICTION OF DUTY.

(a) No law enforcement officer shall negligently do any of the following:

(1) Fail to serve a lawful warrant without delay;

(2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in his power to do so alone or with available assistance.

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

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

(1) Allow the detention facility to become littered or unsanitary;

(2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention;

(3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;

(4) Allow a prisoner to escape;

(5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.

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

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

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

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

525.13 INTERFERING WITH CIVIL RIGHTS.

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

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

525.14 UNAUTHORIZED DISPLAY OF LAW ENFORCEMENT EMBLEMS ON MOTOR VEHICLES.

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

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

525.15 MISUSE OF 911 COMMUNICATIONS.

(a) Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (1) "9-1-1 System" means a system through which individuals can request emergency service using the telephone number 9-1-1.
- (2) "9-1-1 Coordinator" means the employee of the City designated by the Chief of Police whose responsibility is to coordinate the administration and documentation of 9-1-1 system performance as it relates to the effective enforcement of the provisions of this section.
- (3) "Emergency" means a situation in which property or human life is in jeopardy and in which prompt summoning of aid is essential.
- (4) "False alarm" means the use of the 9-1-1 system when no emergency exists at the location from which the telephone call is made.

(b) False Alarms.

(1) The 9-1-1 Coordinator shall monitor the number of false alarms to which the Police Department responds, keeping record of the same. Such record shall indicate the date of all false alarms to which the police respond, the name and address of the subscriber to telephone service from whose telephone number the false alarm originated, the time of the false alarm, and additional information as deemed necessary by the Chief of Police. The 9-1-1 Coordinator shall also indicate in the record the existence of mitigating or moderating circumstances relative to any false alarm.

(2) If three false alarms in any twelve consecutive month period originate from any telephone number, the 9-1-1 Coordinator shall give written notice by certified mail or personal service of the provisions of this section regarding false alarms to the subscriber to telephone service from whose telephone number the false alarms originate.

(3) If more than three false alarms in any twelve consecutive month period originate from any telephone number, the subscriber to telephone service from whose telephone number the false alarms originated shall be charged twenty-five dollars (\$25.00) for the fourth false alarm and fifty dollars (\$50.00) for each false alarm thereafter in a twelve consecutive month period.

(4) The fees to be charged for false alarms, as set forth in this section, notwithstanding, no fee shall be charged for a false alarm to which the Police Department does not respond.

(c) Illegal Use of the 9-1-1 System.

(1) No person shall knowingly use the telephone number 9-1-1 for a purpose of other than an emergency.

(2) No parent, guardian or other person having the lawful care, custody, or control of any minor shall knowingly permit or by insufficient control allow such minor to violate the provisions of subsection (c)(1). Knowingly includes knowledge which a parent, guardian, or other person having the lawful control of such minor should reasonably be expected to have concerning the actions of such minor.

(3) The fact that a call made to the telephone number 9-1-1 and information other than that relating to an emergency was communicated, or that repeated calls of three or more originated from any telephone number, shall be prima facie evidence that an illegal use of the 9-1-1 system occurred.

(4) Any person convicted of a violation of the provisions of this section shall be fined not less than two hundred fifty dollars (\$250.00) and not more than five hundred dollars (\$500.00) and/or imprisoned for not more than six months at the discretion of the Court.

525.16 ASSAULTING POLICE DOG OR HORSE OR AN ASSISTANCE DOG.

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

(1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.

(2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

(b) No person shall recklessly do any of the following:

- (1) Taunt, torment, or strike a police dog or horse;
- (2) Throw an object or substance at a police dog or horse;
- (3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:
 - A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;
 - B. Deprives the law enforcement officer of control of the police dog or horse;
 - C. Releases the police dog or horse from its area of control;
 - D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;
 - E. Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.

(4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse.

(5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.

(c) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:

(1) The dog is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted.

(2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is an assistance dog.

(d) No person shall recklessly do any of the following:

- (1) Taunt, torment, or strike an assistance dog;
- (2) Throw an object or substance at an assistance dog;
- (3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a blind, deaf or hearing impaired, or mobility impaired person who is being assisted or served by an assistance dog, in a manner that does any of the following:
 - A. Inhibits or restricts the assisted or served person's control of the dog;
 - B. Deprives the assisted or served person of control of the dog;
 - C. Releases the dog from its area of control;
 - D. Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;
 - E. Inhibits or restricts the ability of the dog to assist the assisted or served person.

(4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;

(5) If the person is the owner, keeper or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the

time of the conduct is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person or that the person knows is an assistance dog.

(e) (1) Whoever violates subsection (a) hereof is guilty of assaulting a police dog or horse. If the violation results in physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the police dog or horse, such violation is a felony and shall be prosecuted under appropriate State law.

(2) Whoever violates subsection (b) hereof is guilty of harassing a police dog or horse. Except as otherwise provided in this subsection, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in the death of the police dog or horse or if the violation results in serious physical harm to the police dog or horse but does not result in its death, harassing a police dog or horse is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree.

(3) Whoever violates subsection (c) hereof is guilty of assaulting an assistance dog. If the violation results in physical harm to the dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the dog, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the dog, such violation is a felony and shall be prosecuted under appropriate State law.

(4) Whoever violates subsection (d) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this subsection, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in the death of or serious physical harm to the assistance dog but does not result in its death, harassing an assistance dog is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the assistance dog but does not result in its death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree.

(5) In addition to any other sanction or penalty imposed for the offense under this section, whoever violates subsection (a), (b), (c) or (d) of this section is responsible for the payment of all of the following:

- A. Any veterinary bill or bill for medication incurred as a result of the violation by the Police Department regarding a violation of subsection (a) or (b) of this section or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog regarding a violation of subsection (c) or (d) of this section;
- B. The cost of any damaged equipment that results from the violation;
- C. If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog;
- D. If the violation resulted in the death of the assistance dog that was the subject of the violation or resulted in serious physical harm to the police dog or horse or the assistance dog or horse that was the subject of the violation to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.

(f) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. Chapter 4741.

(g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or assistance dog.

(h) As used in this section:

- (1) "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
- (2) "Police dog or horse" means a dog or horse that has been trained, and may be used, to assist law enforcement officers in the performance of their official duties.
- (3) "Serious physical harm" means any of the following:
 - A. Any physical harm that carries a substantial risk of death;
 - B. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming;
 - C. Any physical harm that causes acute pain of a duration that results in substantial suffering.
- (4) "Assistance dog", "blind", and "mobility impaired person" have the same meanings as in Ohio R.C. 955.011. (ORC 2921.321)

525.17 FALSE ALLEGATION OF PEACE OFFICER MISCONDUCT.

(a) As used in this section, "peace officer" has the same meaning as in Ohio R.C. 2935.01.

(b) No person shall knowingly file a complaint against a peace officer that alleges that the peace officer engaged in misconduct in the performance of the officer's duties if the person knows that the allegation is false.

(c) Whoever violates this section is guilty of making a false allegation of peace officer misconduct, a misdemeanor of the first degree. (ORC 2921.15)

525.18 REFUSAL TO DISCLOSE PERSONAL INFORMATION IN PUBLIC PLACE.

(a) No person who is in a public place shall refuse to disclose the person's name, address, or date of birth, when requested by a law enforcement officer who reasonably suspects either of the following:

- (1) The person is committing, has committed, or is about to commit a criminal offense.
- (2) The person witnessed any of the following:
 - A. An offense of violence that would constitute a felony under the laws of this State;
 - B. A felony offense that causes or results in, or creates a substantial risk of, serious physical harm to another person or to property;
 - C. Any attempt or conspiracy to commit, or complicity in committing, any offense identified in subsection (a)(2)A. or B. of this section;
 - D. Any conduct reasonably indicating that any offense identified in subsection (a)(2)A. or B. of this section or any attempt, conspiracy, or complicity described in subsection (a)(2)C. of this section has been, is being, or is about to be committed.

(b) Whoever violates this section is guilty of failure to disclose one's personal information, a misdemeanor of the fourth degree.

(c) Nothing in this section requires a person to answer any questions beyond that person's name, address, or date of birth. Nothing in this section authorizes a law enforcement officer to arrest a person for not providing any information beyond that person's name, address, or date of birth or for refusing to describe the offense observed.

(d) It is not a violation of this section to refuse to answer a question that would reveal a person's age or date of birth if age is an element of the

crime that the person is suspected of committing. (ORC 2921.29)

525.99 PENALTY.

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

CHAPTER 529

Liquor Control

529.01 Definitions.

529.02 Sales to and use by underage persons; securing public accommodations.

529.021 Purchase by minor; misrepresentation.

529.03 Sales to intoxicated persons.

529.04 Liquor consumption in motor vehicle.

529.05 Permit required.

529.06 Low-alcohol beverages: sale to and purchase by underage persons prohibited.

529.07 Open container prohibited.

529.08 Hours of sale or consumption.

529.09 Liquor and beer consumption or open container on City property.

529.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Prohibiting sale of intoxicating liquor on Sunday - see Ohio R.C. 4301.22(D)

Local option - see Ohio R.C. 4301.32 et seq., 4303.29

Disorderly conduct; intoxication - see GEN. OFF. 509.03

Using weapons while intoxicated - see GEN. OFF. 549.03

529.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. Such term excludes denatured alcohol and wood alcohol.
- (b) "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer as defined in subsection (c) hereof, containing one half of one percent (0.5%) or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called and whether they are medicated, proprietary or patented. Such phrase includes cider and alcohol and all solids and confections which contain one-half of one percent or more of alcohol by volume.
- (c) (1) "Beer" includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of one percent (0.5%) or more of alcohol by volume.

(ORC 4301.01)

- (2) Beer, regardless of the percent of alcohol by volume, is not intoxicating liquor for purposes of this chapter.

(ORC 4301.244)

- (d) "Person" includes firms and corporations.
- (e) "Low-alcohol beverage" means any brewed or fermented malt product, or any product made from the fermented juices of grapes, fruits, or other agricultural products, that contains either no alcohol or less than one-half of one percent (0.5%) of alcohol by volume. The beverages described in subsection (e) hereof do not include a soft drink such as root beer, birch beer, or ginger beer.

(ORC 4301.01)

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

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

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

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

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

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

- (1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;

- (2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a practitioner and has the drug of abuse in the original container in which it was dispensed to the person.

(d) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.

- (2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin or campground by presenting identification that falsely indicates that the underage person is twenty-one years of age or older for the purpose of violating this section.

(e) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor, in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in this subsection (e) hereof against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(f) No parent, spouse who is not an underage person or legal guardian of a minor shall knowingly permit the minor to violate this section or Section 529.021(a) to (c).

(g) The operator of any hotel, inn, cabin or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin or campground.

(h) As used in this section:

(1) "Drug of abuse" has the same meaning as in Ohio R.C. 3719.011.

(2) "Hotel" has the same meaning as in Ohio R.C. 3731.01.

(3) "Licensed health professional authorized to prescribe drugs" and "prescription" have the same meanings as in Ohio R.C. 4729.01.

(4) "Minor" means a person under the age of eighteen years.

(5) "Underage person" means a person under the age of twenty-one years.

(ORC 4301.69)

(i) Whoever violates this section is guilty of a misdemeanor of the first degree. In addition, whoever violates subsection (a) hereof shall be fined not less than five hundred dollars (\$500.00). (ORC 4301.99)

529.021 PURCHASE BY MINOR; MISREPRESENTATION.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall purchase beer or intoxicating liquor. (ORC 4301.63)

(b) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall knowingly furnish any false information as to the name, age or other identification of any person under twenty-one years of age for the purpose of obtaining or with the intent to obtain, beer or intoxicating liquor for a person under twenty-one years of age, by purchase, or as a gift.

(ORC 4301.633)

(c) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall knowingly show or give false information concerning the person's name, age or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place where beer or intoxicating liquor is sold under a permit issued by the Division of Liquor Control or sold by the Division of Liquor Control.

(ORC 4301.634)

(d) (1) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the first degree.

(2) Whoever violates subsection (a) hereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (a) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.

(3) A. Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. If, in committing a first violation of that subsection, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000) and may be sentenced to a term of imprisonment of not more than six months.

B. On a second violation in which, for the second time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).

C. On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. Except as provided in this subsection, the court also may impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one years. The court, in lieu of suspending the offenders temporary instruction permit, probationary driver's license or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform. (ORC 4301.99)

529.03 SALES TO INTOXICATED PERSONS.

(a) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person. (ORC 4301.22)

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

(ORC 4301.99)

529.04 LIQUOR CONSUMPTION IN MOTOR VEHICLE.

(a) No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in Section 529.07(d). (ORC 4301.64)

(b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree.

(c) If an offender who violates this section was under the age of eighteen years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit, probationary driver's license, or driver's license for a period of not less than six months and not more than one year. In lieu of suspending the offender's temporary instruction permit, probationary driver's license or driver's license, the court may instead require the offender to perform community service for a number of hours to be determined by the court. If the offender is fifteen years and six months of age or older and has not been issued a temporary instruction permit or

probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of fifteen years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen years. (ORC 4301.99)

529.05 PERMIT REQUIRED.

(a) No person personally or by the person's clerk, agent or employee shall manufacture, manufacture for sale, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this Municipality, or transport, import or cause to be transported or imported any beer, intoxicating liquor or alcohol on or into this Municipality for delivery, use or sale, unless the person has fully complied with Ohio R.C. Chapters 4301 and 4303 or is the holder of a permit issued by the Division of Liquor Control and in force at the time. (ORC 4303.25)

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

529.06 LOW-ALCOHOL BEVERAGES: SALE TO AND PURCHASE BY UNDERAGE PERSONS PROHIBITED.

(a) As used in this section, "underage person" means a person under eighteen years of age.

(b) No underage person shall purchase any low-alcohol beverage.

(c) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.

(d) No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.

(e) No underage person shall knowingly show or give false information concerning his name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this Municipality.

(f) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

(g) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low-alcohol beverage.

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

(h) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless he is accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of his practice or given for established religious purposes.

(i) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section. (ORC 4301.631)

(j) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the fourth degree.

(k) Whoever violates subsection (b) hereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (b) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed. (ORC 4301.99)

529.07 OPEN CONTAINER PROHIBITED.

(a) As used in this section:

(1) "Chauffeured limousine" means a vehicle registered under Ohio R.C. 4503.24.

(2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.

(b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) Except as provided in subsection (c)(1)E. hereof, in an agency store;

(2) Except as provided in subsection (c) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;

(3) In any other public place;

(4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;

(5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.

(c) (1) A person may have in the person's possession an opened container of any of the following:

A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D8, E, F, F-2, F-5, F-7 or F-8 permit;

B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2 permit holder or S permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;

C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;

D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.

E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

(3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

B. As used in subsection (c)(3)A. of this section:

1. "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.

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

- (4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.
- (5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:
- An orchestral performance and the F-9 permit holder grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;
 - An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises.
- As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.
- (6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:
- The person is attending a racing event at the facility; and
 - The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;
- B. As used in subsection (c)(6)A. of this section:
- "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.
 - "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:
 - It is two and four-tenths miles or more in length.
 - It is located on two hundred acres or more of land.
 - The primary business of the owner of the facility is the hosting and promoting of racing events.
 - 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:
- The permit holder's premises is located within the outdoor refreshment area.
 - 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:
- Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;
 - 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:
- The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;
 - 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:
- The person or guest is a passenger in the limousine;
 - The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;
 - The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.
- (e) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:
- 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.
 - 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:
- The person is not occupying a seat in the front of the commercial quadricycle where the operator is steering or braking.
 - 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.
 - The person has in their possession on the commercial quadricycle an opened container of beer or wine.
 - 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:
- It has four wheels and is operated in a manner similar to a bicycle.
 - It has at least five seats for passengers.
 - It is designed to be powered by the pedaling of the operator and the passengers.

D. It is used for commercial purposes.

E. It is operated by the vehicle owner or an employee of the owner.

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

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

(1) Leases space in the market to individual vendors, not less than fifty percent of which are retail food establishments or food service operations licensed under Ohio R.C. Chapter 3717;

(2) Has an indoor sales floor area of not less than twenty-two thousand square feet;

(3) Hosts a farmer's market on each Saturday from April through December.

(ORC 4301.62)

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

(ORC 4301.99(A))

529.08 HOURS OF SALE OR CONSUMPTION.

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

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

(1) From Monday to Saturday between the hours of one a.m. and five thirty a.m.

(2) On Sunday between the hours of one a.m. and Sunday midnight, unless statutorily authorized otherwise.

(3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.

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

(1) From Monday to Saturday between the hours of two thirty a.m. and five thirty a.m.

(2) On Sunday between the hours of two thirty a.m. and Sunday midnight, unless statutorily authorized otherwise.

(3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages or spirituous liquor for on-premises consumption.

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

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

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

529.09 LIQUOR AND BEER CONSUMPTION OR OPEN CONTAINER ON CITY PROPERTY.

(a) Subject to the provisions of subsections (c) through (i) below, no person shall have in his or her possession or under his or her control a bottle, can, or other container of beer or intoxicating liquor, whether open or unopened, as defined in Section 529.01, or consume any beer or intoxicating liquor, in City-owned parks or on any other City-owned property.

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

(c) The owner/permit holder of an eating establishment who maintains an outdoor dining area as specified in Section 1151.02 of the City of Galion Codified Ordinances who wishes to serve alcohol may make application for a permit to the City's Safety-Service Director to serve alcohol on the sidewalk in front of said establishment in conjunction with its business. The owner shall verify and commit that all provisions of said Section will be maintained during the pendency of said permit. Further, said establishment will have a validly-issued Liquor Permit for outdoor, on-premises consumption from the Ohio Division of Liquor Control. Such permit, when issued by the Safety-Service Director, shall allow the sale, possession, and consumption of beer or intoxicating liquor on City-owned property.

(d) The organizers of community events open to the public and held on City-owned property in the City of Galion who wish to sell and/or serve alcoholic beverages for on-site consumption under a validly-issued Class F Liquor Permit from the Ohio Division of Liquor Control may make application for a permit to the City's Safety-Service Director no later than ten (10) days prior to the first day of the event. Such permit shall allow the sale, possession, and consumption of beer, or intoxicating liquor on City-owned property. Further, the organizer/permit holder must be a Ohio nonprofit corporation or limited liability company recognized under Section 501(c)(3) of the Internal Revenue Code.

(e) To qualify for and maintain such a permit under (d) above, the Applicant shall meet the following requirement:

(1) All sales or serving of alcohol is limited to the hours of 11:00 a.m. through 11:00 p.m. on the day or days of the event.

(2) A minimum of one special duty City of Galion Police or Crawford County Sheriff personnel shall be hired by the Applicant for the duration of the event as security officers. The Applicant shall make separate arrangements to hire the special duty officers and pay them directly. Additional officers may be required at the discretion of the Chief of Police based on the number of estimated attendees, and such requirement shall be a condition of permit issuance. Private security officers may not be hired in lieu of law enforcement officers.

(3) The Applicant shall obtain and maintain through the duration of the event a liquor liability policy or host policy in the minimum amount of \$1,000,000 and which provides coverage for this type of activity. The City shall be named as an additional insured and a Certificate of Insurance shall be submitted with the application.

(4) The Applicant shall comply with all state and local liquor laws, including but not limited to obtaining all required state permits and providing copies thereof to the Safety Service Director with the application.

(5) The Applicant shall indemnify and hold the City harmless from and against any and all claims made against the City arising from the Applicant's sale, service, or consumption of alcohol at the event. A signed indemnification agreement shall be provided with the application.

(f) Application shall be made on a form prescribed by the Safety Service Director, who shall determine the specific location or locations where alcohol may be served, sold, or consumed. Determining the area(s) for the serving, sale, and consumption of alcoholic beverages shall be made by the Safety Service Director in consultation with the event organizer at the time that the application is submitted.

(g) During events for which a permit under this Section has been issued, no person shall be charged with violating Section 529.07 of the Codified Ordinances of the City, the "Open Container" prohibition, so long as that person remains within the enclosed area specified in the City's permit.

(h) Permits granted hereunder may be revoked by the Safety-Service Director if he or she has determined that the Applicant has violated any requirements of the permit, or has failed to abide by any of the requirements under this Code Section. Riotous and/or disorderly behavior during the

Applicant's event that threatens the health, safety, and welfare of the event participants, members of the public, or surrounding residents, shall be grounds for revoking a permit.

(i) An Applicant whose permit application was denied, or that has been revoked, may appeal the Safety Service Director's decision to the Mayor. The Mayor's decision may be appealed to a court of competent jurisdiction in Crawford County, Ohio. The Safety-Service Director shall devise a form and prescribe the process for the filing of timely appeals, which form and information shall be included with the initial application for a permit.

(Ord. 2016-31. Passed 6-14-16.)

529.99 PENALTY.

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

CHAPTER 531

Minor's Curfew

531.01 Curfew for minors under twelve.

531.02 Curfew for minors under eighteen.

531.99 Penalty.

CROSS REFERENCES

Disturbing the peace - see GEN. OFF. 509.09

531.01 CURFEW FOR MINORS UNDER TWELVE.

No minor under the age of twelve years shall loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, or in or on a vehicle, vacant lot or other unsupervised place during the period from 9:00 p.m. to dawn. The provisions of this section shall not apply to a minor accompanied by his or her parent, guardian or other adult person having the care of and custody of such minor, or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor.

(Ord. 3885. Passed 10-5-65.)

531.02 CURFEW FOR MINORS UNDER EIGHTEEN.

No minor under the age of eighteen years shall loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places or public buildings, places of amusement and entertainment, vacant lots or other unsupervised places or in or on a vehicle, on Sunday through and including Thursday, between the hours of 11:00 p.m. and 4:30 a.m. of the following day, and on Friday and Saturday between the hours of 12:00 midnight and 4:30 a.m. of the following day, official City time. The times hereby established for Friday and Saturday shall be applicable for the months of September through May. For the months of June, July and August, the curfew hours as herein established shall be altered for Friday and Saturday to between the hours of 1:00 a.m. and 4:30 a.m. to the following day. The provisions of this section shall not apply to a minor accompanied by his or her parent, guardian or other adult person having the care of and custody of such minor, or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor.

(Ord. 72-4389. Passed 4-4-72.)

531.99 PENALTY.

(a) No parent, guardian or person having the legal custody and control of any minor shall violate any of the provisions of this chapter. Upon the first violation of any of the provisions of this chapter, the parent or legal guardian of the minor shall be guilty of a minor misdemeanor. Upon the second or subsequent violation, the parent or legal guardian of the minor shall be guilty of a misdemeanor of the fourth degree.

(b) Any minor violating the provisions of this chapter shall be dealt with in accordance with Juvenile Court law and procedure.

(Ord. 3885. Passed 10-5-65.)

CHAPTER 533

Obscenity and Sex Offenses

533.01 Definitions.

533.02 Presumption of knowledge; actual notice and defense.

533.03 Unlawful sexual conduct with a minor.

533.04 Sexual imposition.

533.05 Importuning.

533.06 Voyeurism.

533.07 Public indecency.

533.08 Procuring.

533.09 Soliciting.

533.091 Loitering to engage in solicitation.

533.10 Prostitution.

533.11 Disseminating matter harmful to juveniles.

533.12 Deception to obtain matter harmful to juveniles.

533.13 Displaying matter harmful to juveniles.

533.14 **Unlawful advertising of massage.**

533.15 **Dissemination of private sexual images.**

533.99 Penalty.

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.
- (j) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape or similar data storage device.
- (k) "Performance" means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.
- (l) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:
 - (1) When the parties have entered into a written separation agreement authorized by Ohio R.C. 3103.06;
 - (2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;
 - (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.
- (m) "Minor" means a person under the age of eighteen years.
- (n) "Mental health client or patient" has the same meaning as in Ohio R.C. 2305.51.
- (o) "Mental health professional" has the same meaning as in Ohio R.C. 2305.115.
- (p) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.

(ORC 2907.01)

533.02 PRESUMPTION OF KNOWLEDGE; ACTUAL NOTICE AND DEFENSE.

- (a) An owner or manager, or agent or employee of an owner or manager, of a bookstore, newsstand, theater, or other commercial establishment engaged in selling materials or exhibiting performances, who, in the course of business does any of the acts prohibited by Section 533.11, is presumed to have knowledge of the character of the material or performance involved, if the owner, manager, or agent or employee of the owner or manager has actual notice of the nature of such material or performance, whether or not the owner, manager, or agent or employee of the owner or manager has precise knowledge of its contents.
- (b) Without limitation on the manner in which such notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the jurisdiction in which the person to whom the notice is directed does business. Such notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles and bear the date of such notice.
- (c) Section 533.11 does not apply to a motion picture operator or projectionist acting within the scope of employment as an employee of the owner or manager of a theater or other place for the showing of motion pictures to the general public, and having no managerial responsibility or financial interest in the operator's or projectionist's place of employment, other than wages.
- (d)
 - (1) Sections 533.11, 533.12(a) and 533.13 do not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection.
 - (2) Subsection (d)(1) of this section does not apply to a person who conspires with an entity actively involved in the creation or knowing distribution of material in violation of Section 533.11, 533.12 or 533.13, or who knowingly advertises the availability of material of that nature.
 - (3) Subsection (d)(1) of this section does not apply to a person who provides access or connection to an electronic method of remotely transferring information that is engaged in the violation of Section 533.11, 533.12 or 533.13, and that contains content that

person has selected and introduced into the electronic method of remotely transferring information or content over which that person exercises editorial control.

(e) An employer is not guilty of a violation of Section 533.11, 533.12, or 533.13 based on the actions of an employee or agent of the employer unless the employee's or agent's conduct is within the scope of employee's or agent's employment or agency, and the employer does either of the following:

- (1) With knowledge of the employee's or agent's conduct, the employer authorizes or ratifies the conduct.
- (2) The employer recklessly disregards the employee's or agent's conduct.

(f) It is an affirmative defense to a charge under Section 533.11 or 533.13 as the section applies to an image transmitted through the internet or another electronic method of remotely transmitting information that the person charged with violating the section has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by juveniles to material that is harmful to juveniles, including any method that is feasible under available technology.

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

(ORC 2907.35)

533.03 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.

(a) No person, who is eighteen years of age or older, shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

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

(ORC 2907.04)

533.04 SEXUAL IMPOSITION.

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

- (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
- (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 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)

533.15 DISSEMINATION OF PRIVATE SEXUAL IMAGES.

(a) As used in this section:

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

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

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

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

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

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

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

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

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

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

533.99 PENALTY.

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

CHAPTER 535

Criminal Conduct in Sexually Oriented Businesses

535.01 **Purpose and intent.**

535.02 **Definitions.**

535.03 **Unlawful activities.**

535.04 **Scienter required to prove violation or business liability.**

535.99 **Penalty; equitable remedies.**

CROSS REFERENCES

Obscenity and sex offenses - see GEN. OFF. Ch. 533
Sexually oriented businesses - see BUS. REG. Ch. 741
Adult entertainment facilities - see P. & Z. Ch. 1183

535.01 PURPOSE AND INTENT.

(a) In enacting this chapter, the Council of the City of Galion makes the following statement of intent and findings:

- (1) Adult entertainment establishments require special supervision from the public safety agencies of this City in order to protect and preserve the health, safety, morals, and welfare of the patrons and employees of the businesses as well as the citizens of this City.
- (2) The Council finds that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature.
- (3) The concern over sexually transmitted diseases is a legitimate health concern of this City that demands reasonable regulation of adult entertainment establishments by this City in the specified manner, and expanded authority for reasonable regulation of adult entertainment establishments by local governments, in order to protect the health and well-being of the citizens.
- (4) Minimal regulations enacted by this City are a legitimate and reasonable means of accountability to ensure that operators of adult entertainment establishments comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- (5) There is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, cause increased crime, particularly in the overnight hours, and downgrade property values.
- (6) The Council desires to minimize and control these adverse effects by regulating adult entertainment establishments in the specified manner, and by minimizing and controlling these adverse effects, the Council seeks to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.
- (7) The Council has determined that current local zoning and other locational criteria do not adequately protect the health, safety, and general welfare of the people of this City and that expanded regulation of adult entertainment establishments is necessary.
- (8) It is not the intent of the Council in enacting this act to suppress or authorize the suppression of any speech activities protected by the First Amendment, but to enact content-neutral statutes that address the secondary effects of adult entertainment establishments.
- (9) It is not the intent of this Council to condone or legitimize the distribution of obscene material, and this Council recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in this state.

(b) It is the intent of this Council in enacting this chapter to regulate in the specified manner adult entertainment establishments in order to promote the health, safety, morals, and general welfare of the citizens of this City and establish reasonable regulations to prevent the deleterious secondary effects of adult entertainment establishments within this City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent of this Council in enacting this chapter to restrict or deny, or authorize the restrictions of denial of, access by adults to sexually oriented materials protected by the First Amendment, or to deny, or authorize the denial of, access by the distributors and exhibitors of adult entertainment and adult materials to their intended market. Neither is it the intent nor effect of this Council in enacting this chapter to condone or legitimize the distribution or exhibition of obscene material.

(c) Based on evidence concerning the adverse secondary effects of adult uses on communities presented in hearings and in reports made available to the legislature and subsequently adopted by the Ohio General Assembly as findings under Section 3 of House Bill 23 (and on findings incorporated in the cases of *Township of Littleton, Colorado v. Z.J. Gifts D-4, L.L.C.* (2004), 541 U.S. 774; *Township of Erie v. Pap's A.M.* (2000), 529 U.S. 277; *Barnes v. Glen Theatre, Inc.* (1991), 501 U.S. 560; *Township of Renton v. Playtime Theatres, Inc.* (1986), 475 U.S. 41; *Young v. American Mini Theatres* (1976), 426 U.S. 50; *California v. LaRue* (1972), 409 U.S. 109; *DLS, Inc. v. Township of Chattanooga* (6th Cir. 1997), 107 F.3d 403; *East Brooks Books, Inc. v. Township of Memphis* (6th Cir. 1995), 48 F.3d 220; *Harris v. Fitchville Township Trustees* (N.D. Ohio 2000), 99 F. Supp. 2d 837; *Bamon Corp. v. Township of Dayton* (S.D. Ohio 1990), 730 F. Supp. 90, aff'd (6th Cir. 1991), 923 F.2d 470; *Broadway Books v. Roberts* (E.D. Tenn. 1986), 642 F. Supp. 486; *Bright Lights, Inc. v. Township of Newport* (E.D. Ky. 1993), 830 F. Supp. 378; *Richland Bookmart v. Nichols* (6th Cir. 1998), 137 F. 3d 435; *Deja Vu v. Metro Government* (6th Cir. 1999), 1999 U.S. App. LEXIS 535; *Threesome Entertainment v. Strittmather* (N.D. Ohio 1998), 4 F. Supp. 2d 710; *J.L. Spoons, Inc. v. Township of Brunswick* (N.D. Ohio 1999), 49 F. Supp. 2d 1032; *Triplet Grille, Inc. v. Township of Akron* (6th Cir. 1994), 40 F. 3d 129; *Nightclubs, Inc. v. Township of Paducah* (6th Cir. 2000), 202 F. 3d 884; *O'Connor v. Township and County of Denver* (10th Cir. 1990), 894 F. 2d 1210; *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County* (6th Cir. 2001), 2001 U.S. App. LEXIS 26007; *State of Ohio ex rel. Rothal v. Smith* (Ohio C.P. 2002), Summit C.P. No. CV 01094594; *Z.J. Gifts D-2, L.L.C. v. Township of Aurora* (10th Cir. 1998), 136 F. 3d 683; *Connection Distrib. Co. v. Reno* (6th Cir. 1998), 154 F. 3d 281; *Sundance Assocs. v. Reno* (10th Cir. 1998), 139 F. 3d 804; *American Library Association v. Reno* (D.C. Cir. 1994), 33 F. 3d 78; *American Target Advertising, Inc. v. Giani* (10th Cir. 2000), 199 F. 3d 1241; and other cases and on reports of secondary effects occurring in and around adult entertainment establishments in Phoenix, Arizona (1984); Minneapolis, Minnesota (1980); Houston, Texas (1983); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma Township, Oklahoma (1986); Cleveland, Ohio (1977); Dallas, Texas (1997); St. Croix County, Wisconsin (1993); Bellevue, Washington (1998); Newport News, Virginia (1996); Tucson, Arizona (1990); St. Paul, Minnesota (1988); Oklahoma Township, Oklahoma (1986 and 1992); Beaumont, Texas (1982); New York, New York (1994); Ellicottville, New York (1998); Des Moines, Iowa (1984); Islip, New York (1980); Adams County, Colorado (1987); Manatee County, Florida (1987); New Hanover County, North Carolina (1989); Las Vegas, Nevada (1978); Cattaraugus County, New York (1998); Cleburne, Texas (1997); Dallas, Texas (1997); El Paso, Texas (1986); New York Times Square study (1994); Report to ACLJ on the Secondary Impacts of Sex Oriented Businesses (1996); findings from the Report of the Attorney General's Working Group On The Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); and on testimony to Congress in 136 Cong. Rec. S. 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S. 5636, 134 Cong. Rec. E. 3750; and also on findings from the paper entitled "Striplubs According to Strippers; Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; and from various other police reports, testimony, newspaper reports, and other documentary evidence), and subsequent findings in *Sensations, Inc. v. City of Grand Rapids, Michigan Decency Action Council* (6th Cir. 2008), 526 F. 3d 291; *729, Inc. v. Kenton County Fiscal Court* (6th Cir. 2008), 515 F. 3d 485; and *Andy's Rest. & Lounge, Inc. v. City of Gary* (7th Cir. 2006), 466 F. 3d 550, and the Council's independent review of the same) the Council finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are often associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and

exploitation.

- (2) Illegal and unsanitary acts involving nudity, including lewd conduct, masturbation, oral and anal sex, occur at unregulated sexually oriented businesses, including those businesses which provide private or semi-private rooms, booths, or cubicles for viewing films, videos, or live performances.
- (3) Each of the foregoing negative secondary effects constitutes a harm which this City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is this City's rationale for this chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, this City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in this City. The City finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.
- (4) The enactment of this chapter will promote the general welfare, health, morals, and safety of the citizens of this City.
(Ord. 2010-51. Passed 10-26-10.)

535.02 DEFINITIONS.

(a) As used in this chapter.

(1) "Adult bookstore," "adult cabaret," "adult motion picture theater," "adult video store," "characterized by," "nude," "nudity," "state of nudity," "seminude," "state of seminudity," "sexual device," "sexual device shop," "sexual encounter center," and "specified anatomical areas" have the same meanings as in Ohio R.C. 2907.40; and

(2) "Adult arcade," "adult entertainment," "adult entertainment establishment," "adult novelty store," "adult theater," "distinguished or characterized by their emphasis upon," "nude or seminude model studio," "regularly features," "regularly shown," and "sexual encounter establishment" have the same meanings as in Ohio R.C. 2907.39.

(b) "EMPLOYEE" means any individual on a full-time, part-time, or contract basis, regardless of whether the individual is denominated an employee, independent contractor, agent, or otherwise, but does not include an individual exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

(c) "IMMEDIATE FAMILY" means a person's spouse residing in the person's household, parents, siblings of the whole or of the half blood, and children, including adopted children.

(d) "LICENSE" means a license to act or operate a sexually oriented business, issued pursuant to this chapter.

(e) "LICENSEE" means a person in whose name a license to operate has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the sexually oriented business. With respect to an Employee license issued under this chapter, licensee means an employee as defined by subsection (b) above in whose name a license has been issued authorizing employment at sexually oriented business.

(f) "OPERATE" means to control or hold primary responsibility for the operation of a sexually oriented business, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. "Operate" or "Cause to be Operated" shall mean to cause, to function or to put or keep in operation.

(g) "OPERATOR" means any individual on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

(h) "PATRON" means any individual on the premises of a sexually oriented business, except for any of the following:

(1) An operator or an employee of the sexually oriented business;

(2) An individual who is on the premises exclusively for repair or maintenance of the premises or for the delivery of goods to the premises;

(3) A public employee or a volunteer firefighter emergency medical services worker acting within the scope of the public employee's or volunteer's duties as a public employee or volunteer's duties as a public employee or volunteer.

(i) "PERSON" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(j) "PREMISES" means the real property on which the sexually oriented business is located and all appurtenances to the real property, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots or parking garages adjacent to the real property under the ownership, control, or supervision of the owner or operator of the sexually oriented business.

(k) "SEXUALLY ORIENTED BUSINESS" means an adult arcade, adult bookstore, adult cabaret, adult entertainment establishment, adult motion picture theater, adult novelty store, adult theater, adult video store, sexual device shop, sexual encounter center, and sexual encounter establishment as defined by Section 535.02(a), but does not include a business solely by reason of its showing, selling, or renting materials that may depict sex.

(Ord. 2010-51. Passed 10-26-10.)

535.03 UNLAWFUL ACTIVITIES.

(a) Nothing contained in this chapter is intended, or shall be construed, to permit or authorize activities which are unlawful under state law or City ordinance. It is unlawful and a violation of this chapter for an operator to knowingly or intentionally violate the provisions of this chapter or to allow, either knowingly or intentionally, an employee or a patron to violate the provisions of this chapter. It shall be a defense to prosecution that the person prosecuted was powerless to prevent the violation.

(b) No person shall knowingly or intentionally, in a sexually oriented business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive in nature.

(c) No employee shall knowingly or intentionally, in a sexually oriented business, appear within view of any patron in a seminude condition unless the employee, while seminude, shall be and remain at least six (6) feet from all patrons and on a fixed stage at least twenty-four (24) inches from the floor and at least thirty-six (36) inches from all parts of a clearly designated area in which patrons will be present.

(d) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one (1) employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by that operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(e) Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of this section shall be given 180 days from the effective date of Section 535.03 to comply with the stage and building requirements of this section. During said

180 days, any employee who appears within view of any patron in a seminude condition shall nevertheless remain, while seminude, at least six (6) feet from all patrons.

(f) No patron who is not a member of the employee's immediate family shall knowingly touch an employee while that employee is nude or seminude or touch the clothing of any employee while that employee is nude or seminude.

(g) No employee who is nude or seminude on the premises of a sexually oriented business and while nude or seminude, shall knowingly touch a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or the clothing of a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or allow the patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family to touch the employee or the clothing of the employee.

(h) Minors Prohibited. No person under the age of 18 years shall be permitted on the premises of a sexually oriented business.

(i) Hours of Operation. No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day, except that a sexually oriented business that holds a liquor permit pursuant to Chapter 4303 of the Ohio Revised Code may remain open until the hour specified in that permit if it does not conduct, offer, or allow sexually oriented business activity in which the performers appear nude.

(j) The provisions of Section 535.03, Unlawful Activities, shall not apply to an employee's use of any restroom or any single-sex dressing room that is accessible only to employees, and live performances in which the patron and employee are separated by an impenetrable barrier such as, but not limited to, glass or plexiglas.

(Ord. 2010-51. Passed 10-26-10.)

535.04 SCIENTER REQUIRED TO PROVE VIOLATION OR BUSINESS LIABILITY.

This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of Section 535.03. Notwithstanding anything to the contrary, for the purposes of Section 535.03, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of this Section 535.03 only if an officer, director, general partner or licensee, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act. (Ord. 2010-51. Passed 10-26-10.)

535.99 PENALTY; EQUITABLE REMEDIES.

(a) Any person, business, or entity violating or refusing to comply with any provisions of this chapter, (except for violations of Section 535.03(f), (g) or (i), shall, upon conviction, be deemed guilty of a misdemeanor of the first degree. Each day that a violation is permitted to exist or occur, and each separate occurrence, shall constitute a separate offense. Further, any premises in which a sexually oriented business, as defined in Section 535.02(k), is repeatedly operated or maintained in violation of the provisions of this chapter shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the City in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.

(b) Whoever violates Section 535.03(f) or (g) shall be guilty of illegal sexually oriented activity in a sexually oriented business. If the offender touches a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of Section 535.03(f) or (g) is a misdemeanor of the first degree. If the offender does not touch a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of Section 535.03(f) or (g) is a misdemeanor of the fourth degree.

(c) Whoever violates Section 535.03(i) is guilty of illegally operating a sexually oriented business, a misdemeanor of the first degree.

(d) Notwithstanding subsection (a) hereof, the Council may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this chapter.

(Ord. 2010-51. Passed 10-26-10.)

CHAPTER 537

Offenses Against Persons

537.01 Negligent homicide.

537.02 Vehicular homicide and manslaughter.

537.021 Vehicular assault in a construction zone.

537.03 Assault.

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537.05 Aggravated menacing.

537.051 Menacing by stalking.

537.06 Menacing.

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537.15 Temporary protection order.

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537.19 Harassment by laser beams.

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CROSS REFERENCES

See sectional histories for similar State law

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

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

537.01 NEGLIGENT HOMICIDE.

(a) No person shall negligently cause the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or

dangerous ordnance as defined in Section 549.01.

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

537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.

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

(1) A. Negligently;

B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) of this section.

(2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor.

(b) (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter or assault offense. The court shall impose a mandatory jail term on the offender when required by Ohio R.C. 2903.06(E).

(2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

(c) The court shall impose a mandatory jail term of at least fifteen days on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99. The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)A. hereof if either of the following applies:

(1) The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.06 or 2903.08.

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

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

(e) As used in this section:

(1) "Mandatory prison term" and "mandatory jail term" have the same meanings as in Ohio R.C. 2929.01.

(2) "Traffic-related homicide, manslaughter or assault offense" means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of Ohio R.C. 2903.06 or 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07 or 2903.08 as they existed prior to March 23, 2000.

(3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.

(4) "Speeding offense" means a violation of Ohio R.C. 4511.21 or a municipal ordinance pertaining to speed.

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

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

(ORC 4510.07)

537.021 VEHICULAR ASSAULT IN A CONSTRUCTION ZONE.

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

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

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

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

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

(e) As used in this section:

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

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

537.03 ASSAULT.

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

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

- (c) (1) Whoever violates this section is guilty of assault, a misdemeanor of the first degree, and the court shall sentence the offender as provided in subsection (c) hereof. If the assault was committed under the circumstances provided in subsection (c)(2), (3), (4), (5), (6), (7), (8) or (9) hereof, assault is a felony and shall be prosecuted under appropriate State law.
- (2) Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care.
- (3) If the offense occurs in or on the grounds of a State correctional institution or an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction or the Department of Youth Services, and the offense is committed by a person incarcerated in the State correctional institution or by a person institutionalized in the Department of Youth Services Institution pursuant to a commitment to the Department of Youth Services.
- (4) If the offense is committed in any of the following circumstances:
- A. The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person's being charged with or convicted of any crime, or subsequent to the person's being alleged to be or adjudicated a delinquent child.
 - B. The offense occurs off the grounds of a State correctional institution and off the grounds of an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person incarcerated in a State correctional institution or institutionalized in the Department of Youth Services who temporarily is outside of the institution for any purpose, by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - C. The offense occurs off the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - D. The victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises.
- (5) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation, a firefighter, or a person performing emergency medical service, while in the performance of their official duties.
- (6) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation and if the victim suffered serious physical harm as a result of the commission of the offense.
- (7) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties.
- (8) If the victim of the offense is a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital whom the offender knows or has reasonable cause to know is a health care professional of a hospital; a health care worker of a hospital, or a security officer of a hospital, if the victim is engaged in the performance of the victim's duties, and if the hospital offers de-escalation or crisis intervention training for such professionals, workers or officers, assault is one of the following:
- A. Except as otherwise provided in subsection (c)(8)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. Notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, in sentencing the offender under this subsection and if the court decides to impose a fine, the court may impose upon the offender a fine of not more than five thousand dollars (\$5,000).
 - B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against hospital personnel, assault committed in the specified circumstances is a felony.
- (9) If the victim of the offense is a judge, magistrate, prosecutor or court official or employee whom the offender knows or has reasonable

cause to know is a judge, magistrate, prosecutor or court official or employee, and if the victim is engaged in the performance of the victim's duties, assault is one of the following:

- A. Except as otherwise provided in subsection (c)(9)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. In sentencing the offender under this subsection, if the court decides to impose a fine, notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than five thousand dollars (\$5,000).
 - B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against justice system personnel, assault committed in the specified circumstances is a felony.
- (10) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1423 that was included in the indictment, count in the indictment or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of Ohio R.C. 2929.24.
- (d) As used in this section:
- (1) "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
 - (2) "Firefighter" has the same meaning as in Ohio R.C. 3937.41.
 - (3) "Emergency medical service" has the same meaning as in Ohio R.C. 4765.01.
 - (4) "Local correctional facility" means a county, multicounty, municipal, municipal-county or multicounty-municipal jail or workhouse. A minimum security jail established under Ohio R.C. 341.23 or 753.21, or another county, multicounty, municipal, municipal-county, or multicounty- municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.
 - (5) "Employee of a local correctional facility" means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of the facility.
 - (6) "School teacher or administrator" means either of the following:
 - A. A person who is employed in the public schools of the State under a contract described in Ohio R.C. 3311.77 or 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.
 - B. A person who is employed by a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and who is certified in accordance with Ohio R.C. 3301.071.
 - (7) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01.
 - (8) "Escorted visit" means an escorted visit granted under Ohio R.C. 2967.27.
 - (9) "Post-release control" and "transitional control" have the same meanings as in Ohio R.C. 2967.01.
 - (10) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.
 - (11) "Health care professional" and "health care worker" have the same meanings as in Ohio R.C. 2305.234.
 - (12) "Assault or homicide offense committed against hospital personnel" means a violation of this section or Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which all of the following apply:
 - A. The victim of the offense was a health care professional of a hospital, a health care worker of a hospital or a security officer of a hospital.
 - B. The offender knew or had reasonable cause to know that the victim was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital;
 - C. The victim was engaged in the performance of the victim's duties.
 - D. The hospital offered de-escalation or crisis intervention training for such professionals, workers or officers.
 - (13) "De-escalation or crisis intervention training" means de-escalation or crisis intervention training for health care professionals of a hospital, health care workers of a hospital, and security officers of a hospital to facilitate interaction with patients, members of a patient's family, and visitors, including those with mental impairments.
 - (14) "Assault or homicide offense committed against justice system personnel" means a violation of this section or of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which the victim of the offense was a judge, magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, magistrate, prosecutor, or court official or employee, and the victim was engaged in the performance of the victim's duties.
 - (15) "Court official or employee" means any official or employee of a court created under the constitution or statutes of this State or of a United States court located in this State.
 - (16) "Judge" means a judge of a court created under the constitution or statutes of this State or of a United States court located in this State.
 - (17) "Magistrate" means an individual who is appointed by a court of record of this State and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this State who has similar powers and functions.
 - (18) "Prosecutor" has the same meaning as in Ohio R.C. 2935.01.
 - (19) A. "Hospital" means, subject to subsection (d)(19)B. of this section, an institution classified as a hospital under Ohio R.C. 3701.01 in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.
 - B. "Hospital" does not include any of the following:
 1. A facility licensed under Ohio R.C. Chapter 3721, a health care facility operated by the Department of Mental Health or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;
 2. An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under Section 501 of the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing twenty-four-hour nursing care pursuant to the exemption in division (E) of Ohio R.C. 4723.32 from the licensing requirements of Ohio R.C. Chapter 4723.
 - (20) "Health maintenance organization" has the same meaning as in Ohio R.C. 3727.01. (ORC 2903.13)

537.04 NEGLIGENT ASSAULT.

(a) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in Section 549.01 cause physical harm to another or to another's unborn.

(b) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree. (ORC 2903.14)

537.05 AGGRAVATED MENACING.

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

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

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

537.051 MENACING BY STALKING.

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

(2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, computer system or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:

A. Violate subsection (a)(1) of this section;

B. Urge or incite another to commit a violation of subsection (a)(1) of this section.

(3) No person, with sexual motivation, shall violate subsection (a)(1) or (2) of this section.

(b) Whoever violates this section is guilty of menacing by stalking.

(1) Except as otherwise provided in subsections (b)(2) and (3) of this section, menacing by stalking is a misdemeanor of the first degree.

(2) Menacing by stalking is a felony and shall be prosecuted under appropriate State law if any of the following applies:

A. The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of Section 541.051 .

B. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.

C. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.

D. The victim of the offense is a minor.

E. The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.

F. While committing the offense under subsection (a)(1) of this section or a violation of subsection (a)(3) of this section is based on conduct in violation of subsection (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Subsection (b)(2)F. of this section does not apply in determining the penalty for a violation of subsection (a)(2) of this section or a violation of subsection (a)(3) of this section based on conduct in violation of subsection (a)(1) of this section.

G. At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.

H. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under subsection (a)(2) of this section, or an offense committed under subsection (a)(3) of this section based on a violation of subsection (a)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.

I. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.

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

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

(d) As used in this section:

(1) "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the

performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages, use of intentionally written or verbal graphic gestures, or receipt of information or data through the use of any form of written communication or an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct".

- (2) "Mental distress" means any of the following:
 - A. Any mental illness or condition that involves some temporary substantial incapacity;
 - B. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.
 - (3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
 - (4) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
 - (5) "Public official" has the same meaning as in Ohio R.C. 2921.01.
 - (6) "Computer", "computer network", "computer program", "computer system" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
 - (7) "Post a message" means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communicate, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.
 - (8) "Third person" means, in relation to conduct as described in subsection (a)(2) of this section, an individual who is neither the offender nor the victim of the conduct.
 - (9) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
 - (10) "Organization" includes an entity that is a governmental employer.
 - (11) "Family or household member" means any of the following:
 - A. Any of the following who is residing or has resided with the person against whom the act prohibited in subsection (a)(1) of this section is committed:
 1. A spouse, a person living as a spouse, or a former spouse of the person;
 2. A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;
 3. A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person.
 - B. The natural parent of any child of whom the person against whom the act prohibited in subsection (a)(1) of this section is committed is the other natural parent or is the putative other natural parent.
 - (12) "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in subsection (a)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.
- (e) The Municipality does not need to prove in a prosecution under this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in subsection (d)(2)B. of this section.
- (f) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section.
- (2) Subsection (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
 - (3) Subsection (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.

(ORC 2903.211)

537.06 MENACING.

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

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

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

537.07 ENDANGERING CHILDREN.

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

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

(c) (1) No person shall operate a vehicle in violation of Section 333.01(a) of the Traffic Code when one or more children under eighteen years

of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 333.01(a) of the Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

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

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

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

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

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

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

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

B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.

(3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).

(e) (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.

(2) A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:

1. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 333.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 333.01(a) of the Traffic Code.

2. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.

B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.

(ORC 2919.22)

537.08 UNLAWFUL RESTRAINT.

(a) No person, without privilege to do so, shall knowingly restrain another of his liberty.

(b) Whoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree. (ORC 2905.03)

537.09 COERCION.

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

(1) Threaten to commit any offense;

(2) Utter or threaten any calumny against any person;

(3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt or ridicule, to damage any person's personal or business repute, or to impair any person's credit;

(4) Institute or threaten criminal proceedings against any person;

(5) Take or withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

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

(1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to Ohio R.C. 2945.44;

(2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which the accused is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence;

(3) Imposing community control sanction on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of the offense.

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

(1) Compelling another to refrain from misconduct or to desist from further misconduct;

(2) Preventing or redressing a wrong or injustice;

(3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified;

(4) Compelling another to take action that the actor reasonably believed the other person to be under a duty to take.

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

(e) As used in this section:

(1) "Threat" includes a direct threat and a threat by innuendo.

(2) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01. (ORC 2905.12)

537.10 TELECOMMUNICATION HARASSMENT.

(a) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

- (1) Makes the telecommunication with purpose to harass, intimidate, or abuse, any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;
- (2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;
- (3) During the telecommunication, violates Ohio R.C. 2903.21;
- (4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;
- (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any person at those premises.
- (6) Knowingly makes any comment, request, suggestion, or proposal to the recipient of the telecommunication that is threatening, intimidating, menacing, coercive, or obscene with the intent to abuse, threaten or harass the recipient;
- (7) Without a lawful business purpose, knowingly interrupts the telecommunication service of any person;
- (8) Without a lawful business purpose, knowingly transmits to any person, regardless of whether the telecommunication is heard in its entirety, any file, document or other communication that prevents that person from using the person's telephone service or electronic communication device;
- (9) Knowingly makes any false statement concerning the death, injury, illness, disfigurement, reputation, indecent conduct, or criminal conduct of the recipient of the telecommunication or family or household member of the recipient with purpose to abuse, threaten, intimidate, or harass the recipient;
- (10) Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person;
- (11) Knowingly alarms the recipient by making a telecommunication without a lawful purpose at an hour or hours known to be inconvenient to the recipient and in an offensive or repetitive manner.

(b) (1) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.

(2) No person shall knowingly post a text or audio statement or an image on an internet web site or web page for the purpose of abusing, threatening, or harassing another person.

(c) (1) Whoever violates this section is guilty of telecommunication harassment.

(2) A violation of subsections (a)(1), (2), (3), (5), (6), (7), (8), (9), (10), or (11) or (b) hereof is a misdemeanor of the first degree on a first offense. Each subsequent offense is a felony and shall be prosecuted under appropriate State law.

(3) Whoever violates subsection (a)(4) hereof is guilty of a misdemeanor of the first degree for a first offense. For each subsequent offense or if a violation of subsection (a)(4) hereof results in economic harm of one thousand dollars (\$1,000) or more, a violation of subsection (a)(4) hereof is a felony and shall be prosecuted under appropriate State law.

(d) No cause of action may be asserted in any court of this State against any provider of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, or against any officer, employee, or agent of a telecommunication service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, or an officer, employee, or agent of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, of information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.

(e) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electric method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that the person believes is, or will be sent, in violation of this section.

(2) Subsection (e)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.

(3) Subsection (e)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.

(4) A provider or user of an interactive computer service, as defined in Section 230 of Title 47 of the United States Code, shall neither be treated as the publisher or speaker of any information provided by another information content provider, as defined in Section 230 of Title 47 of the United States Code, nor held civilly or criminally liable for the creation or development of information provided by another information content provider, as defined in Section 230 of Title 47 of the United States Code. Nothing in this subsection shall be construed to protect a person from liability to the extent that the person developed or created any content in violation of this section.

(f) Subsections (a)(5) to (11) and (b)(2) of this section do not apply to a person who, while employed or contracted by a newspaper, magazine, press association, news agency, news wire service, cable channel or cable operator, or radio or television station, is gathering, processing, transmitting, compiling, editing or disseminating information for the general public, within the scope of the person's employment in that capacity or the person's contractual authority in that capacity.

(g) As used in this section:

- (1) "Economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct.
"Economic harm" includes, but is not limited to, all of the following:
- A. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - B. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 - C. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - D. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
- (2) "Caller" means the person described in subsection (a) hereof who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.
- (3) "Telecommunication" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- (4) "Sexual activity" has the same meaning as in Ohio R.C. 2907.01.
- (5) "Family or household member" means any of the following:
- A. Any of the following who is residing or has resided with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed:
 1. A spouse, a person living as a spouse, or a former spouse of the recipient;
 2. A parent, a foster parent, or a child of the recipient, or another person related by consanguinity or affinity to the recipient;
 3. A parent or a child of a spouse, person living as a spouse, or former spouse of the recipient, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the recipient.
 - B. The natural parent of any child of whom the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed is the other natural parent or is the putative other natural parent.
- (6) "Person living as a spouse" means a person who is living or has lived with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed in a common law marital relationship, who otherwise is cohabiting with the recipient, or who otherwise has cohabited with the recipient within five years prior to the date of the alleged commission of the act in question.
- (7) "Cable operator" has the same meaning as in Ohio R.C. 1332.21.
- (h) Nothing in this section prohibits a person from making a telecommunication call to a debtor that is in compliance with the "Fair Debt Collection Practices Act", 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act", 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended.
(ORC 2917.21)

537.11 THREATENING OR HARASSING TELEPHONE CALLS.

(EDITOR'S NOTE: Former Ohio R.C. 4931.31 from which Section 537.11 was derived was repealed by Senate Bill 162, effective September 13, 2010. See now Section 537.10 "Telecommunication Harassment".)

537.12 RESERVED.

(EDITOR'S NOTE: This section has been reserved for future legislation.)

537.13 ADULTERATING OF OR FURNISHING ADULTERATED FOOD OR CONFECTION.

- (a) No person shall do either of the following, knowingly or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:
- (1) Place a pin, needle, razor blade, glass, laxative, drug of abuse, or other harmful or hazardous object or substance in any food or confection;
 - (2) Furnish to any person any food or confection which has been adulterated in violation of subsection (a)(1) hereof. (ORC 3716.11)
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3716.99(C))

537.14 DOMESTIC VIOLENCE.

- (a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.
- (b) No person shall recklessly cause serious physical harm to a family or household member.
- (c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.
- (d) (1) Whoever violates this section is guilty of domestic violence.
- (2) Except as otherwise provided in subsection (d)(3) to (5) of this section, a violation of subsection (c) of this section is a misdemeanor of the fourth degree, and a violation of subsection (a) or (b) of this section is a misdemeanor of the first degree.
- (3) Except as otherwise provided in subsection (d)(4) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to domestic violence, a violation of Ohio R.C. 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the second degree.
- (4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in subsection (d)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the first degree.
- (5) Except as otherwise provided in subsection (d)(3) or (4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate State law, and a violation of subsection (c) of this section is a misdemeanor of the third degree.
- (e) Notwithstanding any provision of law to the contrary, no court or unit of local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or in connection with the prosecution of any charges so filed.
- (f) As used in this section:
- (1) "Family or household member" means any of the following:
 - A. Any of the following who is residing or has resided with the offender:
 1. A spouse, a person living as a spouse or a former spouse of the offender;
 2. A parent, a foster parent or a child of the offender, or another person related by consanguinity or affinity to the offender;

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

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

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

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

537.15 TEMPORARY PROTECTION ORDER.

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

(1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;

(2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;

(3) A protection order issued by a court of another state.

(b) (1) Whoever violates this section is guilty of violating a protection order.

(2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.

(3) Violating a protection order is a felony and shall be prosecuted under State law if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:

A. A violation of a protection order issued or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;

B. Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 or any combination of those offenses that involved the same person who is the subject of the protection order or consent agreement;

C. One or more violations of this section.

(4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.

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

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

(d) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.

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

537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS; TRANSACTION SCANS.

(a) Illegal Distribution of Cigarettes, Other Tobacco Products, or Alternative Nicotine Products.

(1) As used in this section:

A. "Age verification." A service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is twenty-one years of age or older.

B. "Alternative nicotine product."

1. Subject to subsection (a)(1)B.2. of this section, an electronic smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.

2. The phrase does not include any of the following:

a. Any cigarette or other tobacco product;

b. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);

c. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);

d. Any product that is a "combination product" as described in 21 U.S.C. 353(g).

C. "Cigarette." Includes clove cigarettes and hand-rolled cigarettes.

D. "Distribute." Means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.

E. "Electronic smoking device." Means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic

hookah, vaping pen, or electronic pipe. The phrase includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

- F. "Proof of age." Means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.
- G. "Tobacco product." Means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The phrase also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).
- H. "Vapor product." Means a product, other than a cigarette or other tobacco product as defined in Ohio R.C. Chapter 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. The phrase includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g). The phrase includes any product containing nicotine, regardless of concentration.
- I. "Vending machine." Has the same meaning as "coin machine" in Ohio R.C. 2913.01.
- (2) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:
- A. Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any person under twenty-one years of age;
- B. Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age is prohibited by law;
- C. Knowingly furnish any false information regarding the name, age, or other identification of any person under twenty-one years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person;
- D. Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;
- E. Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
- F. Give, sell, or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.
- (3) No person shall sell or offer to sell cigarettes, other tobacco products, or alternative nicotine products by or from a vending machine, except in the following locations:
- A. An area within a factory, business, office, or other place not open to the general public;
- B. An area to which persons under twenty-one years of age are not generally permitted access;
- C. Any other place not identified in subsection (a)(3)A. or B. of this section, upon all of the following conditions:
1. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product, and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
 2. The vending machine is inaccessible to the public when the place is closed.
 3. A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high: "It is illegal for any person under the age of twenty-one to purchase tobacco or alternative nicotine products."
- (4) The following are affirmative defenses to a charge under subsection (a)(2)A. of this section:
- A. The person under twenty-one years of age was accompanied by a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
- B. The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age under subsection (a)(2)A. of this section is a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
- (5) It is not a violation of subsection (a)(2)A. or B. of this section for a person to give or otherwise distribute to a person under twenty-one years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the person under twenty-one years of age is participating in a research protocol if all of the following apply:
- A. The parent, guardian, or legal custodian of the person under twenty-one years of age has consented in writing to the person under twenty-one years of age participating in the research protocol.
- B. An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.
- C. The person under twenty-one years of age is participating in the research protocol at the facility or location specified in the research protocol.
- (6) A. Whoever violates subsection (a)(2)A., B., D., E., or F. or (a)(3) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (a)(2)A., B., D., E., or F. or (a)(3) of this section or a substantially equivalent state law or municipal ordinance, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- B. Whoever violates subsection (a)(2)C. of this section is guilty of permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (a)(2)C. of this section or a substantially equivalent state law or municipal ordinance, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (7) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a person under twenty-one years of age in violation of this section and that are used, possessed, purchased, or received by a person under twenty-one years of age in violation of Ohio R.C. 2151.87 are subject to seizure and forfeiture as contraband under Ohio R.C. Chapter 2981.

(b) Transaction Scan.

- (1) For the purpose of this subsection (b) and subsection (c) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- A. "Card holder." Any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive cigarettes, other tobacco products, or alternative nicotine products from a seller, agent or employee.
 - B. "Identification card." An identification card issued under Ohio R.C. 4507.50 to 4507.52.
 - C. "Seller." A seller of cigarettes, other tobacco products, or alternative nicotine products and includes any person whose gift of or other distribution of cigarettes, other tobacco products, or alternative nicotine products is subject to the prohibitions of subsection (a) of this section.
 - D. "Transaction scan." The process by which a seller or an agent or employee of a seller checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving cigarettes, other tobacco products, or alternative nicotine products.
 - E. "Transaction scan device." Any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.
- (2) A. A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder as a condition for selling, giving away or otherwise distributing to the card holder cigarettes, other tobacco products, or alternative nicotine products.
- B. If the information deciphered by the transaction scan performed under subsection (b)(2)A. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away or otherwise distribute any cigarettes, other tobacco products, or alternative nicotine products to the card holder.
- C. Subsection (b)(2)A. of this section does not preclude a seller or an agent or employee of a seller from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition for selling, giving away or otherwise distributing cigarettes, other tobacco products, or alternative nicotine products to the person presenting the document.
- (3) Rules adopted by the Registrar of Motor Vehicles under Ohio R.C. 4301.61(C) apply to the use of transaction scan devices for purposes of this subsection (b) and subsection (c) of this section.
- (4) A. No seller or agent or employee of a seller shall electronically or mechanically record or maintain any information derived from a transaction scan, except for the following:
- 1. The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by the card holder;
 - 2. The expiration date and identification number of the driver's or commercial driver's license or identification card presented by the card holder.
- B. No seller or agent or employee of a seller shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under subsection (b)(4)A. of this section, except for purposes of subsection (c) of this section.
- C. No seller or agent or employee of a seller shall use a transaction scan device for a purpose other than the purpose specified in subsection (c)(2)A. of this section.
- D. No seller or agent or employee of a seller shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising or promotional activities, but a seller or agent or employee of a seller may release that information pursuant to a court order or as specifically authorized by subsection (c) of this section or another section of these Codified Ordinances or the Ohio Revised Code.
- (5) Nothing in this subsection (b) or subsection (c) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable local, state or federal laws or rules governing the sale, giving away or other distribution of cigarettes, other tobacco products, or alternative nicotine products.
- (6) Whoever violates subsection (b)(2)B. or (b)(4) of this section is guilty of engaging in an illegal tobacco product or alternative nicotine product transaction scan, and the court may impose upon the offender a civil penalty of up to one thousand dollars (\$1,000) for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.

(ORC 2927.021)

(c) Affirmative Defenses.

- (1) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of subsection (a) of this section in which the age of the purchaser or other recipient of cigarettes, other tobacco products, or alternative nicotine products is an element of the alleged violation, if the seller, agent or employee raises and proves as an affirmative defense that all of the following occurred:
- A. A card holder attempting to purchase or receive cigarettes, other tobacco products, or alternative nicotine products presented a driver's or commercial driver's license or an identification card.
 - B. A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.
 - C. The cigarettes, other tobacco products, or alternative nicotine products were sold, given away or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
- (2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by subsection (c)(1) of this section, the trier of fact in the action for the alleged violation of subsection (a) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of subsection (a) of this section. For purposes of subsection (c)(1)C. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:
- A. Whether a person to whom the seller or agent or employee of a seller sells, gives away or otherwise distributes cigarettes, other tobacco products, or alternative nicotine products is twenty-one years of age or older;
 - B. Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.
- (3) In any criminal action in which the affirmative defense provided by subsection (c)(1) of this section is raised, the Registrar of Motor Vehicles or a Deputy Registrar who issued an identification card under Ohio R.C. 4507.50 to 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the action.

(ORC 2927.022)

(d) Shipment of Tobacco Products.

- (1) As used in this subsection (d):
- A. "Authorized recipient of tobacco products" means a person who is:
 - 1. Licensed as a cigarette wholesale dealer under Ohio R.C. 5743.15;

2. Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;
 3. An export warehouse proprietor as defined in Section 5702 of the Internal Revenue Code;
 4. An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555;
 5. An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
 6. A department, agency, instrumentality, or political subdivision of the federal government or of this state;
 7. A person having a consent for consumer shipment issued by the Tax Commissioner under Ohio R.C. 5743.71.
- B. "Motor carrier." Has the same meaning as in Ohio R.C. 4923.01.
- (2) The purpose of this division (d) is to prevent the sale of cigarettes to minors and to ensure compliance with the Master Settlement Agreement, as defined in Ohio R.C. 1346.01.
- (3) A. No person shall cause to be shipped any cigarettes to any person in this municipality other than an authorized recipient of tobacco products.
 - B. No motor carrier or other person shall knowingly transport cigarettes to any person in this municipality that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the motor carrier or other person knew that the person to whom the cigarettes were delivered was not an authorized recipient of tobacco products.
 - (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes."
 - (5) A court shall impose a fine of up to one thousand dollars (\$1,000) for each violation of subsection (d)(3)A., (d)(3)B. or (d)(4) of this section.

(ORC 2927.023)

(e) Furnishing False Information to Obtain Tobacco Products.

- (1) No person who is eighteen years of age or older but younger than twenty-one years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.
- (2) Whoever violates subsection (e)(1) of this section is guilty of furnishing false information to obtain tobacco products. Except as otherwise provided in this division, furnishing false information to obtain tobacco products is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (e)(1) of this section or a substantially equivalent state law or municipal ordinance, furnishing false information to obtain tobacco products is a misdemeanor of the third degree. (ORC 2927.024)

537.17 RESERVED.

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

537.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

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

(ORC 2919.24)

537.19 HARASSMENT BY LASER BEAMS.

- (a) No person shall focus, point or shine a laser beam directly or indirectly on another person or animal in such a manner as to harass or annoy said person or animal.
 - (b) Whoever violates this section is guilty of a misdemeanor of the third degree.
- (Ord. 99-6356. Passed 1-26-99.)

537.99 PENALTY.

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

CHAPTER 541

Property Offenses

- 541.01 Determining property value in arson.**
- 541.02 Arson.**
- 541.03 Criminal damaging or endangering.**
- 541.04 Criminal mischief.**
- 541.05 Criminal trespass.**
- 541.051 Aggravated trespass.**
- 541.06 Destruction of shrubs, trees or crops.**
- 541.061 Abuse or mutilation of public trees.**
- 541.07 Desecration.**
- 541.08 Ethnic intimidation.**
- 541.09 Posting bills without consent of owner.**
- 541.10 Persons in parks during closed hours.**
- 541.11 Glass bottles in parks.**
- 541.12 Damage or destruction of utility service equipment.**
- 541.13 Billposting.**
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541.15 Vehicular vandalism.

541.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law
Parents' liability for destructive acts of their children - see Ohio R.C. 3109.09
Physical harm to property defined - see GEN. OFF. 501.01(d), (f)
Reimbursement for investigation or prosecution costs - see GEN. OFF. 501.99(a)
Damage to sidewalks - see GEN. OFF. 521.04
Vehicle trespass - see GEN. OFF. 545.06

541.01 DETERMINING PROPERTY VALUE IN ARSON.

(a) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of Section 541.02.

(1) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.

(2) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.

(3) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.

(b) As used in this section, "fair market value" has the same meaning as in Section 545.02(c)(3).

(c) Prima-facie evidence of the value of property, as provided in Section 545.02(d) may be used to establish the value of property pursuant to this section. (ORC 2909.11)

541.02 ARSON.

(a) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any property of another without the other person's consent.

(b) (1) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any structure of another that is not an occupied structure;

(2) It is an affirmative defense to a charge under subsection (b)(1) of this section that the defendant acted with the consent of the other person.

(c) Whoever violates this section is guilty of arson, a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is one thousand dollars (\$1,000) or more, arson is a felony and shall be prosecuted under appropriate State law. (ORC 2909.03)

541.03 CRIMINAL DAMAGING OR ENDANGERING.

(a) No person shall cause, or create a substantial risk of physical harm to any property of another without his consent:

(1) Knowingly, by any means;

(2) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.

(b) Whoever violates this section is guilty of criminal damaging or endangering, a misdemeanor if the property involved is not an aircraft, an aircraft engine, propeller, appliance, spare part or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation does not create a risk of physical harm to any person, and if the property involved is not an occupied aircraft. A violation of this section is a misdemeanor of the second degree. If violation of this section creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree.

(ORC 2909.06)

541.04 CRIMINAL MISCHIEF.

(a) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with either of the following:

A. The property of another;

B. One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:

1. The residential real property is subject to a mortgage.

2. The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this subsection, "pending" includes the time between judgment entry and confirmation of sale.

(2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker.

(4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.

(6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, all as defined in Ohio R.C. 2909.01, knowingly do any of the following:

A. In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer

system, computer network, computer software, or computer program;

B. Introduce a computer contaminant into a computer, computer system, computer network, computer software or computer program.

(b) As used in this section, "safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger, or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

(c) (1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in subsection (c)(2) or (3) of this section.

(2) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this subsection, if the violation of subsection (a)(1), (2), (3), (4) or (5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a misdemeanor of the first degree. If the property involved in the violation of subsection (a)(1), (2), (3), (4) or (5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a felony and shall be prosecuted under appropriate State law.

(3) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program or data involved in the violation of subsection (a)(6) of this section or the loss to the victim resulting from the violation is one thousand dollars or more, or if the computer, computer system, computer network, computer software, computer program or data involved in the violation of subsection (a)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(6) of this section is a felony and shall be prosecuted under appropriate State law.

(ORC 2909.07)

541.05 CRIMINAL TRESPASS.

(a) No person, without privilege to do so, shall do any of the following:

(1) Knowingly enter or remain on the land or premises of another;

(2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;

(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;

(4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.

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

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

- (d) (1) Whoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree.
- (2) Notwithstanding Section 501.99, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.
- (3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, or state law, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty days. In such a case, Ohio R.C. 4519.47 applies.
- (e) As used in this section:
- (1) "All-purpose vehicle," "off-highway motorcycle" and "snowmobile" have the same meaning as in Section 375.01 of the Traffic Code.
- (2) "Land or premises" includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.

(ORC 2911.21)

541.051 AGGRAVATED TRESPASS.

(a) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to him.

(b) Whoever violates this section is guilty of aggravated trespass, a misdemeanor of the first degree. (ORC 2911.211)

541.06 DESTRUCTION OF SHRUBS, TREES OR CROPS.

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

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

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

541.061 ABUSE OR MUTILATION OF PUBLIC TREES.

(a) Unless specifically authorized by the Mayor or his designee, no person shall knowingly do any of the following:

- (1) Damage, cut, carve, top, transplant or remove any public tree or shrub;
- (2) Attach any rope or wire (other than one used to support a young or broken tree), nails, posters or other contrivance to any public tree or shrub;
- (3) Allow any gaseous liquid or solid substance which is harmful to such public trees or shrubs to come in contact with them;
- (4) Set fire or permit fire to burn any public tree or shrub when such fire or heat will injure any portion of such public tree or shrub;
- (5) Excavate any ditches, tunnels, trenches, driveway, sidewalk or alley within a radius of ten feet of any public tree or shrub;
- (6) Deposit, place, store or maintain upon any street or public property of the City any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air or fertilizer to the roots of any tree or shrub growing therein.

(b) As used in this section:

- (1) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (2) "Property line" means the line between the outer edge of a street or highway and the abutting real estate.
- (3) "Public property" shall include all other grounds owned by the City of Galion, including parks.
- (4) "Public tree or shrub" means a tree or shrub growing on a treelawn or any public places.
- (5) "Shrub" means a low growing woody plant with one or several perennial main stems producing branches, shoots, or multiple stems from or near the base of the plant and incapable of being pruned to provide at least six feet of clear branchless trunk within five years of planting.
- (6) "Street" or "highway" are synonymous and mean the entire width of every public way, easement or right-of-way, between the property lines, when any part thereof is open to the use of the public for the purpose of vehicular and/or pedestrian traffic, and includes alleys.
- (7) "Tree" means a tall growing woody plant with one or more perennial main stems or trunk which develops branches from the aerial section of the stem rather than the base; capable of being pruned to provide at least six feet of clear branchless trunk below the crown within five years of planting.
- (8) "Treelawn" means that part of a street or highway, lying between the property line and that portion of the street or highway usually used for vehicular traffic. This definition includes curb strips, but also any other unpaved street right-of-way, whether or not a sidewalk is present, and regardless of a sidewalk's location.
- (9) "Top" or "Topping" means a severe cutting back of limbs to stubs larger than three inches in a diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the Mayor or his designee.

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

(Ord. 95-6135. Passed 4-25-95.)

541.07 DESECRATION.

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

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

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

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

541.08 ETHNIC INTIMIDATION.

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

(b) Whoever violates this section is guilty of ethnic intimidation. Ethnic intimidation is an offense of the next higher degree than the offense

the commission of which is a necessary element of ethnic intimidation.
(ORC 2927.12)

541.09 POSTING BILLS WITHOUT CONSENT OF OWNER.

(a) No person shall paint, print, paste, stencil or otherwise mark, place upon or affix to any buildings, including houses, fence, wall, door knobs or doors, vehicle, post, pole, tree, billboard, sidewalk or street, or other similar structure, whether public or private, without the consent of the owner, lessee or agent in charge, a word, letter, character, figure, sentence or device, or a handbill, notice, advertisement, sign or poster.

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

541.10 PERSONS IN PARKS DURING CLOSED HOURS.

(a) No person shall enter or remain on the lands within any City owned park, including all reservoirs and all land adjacent to such reservoirs, during the hours such parks and reservoirs are closed from 11:00 p.m. until 5:00 a.m. daily.

(b) No person shall park, permit to be parked, or leave parked, any vehicle on the lands or streets within any City owned park, including all reservoirs and all land adjacent to such reservoirs, during the hours such parks and reservoirs are closed from 11:00 p.m. until 5:00 a.m. daily.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 91-5884. Passed 4-9-91.)

541.11 GLASS BOTTLES IN PARKS.

(a) Possession of a glass bottle in any public park owned by the City, is prohibited, except that thermos bottles or thermos jugs, which if broken or damaged will contain all glass particles within the outer shell of such bottles or jugs are permitted.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 81-5133. Passed 11-3-81.)

541.12 DAMAGE OR DESTRUCTION OF UTILITY SERVICE EQUIPMENT.

(a) No person, without privilege to do so, shall cause damage, injury or destruction to any water or sewage lines or other utility service equipment of the Municipality.

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

541.13 BILLPOSTING.

(a) No person shall paint, mark, write, print or impress, or in any manner attach any notice or advertisement, or the name of any commodity or thing, or any trademark, symbol or figure of any kind upon or to any sidewalk, step, stone or building or anything whatever, the property of another, without obtaining permission of the owner or owners of such sidewalk or other thing on which they desire to place such notice, advertisement, name, mark or figure.

(b) No person shall stick or post any handbill or placard of any description upon any public or private building or upon any post, fence, billboard, or any other structure or thing which is the property of another, without permission of the occupant or owner of such property.

(c) No person shall fasten, place or in any manner attach any advertising sign, bill or poster of any description upon any pole or standard upon any street or public place.

(d) Any advertising sign, bill or poster of any description maintained, fastened, placed, tacked or in any manner attached to any pole or standard upon any street or public place is hereby declared to be a nuisance and shall be abated in the following manner: The Mayor is hereby directed to remove all signs, bills and posters of any kind or description, attached to such poles or standards upon any street or public place.

(e) The provisions of this section shall not apply to street signs maintained or placed upon poles under the authority of the Mayor.

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

541.14 TREE TRIMMING BY UTILITY COMPANIES.

(a) No public utility company shall trim or otherwise injure trees located upon City property without the consent of the Mayor, subject to appeal to Council.

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

541.15 VEHICULAR VANDALISM.

(a) As used in this section:

(1) "Highway" means any highway as defined in Section 301.42 of the Traffic Code or any lane, road, street, alley, bridge, or overpass.

(2) "Alley", "street", and "vehicle" have the same meanings as in Chapter 301 of the Traffic Code.

(3) "Vessel" and "waters in this State" have the same meanings as in Ohio R.C. 1546.01.

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

(1) Any vehicle on a highway;

(2) Any boat or vessel on any of the waters in this State that are located in the Municipality.

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

(ORC 2909.09)

541.99 PENALTY.

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

CHAPTER 545

Theft and Fraud

545.01 Definitions.

545.02 Determining property value in theft offense.

545.03 Property exceptions as felony offense.

545.04 Detention of shoplifters; rights of museums and libraries.

545.05 Petty theft.

545.06 Unauthorized use of a vehicle; vehicle trespass.

545.07 Insurance fraud.

545.08 Unauthorized use of property.

545.09 Passing bad checks.

545.10 Misuse of credit cards.

545.11 Making or using slugs.

- 545.12 Tampering with coin machines.**
- 545.13 Criminal simulation.**
- 545.14 Tampering with records.**
- 545.15 Securing writings by deception.**
- 545.16 Personating an officer.**
- 545.17 Defrauding creditors.**
- 545.18 Receiving stolen property.**
- 545.19 Possession of criminal tools.**
- 545.20 Forgery of identification cards.**
- 545.21 Identity fraud.**
- 545.99 Penalty.**

CROSS REFERENCES

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

545.01 DEFINITIONS.

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

- (a) "Deception" means knowingly deceiving another or causing another to be deceived, by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission that creates, confirms or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.
- (b) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.
- (c) "Deprive" means to do any of the following:
 - (1) Withhold property of another permanently, or for such period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
 - (2) Dispose of property so as to make it unlikely that the owner will recover it;
 - (3) Accept, use or appropriate money, property or services, with purpose not to give proper consideration in return for the money, property or services, and without reasonable justification or excuse for not giving proper consideration.
- (d) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.
- (e) "Services" include labor, personal services, professional services, rental services, public utility services, including wireless service as defined in Ohio R.C. 5507.01(F)(1), common carrier services, and food, drink, transportation, entertainment and cable television services.
- (f) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, typewritten or printed matter, and any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.
- (g) "Forge" means to fabricate or create, in whole or in part and by any means any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.
- (h) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.
- (i) "Coin machine" means any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin, bill, or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.
- (j) "Slug" means an object that, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.
- (k) "Theft offense" means any of the following:
 - (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42 to 2913.45, 2913.47, 2913.48, 2913.51, 2915.05, 2915.06 or 2921.41.
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (k)(1) hereof or a violation of Ohio R.C. 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (k)(1), (2) or (3) hereof.
- (l) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use or data that is contained within a computer system or computer network.
- (m) "Computer" means an electronic device that performs logical, arithmetic and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program or communication facilities that are connected or related, in a computer system or network to an electronic device of that nature.
- (n) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.
- (o) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.
- (p) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.
- (q) "Computer software" means computer programs, procedures and other documentation associated with the operation of a computer system.
- (r) "Data" means a representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system or computer network. For purposes of Section 545.07, "data" has the additional meaning set forth in subsection (a) of that section.

- (s) "Cable television service" means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.
 - (t) "Gain access" means to approach, instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.
 - (u) "Credit card" includes, but is not limited to, a card, code, device or other means of access to a customer's account for the purpose of obtaining money, property, labor or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine or a cash dispensing machine.
 - (v) "Electronic fund transfer" has the same meaning as in 92 Stat. 3728, 15 U.S.C.A. 1693a, as amended.
 - (w) "Rented property" means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.
 - (x) "Telecommunication" means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence or any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method.
 - (y) "Telecommunications device" means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.
 - (z) "Telecommunications service" means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.
 - (aa) "Counterfeit telecommunications device" means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. "Counterfeit telecommunications device" includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.
 - (bb) (1) "Information service" means, subject to subsection (bb)(2) hereof, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.
 - (2) "Information service" does not include any use of a capability of a type described in subsection (bb)(1) hereof for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
 - (cc) "Elderly person" means a person who is sixty-five years of age or older.
 - (dd) "Disabled adult" means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this State or the United States that has the function of so classifying persons.
 - (ee) "Firearm" and "dangerous ordnance" have the same meanings as in Ohio R.C. 2923.11.
 - (ff) "Motor vehicle" has the same meaning as in Ohio R.C. 4501.01.
 - (gg) "Dangerous drug" has the same meaning as in Ohio R.C. 4729.01.
 - (hh) "Drug abuse offense" has the same meaning as in Ohio R.C. 2925.01.
 - (ii) "Police dog or horse" has the same meaning as in Ohio R.C. 2921.321.
 - (jj) "Anhydrous ammonia" is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this subsection. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two per cent nitrogen to eighteen per cent hydrogen.
 - (kk) "Assistance dog" has the same meaning as in Ohio R.C. 955.011.
 - (ll) "Active duty service member" means any member of the armed forces of the United States performing active duty under Title 10 of the United States Code.
- (ORC 2913.01)

545.02 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

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

offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property and services involved in all of the offenses in the course of conduct.

- (3) In prosecuting a single offense under subsection (b)(1) or (2), it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses in the offender's same employment, capacity, or relationship to another as described in subsection (b)(1) of this section or that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in subsection (b)(2) of this section. While it is not necessary to separately allege and prove each offense in the series in order to prosecute a single offense under subsection (b)(1) or (2) hereof, it remains necessary in prosecuting them as a single offense to prove the aggregate value of the property or services in order to meet the requisite statutory offense level sought by the prosecution.
- (c) The following criteria shall be used in determining the value of property or services involved in a theft offense:
 - (1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that has intrinsic worth to its owner and that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, is the amount that would compensate the owner for its loss.
 - (2) The value of personal effects and household goods, and of materials, supplies, equipment and fixtures used in the profession, business, trade, occupation or avocation of its owner, which property is not covered under subsection (c)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.
 - (3) The value of any real or personal property that is not covered under subsections (c)(1) or (2) hereof, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.
- (d) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:
 - (1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.
 - (2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of the security or commodity.
 - (3) When the property involved is livestock, poultry or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry or products.
 - (4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.
 - (5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument.
 - (6) When the property involved is a ticket of admission, ticket for transportation, coupon, token or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services that may be received by the instrument, is prima-facie evidence of the value of the instrument.
 - (7) When the services involved are gas, electricity, water, telephone, transportation, shipping or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of the services.
 - (8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima-facie evidence of the value of the services. (ORC 2913.61)

545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

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

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

545.04 DETENTION OF SHOPLIFTERS; RIGHTS OF MUSEUMS AND LIBRARIES.

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

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

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

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

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

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

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

(f) As used in this section:

(1) "Archival institution" means any public or private building, structure or shelter in which are stored historical documents, devices, records, manuscripts or items of public interest, which historical materials are stored to preserve the materials or the information in the materials, to disseminate the information contained in the materials, or to make the materials available for public inspection or for inspection by certain persons who have a particular interest in, use for or knowledge concerning the materials.

(2) "Museum" means any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.

(3) "Pretrial diversion program" means a rehabilitative, educational program designed to reduce recidivism and promote personal responsibility that is at least four hours in length and that has been approved by any court in this State. (ORC 2935.041)

545.05 PETTY THEFT.

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

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

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

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

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

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

(d) In addition to the penalties described in subsection (b) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of Ohio R.C. 2913.72.

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

545.06 UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS.

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

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

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

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

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

(e) Whoever violates subsection (a) hereof is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree. If the victim of the

offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of subsection (a) hereof is a felony and shall be prosecuted under appropriate State law. (ORC 2913.03)

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

545.07 INSURANCE FRAUD.

(a) As used in this section:

- (1) "Data" has the same meaning as in Section 545.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.
- (2) "Deceptive" means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind or other objective or subjective fact.
- (3) "Insurer" means any person that is authorized to engage in the business of insurance in this State under Title XXXIX of the Ohio Revised Code; The Ohio Fair Plan Underwriting Association created under Ohio R.C. 3929.43; any health insuring corporation; and any legal entity that is self-insured and provides benefits to its employees or members.
- (4) "Policy" means a policy, certificate, contract or plan that is issued by an insurer.
- (5) "Statement" includes, but is not limited to, any notice, letter or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical or dental chart or other record; X-Ray, photograph, videotape or movie film; test result; other evidence of loss, injury or expense; computer-generated document; and data in any form.

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

(1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive;

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

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

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

545.08 UNAUTHORIZED USE OF PROPERTY.

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

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

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

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

(1) Unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, and if the value of the property is one thousand dollars (\$1,000) or more; or

(2) If the victim of the offense is an elderly person or disabled adult.

(ORC 2913.04)

545.09 PASSING BAD CHECKS.

(a) As used in this section:

(1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:

A. A check, bill of exchange, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument;

B. An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.

(2) "Issue a check" means causing any form of debit from a demand deposit account.

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

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

(1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later.

(2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

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

(1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under Ohio R.C. 4507.50;

(2) Furnishing such license or card, or another identification document that contains false information;

(3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.

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

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

(ORC 2913.11)

545.10 MISUSE OF CREDIT CARDS.

- (a) No person shall do any of the following:
- (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
 - (2) Knowingly buy or sell a credit card from or to a person other than the issuer.
 - (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 IDENTITY FRAUD.

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

545.99 PENALTY.

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

CHAPTER 549

Weapons and Explosives

- 549.01** Definitions.
- 549.02** Carrying concealed weapons.
- 549.03** Using weapons while intoxicated.
- 549.04** Failure to secure dangerous ordnance.
- 549.05** Unlawful transactions in weapons.
- 549.06** Throwing or shooting missiles.
- 549.07** Possessing replica firearm in school.
- 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.

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. It shall not mean a firearm as defined in Ohio R.C. 2923.11 nor any component of or ammunition for the same.
- (b) "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. It shall not mean a firearm as defined in Ohio R.C. 2923.11 nor any component of or ammunition for the same.
- (c) "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. It shall not mean a firearm as defined in Ohio R.C. 2923.11 nor any component of or ammunition for the same.
- (d) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (e) "Dangerous ordnance" means any of the following, except as provided in subsection (f) hereof:
 - (1) Any explosive device or incendiary device;
 - (2) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pectretol, 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.
 - (3) Any rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or other weapon, designed and manufactured for military purposes, and the ammunition for that weapon.
- (f) "Dangerous ordnance" does not include any of the following:
 - (1) Any firearm as defined in Ohio R.C. 2923.11 nor any component of or ammunition for the same.
 - (2) 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;
 - (3) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (f)(2) 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;
 - (4) 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.
 - (5) 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.
- (g) "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. "Explosive" shall not mean a firearm as defined in Ohio R.C. 2923.11 nor any component of or ammunition for the same.

(Ord. 2019-76. Passed 11-26-19.)

549.02 CARRYING CONCEALED WEAPONS.

- (a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, a deadly weapon or dangerous ordnance.
- (b)
 - (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 ordnances 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 ordnances.
 - (c) It is an affirmative defense to a charge under subsection (a) of this section of carrying or having control of a weapon 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.
 - (d) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection, 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, if the offender previously has been convicted of a violation of this section or of any offense of violence or if the weapon involved is a dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate state law.

(Ord. 2019-76. Passed 11-26-19.)

549.03 USING WEAPONS WHILE INTOXICATED.

- (a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any dangerous ordnance.
- (b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree.

(Ord. 2019-76. Passed 11-26-19.)

549.04 FAILURE TO SECURE DANGEROUS ORDNANCE.

- (a) No person, in acquiring, possessing, carrying or using any dangerous ordnance shall negligently fail to take proper precautions:
 - (1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person;
 - (2) To insure the safety of persons and property.
- (b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree.

(Ord. 2019-76. Passed 11-26-19.)

549.05 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall:

- (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 him 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 dangerous ordnance in such person's possession or under his 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.
(Ord. 2019-76. Passed 11-26-19.)

549.06 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 upon 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 restriction shall not apply to firearms as defined in Ohio R.C. 2923.11 nor any component of or ammunition for the same.

(b) This section shall not apply to supervised archery ranges or instruction, hunting or target shooting activities occurring in a RE (Rural Estate) Zoning District within the boundaries of the Northeast Annexation Area, being that 1362.471 acres of land located in Polk and Jackson Townships in Crawford County, and Sandusky Township in Richland County, annexed via Ordinance No. 2000-74 on November 14, 2000, with written permission of the owner, and when that use is in accordance with regulations of the Ohio Department of Natural Resources, Division of Wildlife, or when otherwise lawfully authorized.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(Ord. 2019-76. Passed 11-26-19.)

549.07 POSSESSING REPLICIA 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 even though the object is not a firearm as defined in Ohio R.C. 2923.11.
- (2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

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

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

(d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section and subject to subsection (d)(2) of this section, if the offender has not attained nineteen years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in division (A) (4) of Ohio R.C. 4510.02 and shall deny the offender the issuance of any permit or license of that type during the period of the suspension.

If the offender is not a resident of this State, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in division (A)(4) of Ohio R.C. 4510.02.

(2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits, or privileges specified in subsection (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in that subsection, the court in its discretion may choose not to impose the suspension, revocation, or denial required in that subsection, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.

(e) As used in this section, "object that is indistinguishable from a firearm" means an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.
(Ord. 2019-76. Passed 11-26-19.)

549.99 PENALTY.

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

CHAPTER 553

Railroads

553.01 Obstructing streets by railroad companies.

553.011 Obstructing streets by abandoning the locomotive.

553.02 Climbing upon railroad cars.

553.03 Duties of locomotive engineer.

553.04 Maximum rate of speed.

553.05 Crossings, approaches and sidewalks.

553.06 Railroad vandalism.

553.07 Grade crossing device vandalism

553.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Lighting railroads - see Ohio R.C. 723.33 et seq.

Power to regulate train speed - see Ohio R.C. 723.48

Vehicle homicide - see GEN. OFF. 537.02
Criminal mischief - see GEN. OFF. 541.04

553.01 OBSTRUCTING STREETS BY RAILROAD COMPANIES.

- (a) (1) No railroad company shall obstruct or permit or cause to be obstructed a public street, road or highway by permitting a railroad car, locomotive or other obstruction to remain upon or across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon such street, road or highway.
 - (2) At the end of each five minute period of obstruction of a public street, road or highway, each railroad company shall cause such railroad car, locomotive or other obstruction to be removed for sufficient time, not less than three minutes, to allow the passage of persons and vehicles waiting to cross.
 - (3) This section does not apply to obstruction of a public street, road or highway by a continuously moving through train or caused by circumstances wholly beyond the control of the railroad company, but does apply to other obstructions, including without limitation those caused by stopped trains and trains engaged in switching, loading or unloading operations.
 - (4) If a railroad car, locomotive, or other obstruction is obstructing a public street, road, or highway in violation of subsection (a)(1) hereof and the violation occurs in the unincorporated area of one or more counties, or in one or more municipal corporations, the officers and employees of each affected county or municipal corporation may charge the railroad company with only one violation of the law arising from the same facts and circumstances and the same act.
 - (5) Upon the filing of an affidavit or complaint for violation of this subsection (a)(1) hereof, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred. (ORC 5589.21)
- (b) For purposes of this section, "railroad company" includes the officers, employees and agents of such company.
- (c) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be fined one thousand dollars (\$1,000).

553.011 OBSTRUCTING STREETS BY ABANDONING THE LOCOMOTIVE.

- (a) No railroad company shall obstruct, or permit or cause to be obstructed, a public street, road, or highway, by permitting any part of a train whose crew has abandoned the locomotive to remain across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon the street, road, or highway, unless the safety of the train crew requires them to abandon the locomotive.
- (b) Upon the filing of an affidavit or complaint for violation of this section, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred. (ORC 5589.211)
- (c) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be fined five thousand dollars (\$5,000). (ORC 5589.99)

553.02 CLIMBING UPON RAILROAD CARS.

- (a) No person shall climb, jump, step or stand upon or cling or attach himself to a locomotive, engine or car upon the track of a railroad, unless in compliance with law or by permission under the rules and regulations of the corporation managing such railroad. (ORC 4999.02)
- (b) Whoever violates this section is guilty of a minor misdemeanor.

553.03 DUTIES OF LOCOMOTIVE ENGINEER.

- (a) No person in charge of a locomotive shall fail to bring the locomotive to a full stop at least 200 feet before arriving at a crossing with another track, or proceed through the crossing before signaled to do so or before the way is clear.
- (b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If violation of this misdemeanor causes physical harm to any person, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4999.04)

553.04 MAXIMUM RATE OF SPEED.

- (a) No railroad company or any engineer or conductor employed by such company shall operate or cause to be operated any locomotive at a rate of speed greater than thirty-five miles per hour across any public grade crossing within the City.
- (b) Whoever violates this section is guilty of a minor misdemeanor. (Ord. 3308. Passed 9-18-56.)

553.05 CROSSINGS, APPROACHES AND SIDEWALKS.

- (a) Construction and Maintenance. All railroad companies operating in or through the City shall build and keep in repair, good and sufficient crossings over, or approaches to, such railroad, its tracks, side-tracks and switches at all points where any public street, lane, avenue or place is intersected by such railroad, its tracks, side-tracks or switches. Such railroad companies shall also build and keep in repair good and sufficient sidewalks on both sides of streets intersected by their roads for the full width of the right of way, owned, claimed or occupied by them. Before starting to construct or repair such crossing, approach or sidewalk, such railroad company shall notify the City Engineer and such work shall be done under the supervision of the City.
- (b) Notice by Council. When a crossing, approach or sidewalk is ordered by Council to be constructed or repaired, the Mayor shall serve a written notice upon the nearest station agent or section foreman having charge of that portion of the railroad where it intersects with the streets or public places covered by the order, that the crossing, approach or sidewalk must be built or repaired, setting forth its kind and extent and the manner of constructing it if Council so specifies.
- (c) Compliance Time; City Action. A railroad company when notified as required by subsection (b) hereof must comply with such notice within a period of thirty days after receiving it. In failure so to do, Council may cause such crossing, approach or sidewalk to be constructed or repaired as ordered and recover the cost of so doing with interest thereon in a civil action against the railroad company in the name of the City.

553.06 RAILROAD VANDALISM.

- (a) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other vehicle of a railroad company while such vehicle is on a railroad track.
- (b) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.
- (c) No person, without privilege to do so, shall disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.
- (d) No person, without privilege to do so, shall knowingly enter or remain on the land or premises of a railroad company.
- (e) Whoever violates subsection (a) of this section is guilty of railroad vandalism. Whoever violates subsection (b) of this section is guilty of

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

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

(f) Whoever violates subsection (d) of this section is guilty of criminal trespass on the land or premises of a railroad company, a misdemeanor of the fourth degree.
(ORC 2909.10)

553.07 GRADE CROSSING DEVICE VANDALISM.

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

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

553.99 PENALTY.

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

CHAPTER 557

Trees and Shrubs

557.01 Definitions.

557.02 Trimming of trees and shrubs adjacent to streets.

557.03 Trimming of trees and shrubs on private property.

557.04 Removal of trees on private property.

557.05 Notice to remedy condition.

557.06 Failure to comply.

557.07 Costs to remedy.

557.08 Collection of costs.

557.99 Penalty.

CROSS REFERENCES

Authority to regulate trees and shrubs on public grounds - see Ohio R.C. 715.20

Municipal weed control procedures - see Ohio R.C. 731.51 et seq.

Destruction of shrubs, trees or crops - see GEN. OFF. 541.06

Weeds and litter - see GEN. OFF. Ch. 559

557.01 DEFINITIONS.

As used in this chapter:

- (a) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (b) "Street" or "highway" are synonymous and mean the entire width of every public way, easement or right-of-way, between the property lines, when any part thereof is open to the use of the public for the purpose of vehicular and/or pedestrian traffic, and includes alleys.
- (c) "Public property" shall include all other grounds owned by the City of Galion, including parks.
- (d) "Property line" means the line between the outer edge of a street or highway and the abutting real estate.
- (e) "Treelawn" means that part of a street or highway, lying between the property line and that portion of the street or highway usually used for vehicular traffic. This definition includes curb strips, but also any other unpaved street right-of-way, whether or not a sidewalk is present, and regardless of a sidewalk's location.
- (f) "Public trees" shall include all shade and ornamental trees now or hereafter growing on any street or on any public property.
- (g) "Property owner" means the person owning real property as shown by the County Auditor's Plat of the City of Galion, Crawford County, Ohio, including the executor, administrator, or beneficiary of the estate of a deceased owner.
- (h) "Tree" means a tall growing woody plant with one or more perennial main stems or trunk which develops branches from the aerial section of the stem rather than the base; capable of being pruned to provide at least six feet of clear branchless trunk below the crown within five years of planting.
- (i) "Shrub" means a low growing woody plant with one or several perennial main stems producing branches, shoots, or multiple stems from or near the base of the plant and incapable of being pruned to provide at least six feet of clear branchless trunk within five years of planting. (Ord. 95-6134. Passed 4-25-95.)

557.02 TRIMMING OF TREES AND SHRUBS ADJACENT TO STREETS.

(a) The owner of every lot or parcel of land within the City upon which a tree, plant or shrub stands with any part thereof upon or overhanging a public street, alley or sidewalk, which area includes the treelawn, or being found to have an infection, shall conform to the regulations herein provided; otherwise, such tree, plant or shrub is deemed a nuisance and the City shall cause such trees, plants and shrubs to be trimmed or cut down and removed in accordance with such regulations and assess the costs thereof against the owner of such lot or parcel of land.

- (1) The owner shall trim or cause to be trimmed such tree, plant or shrub so that a clear height of eight feet between the lowest branches of the same and the street or sidewalk is maintained.
- (2) The owner shall trim or remove, as the case may require, every dead, decayed or broken tree, plant or shrub, or part thereof, so that the same shall not fall to the street or sidewalk.
- (3) The owner shall trim or cause to be trimmed any tree, plant or shrub in such a manner that it will not obstruct or shade street lights or obstruct vision of traffic signs or signals.
- (4) The owner shall cut down and remove any tree, plant or shrub, or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection, or to abate any nuisance necessary to protect life, limb or property of persons, drivers of any vehicles, or pedestrians using such street or sidewalk.

(b) The Mayor or his designee is authorized to inspect any tree, plant or shrub which is suspected of being infected, diseased or dead and which is regulated by this section.
(Ord. 95-6134. Passed 4-25-95.)

557.03 TRIMMING OF TREES AND SHRUBS ON PRIVATE PROPERTY.

The owner of every lot or parcel of land within the City upon which a tree, plant or shrub stands and which is damaging, interfering with or obstructing any sanitary sewer, storm sewer, manhole, catchbasin, drain, electric power lines, gas lines, water lines, or other public improvements shall cause such tree, plant or shrub to be trimmed, or cut down and removed so as to eliminate such damage, interference or obstruction and abate such nuisance condition. The Mayor or his designee is authorized to enter upon the property and examine any tree, plant or shrub within one hundred feet of any sanitary or storm sewer, manhole, catchbasin, drain, electric power line, gas line, water line, or other public improvement for purposes of this section.
(Ord. 95-6134. Passed 4-25-95.)

557.04 REMOVAL OF TREES ON PRIVATE PROPERTY.

The owner of every lot or parcel of land within the City upon which a dead or diseased tree stands, when such tree constitutes a hazard to life or property or constitutes a threat to the lasting health of other trees in the City, shall cause such tree to be removed so as to abate such nuisance condition. The Mayor or his designee is authorized to enter upon such property and examine any tree suspected to be dead or diseased. (Ord. 95-6134. Passed 4-25-95.)

557.05 NOTICE TO REMEDY CONDITION.

(a) For a violation of Section 557.02 or 557.03 which require that a tree, plant or shrub be trimmed, the Mayor or his designee shall issue a notice of violation to the owner and, if different and known, upon the agent or lessee having charge of or responsibility for such lot or parcel of land at the last known address by certified mail, return receipt requested, and order that such condition be remedied within fifteen days after service of the notice.

(b) For a violation of Section 557.02, 557.03 or 557.04 which require that a tree, plant or shrub be removed, the Mayor or his designee shall issue a notice of violation to the owner, and if different and known, upon the agent or lessee having charge of or responsibility for such lot or parcel of land at the last known address, by certified mail, return receipt requested, and order that such removal be completed within thirty days after service of the notice.

(c) If the certified letter is returned marked "refused" or "unclaimed", the service of the notice and order shall be effected by ordinary mail to the same address. In such case, the period to remedy the condition shall commence upon date of mailing of the letter.

(d) If the address of the owner, agent or lessee having charge of or responsibility for such lot or parcel of land is unknown and cannot with reasonable diligence be determined, it is sufficient to publish the notice once in a newspaper of general circulation in the City. In such case the period to remedy the condition shall commence upon the publication of such notice.

(e) Every notice under this section shall state that if the order is not complied with before expiration of the time period established therein, in addition to the penalty provided in Section 559.99, the costs incurred by the City in trimming and/or removing such tree, plant or shrub may, if not paid, will be certified to the County Auditor and entered upon the tax duplicate for collection and will be a lien upon such lot or land. (Ord. 95-6134. Passed 4-25-95.)

557.06 FAILURE TO COMPLY.

In the event the tree, plant or shrub, or any part thereof, is not trimmed and/or removed in compliance with the notice and the provisions of this chapter, the Mayor or his designee shall cause such tree, plant or shrub, or part thereof, to be trimmed or removed, and for such purposes he may use City forces or employ the necessary labor to carry out the provisions of this chapter. All expenses of labor and costs incurred shall, when approved by the Mayor, be paid out of City funds appropriated to cover this expense.
(Ord. 95-6134. Passed 4-25-95.)

557.07 COSTS TO REMEDY.

When the Mayor or his designee has caused a tree, plant or shrub to be trimmed or removed as provided in this chapter, a statement of the costs thereof shall be mailed to the owner of such lot or parcel of land at his last known address, if known, by certified mail, return receipt requested and by ordinary mail. Such statement of costs shall include administrative costs, use or rental of equipment, transportation costs, labor and supervision, and other necessary costs.
(Ord. 95-6134. Passed 4-25-95.)

557.08 COLLECTION OF COSTS.

If the last known address of the owner is unknown and cannot with reasonable diligence be determined, or if the owner fails to pay the statement of costs within thirty days after deposit in the mail the following actions may be taken:

(a) The proper City official may certify the total costs, together with a proper description of the lot or parcel of land to the County Auditor who shall place the costs upon the tax duplicate. The costs shall be a lien upon such lot or parcel of land from and after the date of entry, and such costs shall be collected as other taxes and returned to the City, and /or

(b) The City may commence a civil action to recover the total costs from the owner.

(Ord. 95-6134. Passed 4-25-95.)

557.99 PENALTY.

Any owner, agent or lessee having charge of or responsibility for maintenance of the lots or parcels of land within the City who fails to comply with any of the provisions of this chapter shall be guilty of a minor misdemeanor. Each day's violation shall be a separate offense.
(Ord. 95-6134. Passed 4-25-95.)

CHAPTER 559

Weeds and Litter

559.01 Cutting of weeds and grass required.

559.02 Notice to cut weeds and grass.

559.03 Failure to cut weeds and grass; lien upon property.

559.99 Penalty.

CROSS REFERENCES

Notice to cut noxious weeds - see Ohio R.C. 731.51 et seq.

Destruction of weeds - see Ohio R.C. 971.33 et seq.

559.01 CUTTING OF WEEDS AND GRASS REQUIRED.

(a) It is hereby determined that all weeds, grasses, and other types of vegetation growing or being upon lots or lands within the City as hereinafter described in subsection (b) at a height exceeding eight (8) inches above the ground are a nuisance.

(b) No owner, lessee, agent, or tenant having charge of, or responsibility for, the maintenance of lots or lands within the City shall permit weeds, grasses or other types of vegetation to grow or be upon such lots or lands at a height exceeding eight inches above the ground.

(c) No owner, lessee, agent, or tenant having charge of, or responsibility for, the maintenance of lots or lands exceeding three acres within the City shall permit weeds, grasses, or other types of vegetation to grow or be upon the portion of such lots or lands which lies within twenty feet of a lot line adjacent to lots or lands upon which a residential or commercial building exists or lies within 100 feet of a public thoroughfare at a height of eight inches above the ground.

(1) Provided, however, the prohibition contained in this section shall not apply to any parcels of land exceeding seven acres that are currently used or have been used within the last three years for agricultural purposes. As used in this section, the term "agricultural purposes" means farming; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production. In any event the portion of all such lots or lands which lies within twenty feet of a lot line upon which a residential or commercial building exists or lies within one hundred feet of a public thoroughfare, said distance shall be considered a buffer area and all weeds, grasses or other types of vegetation therein shall be maintained at a height of eight inches above the ground.

(d) Between March 1 and April 30 of each year, a Notice shall be published by the City in a newspaper of general circulation within the City generally describing the requirements of its citizens and landowners to cut weeds and grass.

(Ord. 2015-85. Passed 11-24-15.)

559.02 NOTICE OF CUT WEEDS AND GRASS.

(a) Upon receipt of information that weeds, grass, or other vegetation has not been cut to a height of eight inches, and if said weeds, grass, or other vegetation is on property owned by or under the charge or responsibility of a non-resident of the City of Galion, the Mayor or his designee shall issue a written Notice of Violation to the owner, lessee, agent or tenant having charge of, or responsibility for, the maintenance of such lots, lands or premises. Such Notice shall state that the weeds, grass and other vegetation on the premises exceed eight inches in height, and that such weeds, grass or other vegetation must be cut and destroyed within five days after service of the Notice. This Notice shall be served by sending it by certified mail, return receipt requested, to such person addressed to his or her usual place of residence or to the address listed in the Crawford County tax records. If such Notice is sent by certified mail, and such service has been refused or is unclaimed by the addressee, said Notice may then be served by sending it by regular U.S. Mail. If the address of the owner, lessee, agent or tenant having charge of, or responsibility for, the maintenance of such lots, lands or premises is unknown, it is sufficient to publish the Notice once in a newspaper of general circulation in the City.

(b) Upon receipt of information that weeds, grass, or other vegetation has not been cut to a height of eight inches, and if said weeds, grass, or other vegetation is on property owned by or under the charge or responsibility of a resident of the City of Galion, the Mayor or his designee shall issue a written Notice of Violation to the owner, lessee, agent or tenant having charge of, or responsibility for, the maintenance of such lots, lands or premises. Such Notice shall state that the weeds, grass and other vegetation on the premises exceed eight inches in height, and that such weeds, grass or other vegetation must be cut and destroyed within five days after service of the Notice. This Notice shall be served by personal delivery or via regular US mail to the property owner at his or her usual place of residence or to the address listed in the Crawford County tax records. If the address of the owner, lessee, agent or tenant having charge of, or responsibility for, the maintenance of such lots, lands or premises is unknown, it is sufficient to publish the Notice once in a newspaper of general circulation in the City.

(c) Every Notice to cut weeds, grass or other types of vegetation shall state that if the Notice is not complied with within the time limit provided therein, in addition to the penalty provided in Section 559.99, any and all costs incurred by the City in cutting and destroying such growth shall be entered upon the tax duplicate and shall be a lien upon such lands.

(d) When a written Notice of Violation has been issued in accordance with the provisions of this section, such Notice shall constitute adequate and effective notice for all enforcement purpose under this chapter with respect to continuing or repeat violations of Section 559.01 for a period of one year following the date such initial Notice was served.

(Ord. 2015-85. Passed 11-24-15.)

559.03 FAILURE TO CUT WEEDS AND GRASS; LIEN UPON PROPERTY.

(a) If the owner, lessee, agent or tenant having charge of, or responsibility for, the maintenance of the lots or lands fails to comply with the written notice described in Section 559.02, the Mayor or his designee shall thereupon cause the weeds, grass or other vegetation to be cut and destroyed, and for such purposes he may, at his discretion, hire the necessary labor and equipment or use City forces and equipment to carry out the provisions of this section. All expenses incurred shall, when approved by the Mayor, be paid out of municipal funds not otherwise appropriated.

(b) The owner of such lot or land shall be notified in writing of expenses incurred by the Mayor or his designee to cut and destroy such weeds, grass, and other vegetation. The notification shall be sent by ordinary U.S. Mail addressed to the owner at the address listed in the Crawford County tax records.

(c) In the event the owner of such lot or land shall fail to pay such expenses within fourteen days of notification, such expenses shall be certified by the Mayor to the County Auditor and shall be entered upon the tax duplicate as a lien upon such lot or lands and shall be collected as other taxes and assessments and returned to the General Fund of the City.

(d) The expenses of cutting and destroying such weeds, grass and other vegetation shall include the following costs to the City:

- (1) Administration and supervision;
- (2) Transportation of equipment;
- (3) Equipment rental;
- (4) Equipment operation;
- (5) Incidental labor.

(e) The authority provided by this section for the Mayor or his designee to enter upon private property to cut weeds, grass, or other vegetation

and cause the cost thereof to be certified to the County Auditor as a lien upon such lot or lands shall be in addition to the penalty provided in Section 559.99.

(Ord. 2006-45. Passed 7-11-06.)

559.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor. Each day during which said violation occurs or continues shall be a separate offense.

(Ord. 2006-45. Passed 7-11-06.)

CHAPTER 563

Noise Pollution Regulations

563.01 Definitions.

563.02 Operation of sound trucks prohibited; exceptions.

563.03 Unnecessary noise prohibited.

563.04 Examples of unnecessary noises.

563.05 Zones of quiet.

563.06 Motor vehicle noise regulations.

563.07 Emergencies.

563.99 Penalty.

CROSS REFERENCES

Disorderly conduct - see GEN. OFF. 509.03

Disturbing a lawful meeting - see GEN. OFF. 509.04

563.01 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

(a) "Person" means any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality thereof.

(b) "Property line" means the line which represents the legal boundary of property (including an apartment, condominium, room, or other dwelling unit) owned, leased, or otherwise occupied by a person. In cases involving sound from an activity on a public street or other public right-of-way, the property line shall be the nearest public right-of-way line.

(c) "Sound amplifying equipment" means any machine or device for the amplification of the human voice, music or any other sound. It shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes.

(d) "Sound truck" means any vehicle having mounted thereon, or attached thereto, any sound amplifying equipment.

(e) "Stationary noise" means sound made by any machine or by any device for the amplification of the human voice or music, or any other sound originating from a fixed location.

(Ord. 92-5959. Passed 11-10-92.)

563.02 OPERATION OF SOUND TRUCKS PROHIBITED; EXCEPTIONS.

No person shall operate, or cause to be operated, any sound truck within the City of Galion, Ohio with sound amplifying equipment in operation. However, in the event of a public disaster, act of God, or other emergency, any public utility company may disseminate information to the public by sound amplifying equipment.

(Ord. 92-5959. Passed 11-10-92.)

563.03 UNNECESSARY NOISE PROHIBITED.

No person shall make or continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of persons of ordinary sensibilities.

(Ord. 92-5959. Passed 11-10-92.)

563.04 EXAMPLES OF UNNECESSARY NOISES.

The following acts, which constitutes a non-exclusive list, are declared to be loud, disturbing and unnecessary noises in violation of this Chapter:

(a) Horns; Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any public street or public place; a creation by means of any such signaling unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable length of time. An exception would be the use of any such signaling device as a warning of danger.

(b) Radios; Phonographs; Etc. The use or operation of any radio, phonograph, television, tape recorder, loudspeaker, musical instrument, or any other machine or device for the producing or reproducing of sound or amplifying sound in such a manner as to disturb the peace, quiet, and comfort of persons of ordinary sensibilities or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto. It is prima facie unlawful for a person to use or operate any such machine or device in such a manner as to be plainly audible at a distance of eighty feet from the room, building, structure, or vehicle in which it is located.

(c) Yelling; Shouting. Yelling, shouting, hooting, whistling, or singing so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

(d) Drums. The use of any drum or other similar instrument or device for the purpose of attracting attention by creation of noise to any performance, show, or sale.

(e) Transportation of Metal Rails, Pillars and Columns. The transportation of rails, pillars, or columns of iron, steel, or other material over and along streets and public places upon carts, cars, trucks, or in any other manner or loaded so as to cause loud noises or as to disturb the peace, quiet, comfort, or repose of persons of ordinary sensibilities.

(f) Pile Drivers; Hammers; Etc. Used in Outside Construction. The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, pneumatic hammer, grinder, shredder, derrick, or other equipment or appliance used in outside construction, the use of which is attended by loud or unusual noise, in any zoning district in the City which disturbs the peace, quiet, comfort, or repose of person of ordinary sensibilities living or working in residential or office-residential zoning districts in the City of Galion.

(Ord. 92-5959. Passed 11-10-92.)

563.05 ZONES OF QUIET.

Whenever authorized signs are erected indicating a Zone of Quiet in the vicinity of any school, church, or hospital, no person shall cause, or permit to be caused, any unnecessary noise or sound the horn or other warning device of a motor vehicle, except in the case of an emergency, upon, the streets or alleys within any such Zone of Quiet that disturbs or unduly annoys the patients of any hospital or the pupils of any public or parochial school or which unreasonably interferes with the working of such institution.

(Ord. 92-5959. Passed 11-10-92.)

563.06 MOTOR VEHICLE NOISE REGULATIONS.

(a) No person shall operate a motor vehicle or motorcycle with an internal combustion engine without same being at all times equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, bypass or similar device upon a motor vehicle or motorcycle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

(b) No person shall operate a motor vehicle or motorcycle which causes excessive noise as a result of a defective or modified exhaust system. A modified exhaust system is an exhaust system in which the original noise abatement devices have been physically altered causing them to be less effective in reducing noise or the original noise abatement devices have either been removed or replaced by noise abatement devices which are not as effective in reducing noise as their original devices or devices have been added to the original noise abatement devices such that noise levels are increased.

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

(d) No person shall use or operate any motor vehicle or motorcycle so out of repair or loaded in such a manner as to create loud and unnecessary grating, grinding, rattling or noise.

(e) No person shall equip a motor vehicle or motorcycle with and use any device which creates loud or excessive noise; however, nothing herein shall be construed to prevent the blowing of horns when necessary to prevent an accident or the use of sirens or similar devices on authorized emergency vehicles.

(f) No operator or passenger of a motor vehicle or motorcycle shall operate, or permit the operation of any sound amplification system which can be heard outside the vehicle from fifty feet or more when the vehicle is being operated upon a street, highway, alley, or parking lot. The term "sound amplification system" includes any radio, tape players, compact disc player, loudspeaker or other electronic device used for the amplification of the human voice, or any other noise or sound.

(Ord. 92-5959. Passed 11-10-92.)

563.07 EMERGENCIES.

In the event of an emergency as deemed by the Mayor or his designee, the provisions of the chapter may be waived by the Mayor or his designee.

(Ord. 92-5959. Passed 11-10-92.)

563.99 PENALTY.

Whoever violates any section or provision contained in this chapter is guilty of a minor misdemeanor for the first offense, and a misdemeanor of the fourth degree for any subsequent offense.

(Ord. 92-5959. Passed 11-10-92.)

CHAPTER 565

Noise Prohibitions

565.01 Authority.

565.02 Definitions.

565.03 Prohibitions.

565.04 Measurement of sound.

565.05 Classification of use occupancies.

565.06 Maximum permissible sound levels by use occupancy.

565.07 Exemptions.

565.08 Special permits.

565.09 Severability.

565.99 Violations and penalties.

CROSS REFERENCES

Disorderly conduct; disturbing the peace - see GEN. OFF. Ch. 509

565.01 AUTHORITY.

The authority for the enactment of this Chapter is Section 715.49 of the Ohio Revised Code. (Ord. 2000-83. Passed 11-28-00.)

565.02 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words, abbreviations and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words not defined shall be given their common and ordinary meaning, or for those so included, the meaning found in Section 563.01 of the Galion Codified Ordinances.

- (a) "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated DBA
- (b) "C-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the C-weighting network. The level so read is designated DBC.
- (c) "Decibel (Db)" means a unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.
- (d) "Sound pressure level" means twenty (20) times the logarithm to the base ten (10) of the ratio of the root mean square (RMS) sound pressure level to the reference of twenty (20) micronewtons per square meter.
- (e) "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighing networks used to measure sound pressure levels.

- (f) "Sound level" means the A-weighted sound pressure level, measured with a sound level meter (SLM).
 - (g) "Person" means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of the United States, the State, or any political subdivision thereof.
 - (h) "Emergency work" means any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
 - (i) "Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
 - (j) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
 - (k) "Property line" means an imaginary line along the surface and its vertical plane extension, which defines the boundary of the real property owned, rented, or leased by the person from that owned, rented or leased by another person. Intra-building real property lines are excluded.
 - (l) "Average level" means the average of the sound level over some stated period of time.
 - (m) "Ambient Noise" means the all-encompassing noise that is normally associated with a particular environmental surrounding, usually being made up of a composite of sounds. This is sometimes referred to as background noise.
 - (n) "Source" means the location of and the activity which emits noise or sound which is audible outside the source owner's property line.
 - (o) "Receiver" means the location, or land use category of a location, where persons are located who are annoyed by noise or sound they hear coming from another property.
 - (p) "Holiday Weekend" means the following weekends: New Years Day, Memorial Day, 4th of July, and Labor Day.
 - (q) "Weekend" means - Friday p.m. - Sunday 10 p.m.
- (Ord. 2000-83. Passed 11-28-00.)

565.03 PROHIBITIONS.

It shall be unlawful, except as expressly permitted herein, to make, cause, or allow the making of any noise or sound which exceeds the limits set forth in this Chapter for the use occupancy. (Ord. 2000-83. Passed 11-28-00.)

565.04 MEASUREMENT OF SOUND.

(a) The measurement of sound or noise shall be made with the City's sound level meter which shall meet the standards prescribed by the American National Standards Institute (ANSI). The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used at all times. Traffic, aircraft and other transportation noise sources and other noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. If the background noise interferes with the primary noise being measured, the primary noise being measured shall be limited to a level which is the greater of either the Table I value, or where combined with the ambient sound, a level which is two (2) decibels above the level of the ambient sound level measurement alone.

(b) The slow meter response of the City's sound level meter shall be used in order to best determine that the average level has not exceeded the limits set forth for the use occupancy category in Table I below. A sound level meter with a level averaging circuit may be used.

(c) The measurement shall be made at or up to fifty (50) feet beyond the property line of the property on which such noise is generated. In the event of a complaint, the measurement shall be made at or up to fifty (50) feet beyond the property line of the property on which such noise is generated in the direction of the complainant location. Any measurement shall be at least two (2) minutes in duration.

(d) In the case of an elevated or directional sound or noise source, compliance with the noise limits shall be maintained at any elevation at the boundary.

(e) The ambient sound level measurement shall be measured at the same location along the property line utilized in Section 565.04(c), while the primary noise being measured is inoperative. If the primary noise being measured cannot be turned off, is not turned off or if additional sound is created to distort the ambient sound level measurement, the ambient sound level measurement will be estimated by performing a measurement in the same general area of the noise being measured. (Ord. 2000-83. Passed 11-28-00.)

565.05 CLASSIFICATION OF USE OCCUPANCIES.

For purposes of defining "use occupancies," all premises zoned as a residential category shall be considered residential use. All premises containing transient commercial sleeping quarters legally permitted shall be considered tourist use. All premises containing business where sales, professional, or other commercial use is legally permitted shall be considered commercial use. All premises where manufacturing is legally permitted shall be considered manufacturing use. Hospitals, nursing homes, schools, libraries, and church uses shall be considered residential uses. In other cases of multiple use zones, the more restrictive zoned use category shall prevail. Any area not otherwise classified shall conform to commercial standards.

(Ord. 2000-83. Passed 11-28-00.)

565.06 MAXIMUM PERMISSIBLE SOUND LEVELS BY USE OCCUPANCY.

No person shall operate or cause to be operated any source of sound from any use occupancy in such a manner as to create a sound level which exceeds the limits set forth in the use occupancy category in Table I.

TABLE I

Use Occupancy Category	Time	Sound Level Limit	
		DBA	DBC
Residential	6 a.m. - 10 p.m.	60	75
(Non-Holiday Weekdays)	10 p.m. - 6 a.m.	55	70
Residential	6 a.m. - 12 a.m.	60	75
(Holiday Weekends)	12 a.m. - 6 a.m.	55	70
Commercial (Weekdays)	6 a.m. - 10 p.m.	65	80
	10 p.m. - 6 a.m.	60	75
Commercial (Weekends)	6 a.m. - 12 a.m.	60	80

	12 a.m. - 2 a.m.	65	80
	2 a.m. - 6 a.m.	60	75

(Ord. 2000-83. Passed 11-28-00.)

565.07 EXEMPTIONS.

The following uses and activities shall be exempt from noise level regulations:

- (a) Air conditioners are exempt from provisions of Table I of this chapter when this equipment is functioning in accord with the manufacturer's specifications and with all manufacturer's standard mufflers and noise reducing equipment in use and in proper operating condition according to standards promulgated by the American Refrigeration Institute. The same exception shall apply to lawn mowers, agricultural equipment and homeowners' mechanized tools during daylight hours.
- (b) Nonamplified crowd noises.
- (c) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accordance with its manufacturers' specifications and uses as standard equipment, its manufacturers' mufflers and noise-reducing equipment and in proper operating condition; and providing construction operations are limited to the hours between 6:00 a.m and 6:00 p.m.
- (d) Noises of safety signals, warning devices, emergency pressure relief valves and bells and chimes of churches.
- (e) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- (f) Noises resulting from emergency work as defined in Section 565.02(h).
- (g) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the city in accordance with Section 565.08. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained in Section 565.08.
- (h) Noises made by persons having obtained a permit to use the streets.
- (i) All noises coming from the normal operations of aircraft (not including scale model aircraft). (Ord. 2000-83. Passed 11-28-00.)

565.08 SPECIAL PERMITS.

Applications for a special permit for relief from the maximum allowable noise level limits designated in this Chapter may be made in writing to the Mayor or his designee. Any special permit granted by the Mayor or his designee hereunder must be in writing and shall contain all conditions upon which said special permit shall be effective. The Mayor, or his designee, may grant the relief as applied for under the following conditions:

- (a) The Mayor or his designee may prescribe any reasonable conditions or requirements as deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound-attenuating devices.
- (b) Special permits for entertainment. Special permits may be granted for the purpose of entertainment under the following conditions:
 - (1) The function must be open to the public (admission may be charged).
 - (2) The function must be staged between the hours of 9:00 a.m. and 12:00 midnight.
 - (3) The function must not be an ordinary event in the affairs of the applicant.
 - (4) A special permit for entertainment may be issued for no longer than three (3) consecutive days and is nonrenewable.
 - (5) If the function is to recur, it shall not recur more than four (4) times each calendar year.
- (c) Special permits for non-entertainment. Special permits for non-entertainment special purposes may be issued under the following conditions:
 - (1) A. If the special purpose relates to the operation of a trade or business but is not in the ordinary course of that trade or business; or,
 - B. If the special purpose does not relate to the operation of a trade or business and is not an ordinary event in the affairs of the applicant; and
 - (2) If the special purpose is a recurring purpose but does not recur more often than four (4) times each calendar year; and,
 - (3) A. If the special purpose is absolutely necessary to the operation of the applicant's trade or business; or,
 - B. If the special purpose does not relate to the operation of the trade or business, that the special purpose be compatible with the ordinary activities of the neighborhood in which the special purpose is to occur, and,
 - (4) Except in emergency situations, as determined by the Mayor, the special permit may be issued only for four (4) hours between 7:00 a.m. and 11:00 p.m. on weekdays and 1:00 p.m. and 11:00 p.m. on weekend days.
 - (5) Special permits may be issued for no longer than fifteen (15) consecutive days' renewable by further application to the Mayor.
- (d) Notwithstanding divisions (b) and (c) of this section, no special permit will be issued for a function to be conducted within a residential zone unless:
 - (1) The special permit is issued for a function sanctioned by the City, e.g., Oktoberfest, holiday parades, functions open to the public; or
 - (2) The special permit is issued when the express written permission by the occupants of all residential properties within five hundred (500) feet of the property line of the property upon which the function is to be conducted, and which written permission lists the date and times of the proposed function; or
 - (3) The special permit is issued for a function to take place in a City park and is approved by the City for limited duration, especially during evening hours. (Ord. 2008-70. Passed 11-18-08.)

565.09 SEVERABILITY.

Each separate provision of this Chapter is deemed independent of all other provisions herein so that if any portion or provision of this Ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable. (Ord. 2000-83. Passed 11-28-00.)

565.99 VIOLATIONS AND PENALTIES.

(a) Any person who violates any of the provisions of this Chapter shall be deemed guilty and upon conviction thereof shall be fined in an amount not to exceed the following:

- | | |
|-------------------------------|------------------------|
| (1) First offense in 3 years | \$100.00 |
| (2) Second offense in 3 years | \$250.00 |
| (3) Third offense in 3 years | \$500.00 |
| (4) Fourth offense in 3 years | \$1,000.00 |
| (5) Fifth offense in 3 years | 1st Degree Misdemeanor |

(b) Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(c) Any person or persons entitled to lawfully possess or who claims lawful possession of such property at the particular time involved shall each be responsible for compliance with this Chapter and each may be punished for its violation as may the person actually causing such sound.

(Ord. 2000-83. Passed 11-28-00.)

PART SEVEN - BUSINESS REGULATION CODE

- Chap. 701. Billiard Rooms and Pool Halls.
- Chap. 703. Oil and Gas Wells.
- Chap. 705. Peddlers, Solicitors, Canvassers, and Itinerant Vendors.
- Chap. 707. Public Dances.
- Chap. 709. Taxicabs.
- Chap. 711. Pawnbrokers.
- Chap. 713. Junk Yards.
- Chap. 715. Amusement Arcades and Devices.
- Chap. 717. Arborists.
- Chap. 719. Collection of Garbage, Solid Waste and Other Discarded Materials.
- Chap. 725. Temporary Businesses.
- Chap. 729. Vending Devices in the Design Review District #1.

- Chap. 731. Small Cell Facilities and Wireless Support Structures.
- Chap. 741. Sexually Oriented Businesses.
- Chap. 752. Massage Establishments.
- Chap. 769. Tattooing Establishments. (Repealed)
- Chap. 775. Nursing and Rest Homes.
- Chap. 781. Private Alarm Systems.
- Chap. 791. Video Service Providers.

CHAPTER 701

Billiard Rooms and Pool Halls

- 701.01 Definitions.**
- 701.02 License required to open or operate a billiard room.**
- 701.03 License application.**
- 701.04 Form of application.**
- 701.05 License fee for billiard table.**
- 701.06 License expiration.**
- 701.07 Revoked licenses; reissuance.**
- 701.08 Hours of operation for billiard room.**
- 701.09 Billiard rooms in bowling alleys.**
- 701.99 Penalty.**

CROSS REFERENCES

- Power to regulate - see Ohio R.C. 715.51, 715.61
- Gambling - see GEN. OFF. 517.02 et seq.

701.01 DEFINITIONS.

As used in this chapter:

- (a) "Billiards" means any of the several games played on a table surrounded by an elastic ledge or cushions, with balls which are impelled by a cue, including all forms of the game known as pool, with the exception of coin operated miniature tables.
- (b) "Billiard room" means any public place or room where the game of pool or billiards is permitted to be played, and any and all rooms contiguous with or adjacent thereto and under the same management or control.

701.02 LICENSE REQUIRED TO OPEN OR OPERATE A BILLIARD ROOM.

No person shall open, conduct, maintain or operate a billiard room within the City unless the person has been duly licensed by the City for that purpose and has obtained a permit therefor; provided, however, that the provisions of this chapter shall not apply to any society, club or lodge or to the owner of any private residence wherein these games are played without any profit or pecuniary gain therefor.

701.03 LICENSE APPLICATION.

Every person desiring to open or maintain a billiard room within the City limits must make application to the Safety-Service Director for a permit therefor, which application shall be in the form prescribed in this chapter. Application shall be filed at least ten days prior to the time of granting the license.

701.04 FORM OF APPLICATION.

Every applicant for a license under this chapter shall file with the Safety-Service Director a written application, stating the full name and address, including street number of the applicant, or if more than one person, or if a firm, partnership or corporation, the full names of all parties interested and the address of each, including street and number, and the names of one or more persons whom the firm, partnership or corporation desires to designate as its manager or managers, person or persons in charge, together with their addresses in full. The application shall also state the following:

- (a) The premises where the billiard room is to be conducted, including the street and number;
- (b) The age of the applicant in case of individuals, and the age of the manager, managers, person or persons in charge, in the case of a firm, partnership or corporation;
- (c) The name of the owner of the premises in which the billiard room is to be located and the complete address of the owner. The application shall be signed by the applicant or applicants, or in case of a firm, partnership or corporation, the application shall be signed by the manager, managers, person or persons in charge.

701.05 LICENSE FEE FOR A BILLIARD TABLE.

Every person to whom a license is granted under this chapter shall pay an annual fee of twenty five dollars (\$25.00) for the first table and ten dollars (\$10.00) for each additional table.

701.06 LICENSE EXPIRATION.

All licenses granted under this chapter shall expire one year from date of issue.

701.07 REVOKED LICENSES; REISSUANCE.

No license revoked because of the violation of any provision of this chapter shall be reissued to the same person in less than one year from the date of revocation.

701.08 HOURS OF OPERATION FOR BILLIARD ROOM.

No person, being the owner, operator, proprietor, keeper, manager or person in charge or control of a billiard room, shall open, keep open or operate the same, or knowingly permit the same to be opened, kept open or operated between the hours of 1:00 a.m. and 6:00 a.m. on any weekday or during any hours on Sunday when the operation thereof is prohibited by the laws of Ohio, or operate or conduct a billiard room in such a manner as to disturb the peace and quiet of the neighborhood or vicinity in which same is located.

701.09 BILLIARD ROOMS IN BOWLING ALLEYS.

No person shall operate a billiard room in a bowling alley after the hour of 2:00 a.m. or before the hour of 8:00 a.m. on any week day, and after the hour of 8:00 a.m. or before the hour of 7:00 p.m. on Sunday.

701.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor on the first offense and on each subsequent offense such person is guilty of a fourth degree misdemeanor.

CHAPTER 703

Oil and Gas Wells

- 703.01 Compliance and permit required.**
- 703.02 Permit application and fee; surety bond.**
- 703.03 Drilling near structures; exceptions.**
- 703.04 Insurance requirements.**
- 703.05 Use of rotary equipment.**
- 703.06 Cable tools.**
- 703.07 Crew training.**
- 703.08 Prevention of water pollution.**
- 703.09 Fencing requirements.**
- 703.10 Discharge into sewers prohibited.**
- 703.11 Drilling only during daylight hours.**
- 703.12 Storage tanks and pipeline installation.**
- 703.13 Judgment determination by Safety-Service Director.**
- 703.14 Right of entry; permit refusal or revocation.**
- 703.15 Affidavit of compliance.**
- 703.16 Well abandonment.**
- 703.17 Restoration and area clearance; payment of damages.**
- 703.18 Drilling right limited to ownership or contract consent.**
- 703.99 Penalty.**

CROSS REFERENCES

- Water pollution - see Ohio R.C. 715.08, 743.23
- State law provisions - see Ohio R.C. Ch. 1509
- Abandoned excavations - see GEN. OFF. 521.03
- Fences - see GEN. OFF. 521.07
- Falsification - see GEN. OFF. 525.02

703.01 COMPLIANCE AND PERMIT REQUIRED.

No person shall drill a well for oil and/or gas within the City until the time that the person has fully complied with all provisions of this chapter and permission has been granted to the person by issuance of a drilling permit.
(Ord. 3797. Passed 3-3-64.)

703.02 PERMIT APPLICATION AND FEE; SURETY BOND.

Any person, firm, association or corporation desiring to drill a well for oil and/or gas within the corporate limits of the City shall make application for a permit to the Safety-Service Director. A fee of two thousand dollars (\$2,000) shall be paid to the City at the time application is filed, for the purpose of defraying the expenses of administration and enforcement of regulatory ordinances concerning drilling oil and/or gas wells within the corporate limits of the City, and to defray the expenses of inspections of oil and/or gas well sites prior to and during drilling and at the time the wells are pulled and plugged. The person, firm, association or corporation at time of application shall also file with the Safety-Service Director a surety bond with liability on the bond conditioned upon compliance with this chapter until the time of completion of drilling, plugging or abandonment of the well or wells. The bond shall be in the amount of two thousand dollars (\$2,000) for one well or in lieu of a bond for each well, a blanket bond for all wells in the amount of five thousand dollars (\$5,000).

703.03 DRILLING NEAR STRUCTURES; EXCEPTIONS.

No drilling shall be permitted for oil and/or gas wells within 200 feet of residential and mercantile buildings, or any school, church, hospital, theater or assembly hall as the same are defined by the Ohio Revised Code. In the case of particular installations where compliance with the foregoing distance requirements may be a handicap to the use of the property and where no undue hazard will be created, the distance may be reduced at the discretion of Council after due consideration of such special features as topographical conditions, nature of occupancy and proximity of buildings on the adjoining property, proximity of storage tanks, degree of fire protection provided and the facilities available at fire departments to cope with controlling liquid fires. The above features are not to be in any way construed as a limitation on matters which Council may consider. Council shall have the right to consider any and all other special features it may consider important in determining whether or not an undue hazard is created.

(Ord. 3797. Passed 3-3-64.)

703.04 INSURANCE REQUIREMENTS.

Before an application for a permit is granted, the Clerk of Council shall be provided with a policy or a certificate of insurance, covering the applicant's liability for property damage in an amount of not less than three hundred thousand dollars (\$300,000) and the applicant's liability for

personal injury in an amount of not less than three hundred thousand dollars (\$300,000), which insurance policy or policies must be maintained for the period of time that drilling is in process, the well is in operation or is producing oil and/or gas, or until the well is pulled and plugged as hereinafter provided. These insurance policies and the coverages thereunder must be to the complete satisfaction of the City and the policies may be rejected by the City for any valid reason. Rejection of the insurance policies shall serve to stay the granting of a permit until the time that an insurance policy providing coverage entirely satisfactory to the City has been provided by the applicant.
(Ord. 3797. Passed 3-3-64.)

703.05 USE OF ROTARY EQUIPMENT.

(a) The drilling preparation used in wells drilled with rotary equipment shall be capable of sealing off each oil, gas, brine or fresh water stratum above the producing horizon or objective formation and shall be capable of preventing blowouts and flows of salt or fresh water, in accordance with good oil field practice.

(b) Rotary tools shall have the innermost string of casing equipped with a blowout preventor properly installed and tested prior to drilling into any formation likely to contain oil or gas.

(Ord. 3797. Passed 3-3-64.)

703.06 CABLE TOOLS.

Wells drilled with cable tools shall have the innermost string of casing equipped with a high pressure master gate valve and control head and an oil saver, securely anchored by concrete, prior to drilling into any formation likely to contain oil or gas.

(Ord. 3797. Passed 3-3-64.)

703.07 CREW TRAINING.

All crews shall be trained in operation of the blowout preventor, control head and related equipment and all equipment to be used shall be in good condition.

(Ord. 3797. Passed 3-3-64.)

703.08 PREVENTION OF WATER POLLUTION.

The permittee shall seal gas and oil wells to protect fresh water wells from salt water pollution in the proper manner that is in accordance with good oil field practice.

(Ord. 3797. Passed 3-3-64.)

703.09 FENCING REQUIREMENTS.

The permittee shall maintain a six-foot wire fence around the drilling and well operations in accordance with good oil field practice.

(Ord. 3797. Passed 3-3-64.)

703.10 DISCHARGE INTO SEWERS PROHIBITED.

No waste, slug, water or effluent of any type where an oil and/or gas well is being drilled shall in any manner be emptied or drained into any storm or sanitary sewer of the City.

(Ord. 3797. Passed 3-3-64.)

703.11 DRILLING ONLY DURING DAYLIGHT HOURS.

No permittee shall in any instance be permitted to drill into any formation likely to contain oil or gas except during the daylight hours. Daylight hours for the purpose of this section means that time between sunrise and sunset.

(Ord. 3797. Passed 3-3-64.)

703.12 STORAGE TANKS AND PIPELINE INSTALLATION.

(a) All tanks for oil storage shall be erected and maintained outside the corporate limits of the City. In no instance shall storage tanks be permitted closer than 200 feet to any building of any type within the corporate limits of the City.

(b) Council may allow any permittee to lay the pipeline from its drilling site to its oil tank storage area on public property. A plot must be submitted at the time application for a drilling permit is made showing clearly the location of the drilling site, location of the oil tank storage area and location of the pipeline between drilling site and oil tank storage area. Council must approve the location of the line and may require a change of route for the pipeline, in whole or in part. In all instances where the pipeline crosses private property, easements must be acquired for the pipeline and proof of same filed with the drilling permit application.

(c) Council may require the permittee prior to actual laying of a pipeline to deposit with the City a sum of money considered adequate to restore all property in the path of the pipeline to the same condition in which it was prior to laying the pipeline. The cost of laying and maintaining the pipeline shall be borne entirely by the permittee. Upon restoring property in the path of the pipeline to the condition it was prior to laying the pipeline, the deposit will be returned to the permittee on order of the Safety-Service Director. If any portion of the job of restoring property to proper condition is considered inadequate, Council may, on notice to the permittee of the failure, proceed to have the work done and use the deposit to pay any expense of any type incurred in restoring the property to its original condition.

(Ord. 3797. Passed 3-3-64.)

703.13 JUDGMENT DETERMINATION BY SAFETY-SERVICE DIRECTOR.

In any instance where a matter of judgment is involved, such as, but not limited to, determinations as what constitutes good oil field practice or whether any equipment is in good condition, the final decision shall rest with the Safety-Service Director.

703.14 RIGHT OF ENTRY; PERMIT REFUSAL OR REVOCATION.

(a) The City or its duly authorized representatives shall have the authority at any time to enter upon property where a drilling site is contemplated, upon property where a well is in process of being drilled or upon a producing well site for purpose of inspecting the site, equipment and all other things necessary to assure compliance with this chapter.

(b) Failure to comply with any provision of this chapter shall be grounds to refuse to issue a permit to drill or shall be grounds to revoke a permit already issued. Revocation of a permit shall remove all right of the permittee to drill for oil and/or gas until such time as the permittee takes steps to be in compliance with this chapter. Operations carried on by the permittee after revocation of his permit shall constitute a violation of this chapter and shall be punishable as provided in Section 703.99.

(Ord. 3797. Passed 3-3-64.)

703.15 AFFIDAVIT OF COMPLIANCE.

Any applicant for a permit shall be required to file with the application an affidavit stating that the applicant has complied with all conditions of

this chapter or setting forth any exceptions thereto. Any false statement in the affidavit shall be grounds to refuse to issue a permit to drill or shall be grounds to revoke a permit already issued.

(Ord. 3797. Passed 3-3-64.)

703.16 WELL ABANDONMENT.

In the event a well is abandoned, the owner or lessee shall notify the Safety-Service Director of the abandonment, and the Safety-Service Director shall cause the same to be indicated on the map provided at the time of the original application. All permittees shall be required to pull and/or plug a well site on abandonment as required by any rules or regulations promulgated by any department or division of the State of Ohio relative to pulling and plugging of oil and/or gas wells.

703.17 RESTORATION AND AREA CLEARANCE; PAYMENT OF DAMAGES.

(a) The permittee shall restore the streets, sidewalks and other public places of the City which may have been damaged or disturbed in the operations of drilling or preparing to drill, or operations connected with drilling, to their former condition.

(b) The permittee shall clear the area of all litter, rubbish, machinery, derricks, buildings, oil or other substances used or allied to use of drilling or producing operations.

(c) The permittee shall pay to the owners of any realty, crops, buildings, improvements, goods or chattels located in the area any extra cost of insurance on the property imposed by reason of the granting of the permit or the operations carried on thereunder, and any and all damages suffered by any person, persons or corporation as to property within the City from fire, over and above the insurance collected thereon, or from oil, gas or water caused by or originating from the operation connected with the well, and will hold the City free and harmless from any and all liability growing out of the granting of such a permit.

(Ord. 3797. Passed 3-3-64.)

703.18 DRILLING RIGHT LIMITED TO OWNERSHIP OR CONTRACT CONSENT.

No permit shall be issued for the drilling of an oil and/or gas well except upon real estate owned by the applicant for the permit, or held by the applicant under a lease or drilling contract from the owner, giving the applicant permission to drill the well. Nothing herein contained, nor any permit issued hereunder, shall be deemed to grant any right or license to the permittee to enter upon or occupy any land or to commence, in any respect, drilling or production operations thereon except by the written permission of the owners.

(Ord. 3797. Passed 3-3-64.)

703.99 PENALTY.

Whoever violates any provision of this chapter or any amendment hereof shall be fined not more than five hundred dollars (\$500.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues. The Law Director is further authorized to seek injunctive relief against any violation of any provisions of this chapter or of amendments thereto in any proper court of law or equity.

(Ord. 3797. Passed 3-3-64.)

CHAPTER 705

Peddlers, Solicitors, Canvassers and Itinerant Vendors

705.01 Definitions.

705.02 Sales on public property prohibited.

705.03 Sales on private property.

705.04 License revocation.

705.05 Appeals.

705.06 Organizational liability.

705.07 Display of license card.

705.08 Licenses and fee for itinerant vendors, temporary stores; personal property sale exceptions.

705.99 Penalty.

CROSS REFERENCES

Power to inspect food products - see Ohio R.C. 715.46

Power to regulate - see Ohio R.C. 715.61 et seq.

Power to regulate temporary stores - see Ohio R.C. 715.64

Home solicitation sales - see Ohio R.C. 1345.21 et seq.

Charitable solicitations - see Ohio R.C. Ch. 1716

License revocation - see Ohio R.C. 2961.03

Littering - see GEN. OFF. 521.08

Trespassing - see GEN. OFF. 541.05

Selling articles at reservoirs - see S.U. & P.S. 945.01(g), 945.02(g)

705.01 DEFINITIONS.

(a) "Canvasser" means any person who obtains or influences the opinions of the residents of the City by traveling door to door either by foot, automobile, truck or other type of conveyance and calling upon private residences including any house, apartment or other dwelling, or any place of business in the City, but does not seek to obtain funds or other contributions for any cause whatsoever.

(b) "Charitable" includes the words patriotic, philanthropic, social service, welfare, eleemosynary, benevolent, educational, civic, fraternal, veterans, medical and social research, either actual or purported.

(c) "Door-to-door salesperson in interstate commerce" means a person who travels from door to door calling on private residences or places of business in the City for the purpose of taking orders for future delivery of goods or services to be furnished, supplied or delivered from sources outside the State and which is not done in connection with any appeal for any charitable or religious purpose.

(d) "Peddler" means any person who travels door to door either by foot, automobile, truck, or any other type of conveyance and calls upon private residences, including any house, apartment or other dwelling, or any place of business within the City, taking or attempting to take orders for profit for the sale of goods, wares, and merchandise or personal property of any nature whatsoever for immediate or future delivery or for

services to be furnished or performed immediately or in the future.

(e) "Person" means any individual, firm, partnership, corporation, company, association, joint stock company, religious sect, religious denomination, society, organization or league, or any combination of them, and includes any trustee, member, receiver, assignee, agent or other representative thereof.

(f) "Place of Business" means every separate location occupied by an individual, firm, company or business entity at which one carries on his, her or its business, employment, occupation, profession or commercial activity.

(g) "Religious organization" means any church, body of communicants or group that is not organized or operated for profit that gathers in common membership for regular worship and religious observances.

(h) "Solicitor" means any person who seeks to obtain funds for any cause whatsoever by traveling door to door either by foot, automobile, truck or any type of conveyance and calling upon private residences, including any house, apartment or other dwelling, or any place of business within the City.

(Ord. 2004-2. Passed 1-27-04.)

705.02 SALES ON PUBLIC PROPERTY PROHIBITED.

No person shall on any public street, alley, drive, lane, thoroughfare, right-of-way, court, highway, boulevard or on the sidewalks thereof, solicit the sale of any merchandise, wares, goods, foods, periodicals or other articles of value for present or future delivery unless specifically authorized by this Chapter or other provisions of the Codified Ordinances of the City.

(Ord. 2004-2. Passed 1-27-04.)

705.03 SALES ON PRIVATE PROPERTY.

(a) License or Registration Required. No peddler or solicitor shall peddle or solicit within the City, unless he or she is the holder of a valid license issued pursuant to this chapter.

(b) Application; Fee; License; Registration.

(1) Any person seeking a license in conformity with this chapter shall obtain an application for same from the Chief of Police and shall submit the completed application, along with the appropriate fee, to such office, on a form supplied by the Chief which shall contain the following information:

- A. Full name of applicant;
- B. Date of birth of the applicant;
- C. Local address, if any;
- D. Permanent home address;
- E. A physical description of the applicant, setting forth age, height, weight, color of hair and eyes, and sex;
- F. Social security number;
- G. A description of the nature of the business and the goods, wares, merchandise, property and/or services to be sold;
- H. Telephone number of the applicant;
- I. Name and address of organization the peddler or solicitor represents;
- J. Whether the applicant has ever been convicted of a crime and if so, where the nature of the offense and the punishment or penalty imposed therefor, if any;
- K. Such other information as the Chief may require in order to protect the public health, safety and/or general welfare.

(2) All license applications shall be referred to the Chief who shall, within five (5) days after receipt of the completed application, issue a license unless he finds that:

- A. The applicant has provided false, misleading or deceptive information in his application; and or
- B. The applicant or any solicitor or peddler named on the license application has been convicted of a felony violation or misdemeanor violation involving weapons, theft, moral turpitude or violence within the past five (5) years.

All licenses issued under this chapter shall be valid for not more than one hundred eighty (180) days. A separate license shall be required for each individual solicitor or peddler even though there may be a single employer.

(3) Each applicant shall pay a nonrefundable license application fee of Fifteen Dollars (\$15.00), which fee shall be paid at the time the application is submitted.

(4) Once issued, a license may be used only in conformity with the laws of the City and the State of Ohio; may not be assigned or transferred; must be carried by the licensee at all times; and may be revoked or suspended by the Chief of Police for any of the following causes:

- A. The licensee or person preparing the application on behalf of the licensee provided false, misleading or deceptive information in the license application;
- B. The licensee is convicted of a felony or of a misdemeanor involving fraud or moral turpitude; or
- C. The licensee violates any provision of this chapter or peddles or solicits in an unlawful manner.
- D. Upon written complaint being filed with the Police Department, that the licensee has made himself obnoxious to the public by the use of indecent, profane or insulting language or has made or perpetrated any misstatement, deception or fraud in connection with any solicitation or sale, and if said complaint is found to be true, the license of such solicitor or peddler shall be revoked.

(c) Exemption from License Fee. Individuals or corporations soliciting or peddling on behalf of a religious or charitable organization and door-to-door salespersons in interstate commerce shall not be required to pay license fees.

(d) License Exceptions. No license shall be required of a peddler or solicitor for the following:

(1) Soliciting only the purchase of or subscription for newspapers having their principal sale or distribution in this City or in the County.

(2) Soliciting only for wholesale delivery to merchants, manufacturers or other businessmen at their offices, places of business or factories, the sale of equipment or articles used in the conduct of their professions, businesses or manufacturing establishments.

(3) Peddling or soliciting at the invitation or request of the person contacted.

(4) Soliciting or peddling on behalf of any locally recognized religious, educational, civic or charitable organization, without compensation to the solicitor or peddler.

(e) Restrictions; Hours; Conduct. Every person to whom a license to peddle or solicit is issued and every canvasser shall be governed by the following rules and regulations:

(1) No person subject to the provisions of this chapter shall peddle, solicit or canvass except between the hours of 9:00 a.m. and 8:00 p.m. or one-half hour after sunset, whichever is later.

(2) No peddler, solicitor or canvasser shall enter or attempt to enter a residence, house, apartment or other dwelling in the City without an express invitation from an adult occupant of the residence, house, apartment or other dwelling.

(3) No peddler or solicitor shall engage in any peddling or solicitation other than that specified in the license application.

(4) No peddler, solicitor or canvasser shall by any device make unlawful noises, nor shall any peddler, solicitor or canvasser remain at the residence, house, apartment or other dwelling in the City without the consent of any adult occupant of the residence, house, apartment or other dwelling in the City.

(f) Prohibition by Notice. Notwithstanding any other provision of this chapter, no peddler, solicitor or canvasser, while peddling, soliciting or canvassing, shall call upon, knock at the door or ring the doorbell of, or enter any residence, house, apartment, other dwelling or place of business in the City upon which there is posted at the main entrance door, a weather-proof card, decal or sign, not less than three (3) inches by four (4) inches in size nor more than one square foot (144 square inches) in total area indicating a determination by the owner or occupant to refuse to receive any uninvited peddler, solicitor, or canvasser, which sign contains the words "No Solicitors Allowed," or words of similar import, with letters at least one-third of an inch in height. Any such sign that complies with the requirements of this section shall be exempt from any additional or different requirements contained in the provisions of these Ordinances, including but not limited to, Chapters 1311 and 1353 of the Codified Ordinances.

(Ord. 2004-2. Passed 1-27-04.)

705.04 LICENSE REVOCATION.

Any peddler or solicitor license issued under the provisions of this chapter may be revoked at any time by the Safety-Service Director if the licensee is guilty of fraud, misrepresentation or any unlawful act in connection with his business, or in the application form required by this chapter, or if the licensee violates any provision of this chapter.

(Ord. 2004-2. Passed 1-27-04.)

705.05 APPEALS.

Any applicant who has applied for and been denied a license under Section 705.02, or has a license issued under Section 705.02 revoked, may appeal to Council. Notice of appeal shall be filed with Council within five (5) days after such denial or revocation.

(Ord. 2004-2. Passed 1-27-04.)

705.06 ORGANIZATIONAL LIABILITY.

The organization sponsoring or employing individuals violating any of the provisions of Chapter 705 may be prosecuted and held liable for the criminal penalties contained herein.

(Ord. 2004-2. Passed 1-27-04.)

705.07 DISPLAY OF LICENSE CARD.

Any peddler or solicitor shall, at all times while soliciting or peddling, display said license or registration card on the outside of their person in such a manner so as to be clearly visible to residents. Upon request by any resident, police officer or city official, a solicitor, or peddler shall present said license or registration card for further inspection.

(Ord. 2004-2. Passed 1-27-04.)

705.08 LICENSES AND FEE FOR ITINERANT VENDORS, TEMPORARY STORES; PERSONAL PROPERTY SALE EXCEPTIONS.

(a) No person, whether principal or agent, shall open or conduct a temporary store or other place for the selling of wearing apparel or any other goods, wares or merchandise within the City, or offer any article for sale until he has complied with the State statute provisions relative to obtaining a State license as an itinerant vendor, and until he has exhibited the State license to the Safety-Service Director and procured from the Safety-Service Director a license to open a store or conduct a sale. The license fee of twenty-five dollars (\$25.00) shall be paid to the City.

(b) This section shall not apply to permanent residents of the City while selling their own personal property not originally acquired for resale, or foods or foodstuffs produced and/or prepared at the residence of the seller if:

- (1) The sale is conducted on the residence property of the seller;
- (2) The sale is of no more than seven calendar days duration; and
- (3) No more than three sales are held in any one calendar year.

(c) This section shall not apply if another license is required by City pursuant to its Business Regulation Code for the subject business or activity.

(Ord. 2004-2. Passed 1-27-04.)

705.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor.

(Ord. 2004-2. Passed 1-27-04.)

CHAPTER 707

Public Dances

- 707.01 Definitions.**
- 707.02 License required; exceptions.**
- 707.03 License application.**
- 707.04 License application from organization.**
- 707.05 License fee.**
- 707.06 License duration; revocation.**
- 707.07 Qualifications of applicant.**
- 707.08 Investigation of applicant.**
- 707.09 Safety and sanitation requirements.**
- 707.10 Age of patrons.**
- 707.11 Conditions for holding dance.**
- 707.99 Penalty.**

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61

Intoxicating liquor in dance hall - see Ohio R.C. 4399.14

707.01 DEFINITIONS.

As used in this chapter:

(a) "Person" means any individual, any partner of a partnership or any officer of a corporation.

(b) "Public dance" means any dance to which admission may be had by the payment of a fee or by the purchase, possession or presentation of a ticket or token obtained for money, or any valuable thing; or in which a charge is made for caring of clothing or other property; or any other dance to which the public generally may gain admission with or without payment of a fee.

(c) "Public dance hall" means any hall, room or space within or without a building, which is used for the purpose of a public dance or dances.

707.02 LICENSE REQUIRED; EXCEPTIONS.

(a) No person shall operate or conduct a public dance in the City without having first obtained a license therefor as hereinafter required.

(b) The provision of this chapter shall not apply to dances held under the direction and supervision of the Galion Public Schools, nor to dances held under the direction and supervision of religious, civic, fraternal or other nonprofit organizations.

707.03 LICENSE APPLICATION.

Application for a license under this chapter shall be made at least ten days prior to the scheduled date of the dance, or the scheduled date of the first dance in cases where the applicant intends to conduct more than one dance, and shall be made to the Safety-Service Director. The application shall specify the location of the proposed dance or dances; the person, persons or organizations sponsoring the same; the times; the type of entertainment to be provided, and the age group which shall be in attendance.

707.04 LICENSE APPLICATION FROM ORGANIZATION.

Any license application from a partnership shall set forth the names and addresses of all partners; an application from a corporation shall set forth the names and addresses of all officers and directors; an application from any other organization shall set forth the names and addresses of its officers.

707.05 LICENSE FEE.

A fee of fifty dollars (\$50.00) shall be charged for all licenses issued under this chapter.

707.06 LICENSE DURATION; REVOCATION.

The license herein issued shall be valid for one year from date of issue; provided, however, that any changes which would alter the information contained in the license application, such as change of location, change of sponsor, change of time, change in age group or change in type of entertainment shall operate as a revocation of the license and any such changes shall require a new license to be issued before any further dances may be held. Further, conviction for any violation of the provisions of this chapter shall operate as an immediate revocation of the license.

707.07 QUALIFICATIONS OF APPLICANT.

No license under this chapter shall be issued to a person who is not of good moral character, nor to a corporation or organization which is not represented by a person of good moral character.

707.08 INVESTIGATION OF APPLICANT.

The Chief of Police shall make or cause to be made an investigation into the character of each applicant and report the results of the investigation to the Safety-Service Director.

707.09 SAFETY AND SANITATION REQUIREMENTS.

No person shall conduct a public dance in any hall, room, or place which is not equipped with exits which comply in both number and size, or which does not otherwise comply, with the requirements promulgated by the Ohio State Fire Marshal or other authorized board or department of the State or its political subdivisions, or which does not provide restrooms in compliance with regulations established by the Ohio Board of Health, or the Board of Health of any other political subdivision.

707.10 AGE OF PATRONS.

No license shall be issued for any dance to be attended by children twelve years of age or under; and no person shall hold dances for children of that age.

707.11 CONDITIONS FOR HOLDING DANCE.

No license shall be issued for any dance to be attended by children thirteen years of age through seventeen years of age, except upon compliance with the following provisions, and no person holding, conducting, permitting or arranging the dance shall violate any of the following provisions:

(a) No intoxicating beverages, whether malt, vinous or distilled, shall be permitted;

(b) No smoking shall be permitted;

(c) No gambling of any type, including but not limited to card playing or the playing of pinball machines or similar devices, whether paying cash prizes or giving free games, shall be permitted;

(d) No cigarettes or other tobacco products shall be sold or dispensed, whether from vending machines or otherwise;

(e) No dance shall be permitted to continue for patrons in this age group later than 10:30 p.m. on Monday, Tuesday, Wednesday, or Thursday, nor later than 11:30 p.m. on Friday or Saturday, and all patrons in this age group shall leave the premises at those hours;

(f) A person qualified in this capacity and of good moral character shall be in attendance as a supervisor at all dances. The name of the supervisor shall be given to the Safety-Service Director at the time the application for the license is made, and no license shall be issued unless the Safety-Service Director finds the qualifications of the proposed supervisor to be adequate and proper.

707.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor on the first offense and on each subsequent offense such person is guilty of a fourth degree misdemeanor.

CHAPTER 709

Taxicabs

709.01 Definitions.

709.02 License required.

709.03 License application.

709.04 Bond or liability insurance required.

709.05 Sign display.

709.06 Schedule of fees; license issuance.

- 709.07 Special license regulations for taxicab drivers.**
- 709.08 Employment of unlicensed drivers prohibited.**
- 709.99 Penalty.**

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.22, 715.66
Power to establish and fix rates - see Ohio R.C. 715.25
Operation by minor prohibited - see Ohio R.C. 4507.321

709.01 DEFINITIONS.

As used in this chapter:

- (a) "Person" means natural persons, associations, copartnerships and corporations.
- (b) "Taxicab" means any motor vehicle operated for hire without any fixed route or schedule for the purpose of transporting passengers from any point in the City to any other point within or without the City at the instance and volition of the passenger hiring the same, provided that no provision of this chapter shall be held to apply to the following named motor vehicles:
 - (1) Motor vehicles transporting passengers between this City and any other City, hamlet, or Village, under license of the State.
 - (2) Ambulances, funeral trucks or automobiles operated by any person exclusively for the purpose of transporting employees of the carrier to and from their place of employment.

709.02 LICENSE REQUIRED.

No person shall, either as principal, agent or employee, use or occupy any street or public place within the corporate limits with any taxicab as herein defined for the carriage of persons for hire and operate the same by indiscriminately accepting as passengers persons who may offer themselves for transportation without obtaining a license to do so and complying with other conditions of this chapter as hereinafter provided.

709.03 LICENSE APPLICATION.

- (a) Any person desiring to operate a taxicab shall file an application with the Mayor and set forth the following:
 - (1) The number of taxicabs to be operated;
 - (2) The name, factory number, State license number and seating capacity of the same;
 - (3) The name of the owner;
 - (4) Whether regular or special transfer service is to be maintained;
 - (5) The fare or schedule of fares to be charged.
- (b) Prior to the approval of the application for a license the Mayor shall make investigation into the character and financial responsibility of the applicant.

709.04 BOND OR LIABILITY INSURANCE REQUIRED.

Every person licensed under the provisions of this chapter shall furnish and file with the Safety-Service Director before the license is issued a good and sufficient indemnity bond or evidence that he has taken out for the protection of his passengers a liability insurance policy in whatever amounts may be specified in Ohio R.C. 4509.01(K) as from time to time amended, and presently to be in the sum of twelve thousand five hundred dollars (\$12,500) for injury or death to one person, twenty-five thousand dollars (\$25,000) for injury or death to more than one person, and seven thousand five hundred dollars (\$7,500) property damage for the operation of the taxicab. This bond must meet with the approval of the Safety-Service Director and the insurance must be maintained during the whole term of the license. Should Ohio R.C. 4509.01(K) be amended to raise the limits of liability at any time during the term of a license then issued and in force, the holder of the license shall be notified of the increase in limits and he shall immediately increase the limits of his liability coverage and shall furnish, within thirty days of receiving notification, proof of increased coverage with the Safety-Service Director or his license shall be revoked and he shall be notified accordingly.

709.05 SIGN DISPLAY.

Each taxicab license under the provisions of this chapter shall have displayed in a prominent place in the front thereof, a sign, the letters and figures of which shall not be less than two inches in height with the words "Taxicab" and the license number printed or written immediately thereunder.

709.06 SCHEDULE OF FEES; LICENSE ISSUANCE.

- (a) No license shall be issued by the Safety-Service Director until there is paid a fee as follows:
 - (1) For each taxicab having a seating capacity or not more than five passengers, twenty dollars (\$20.00).
 - (2) For each taxicab having a seating capacity of more than five passengers and not over ten passengers, thirty dollars (\$30.00).
 - (3) For each taxicab having a seating capacity of over ten passengers, fifty dollars (\$50.00).
- (b) The license shall be issued for not more than one year and may be renewed. If any license is issued and not used for the whole year, there may be refunded a prorate of the license fee of not more than fifty percent (50%).

709.07 SPECIAL LICENSE REGULATIONS FOR TAXICAB DRIVERS.

Every person engaged in the occupation of driving taxicabs, automobiles or other vehicles for hire, for the purpose of transporting persons, except public buses operated under the franchise, shall be licensed by the City. Applicants shall have and maintain a current Ohio motor vehicle operator's license. The applicant shall pay an annual license fee therefor of five dollars (\$5.00), together with a photograph which shall be taken by the licensing authority. The license and photograph shall be displayed where passengers can see it. The licensee shall comply with the terms of this chapter and all ordinances or laws governing the operation of taxicabs and motor vehicles which may now be in effect or which may hereafter become effective. If the licensee loses his/her privilege to operate a motor vehicle in Ohio, the City license shall be surrendered.

709.08 EMPLOYMENT OF UNLICENSED DRIVERS PROHIBITED.

No licensee shall permit any licensed taxicab to be driven for hire by any person who is not a licensed driver under the provision of Section 709.03.

709.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor on the first offense and on each subsequent offense such person is guilty of a fourth degree misdemeanor.

CHAPTER 711

Pawnbrokers

- 711.01 Defined.**
- 711.02 Records.**

- 711.03 Record inspections.**
- 711.04 Daily reports to Police Department.**
- 711.05 Waiting period before releasing or changing article.**
- 711.06 Prohibited dealings with minors, drunkards and thieves.**
- 711.07 Fictitious information by seller.**
- 711.99 Penalty**

CROSS REFERENCES

- Power to regulate - see Ohio R.C. 715.61
- License revocation - see Ohio R.C. 2961.03
- Pawnbrokers - see Ohio R.C. Ch. 4727
- Maximum interest and charges allowed - see Ohio R.C. 4727.06
- Daily report to police department - see Ohio R.C. 4727.09
- Purchase from minor or drunkard prohibited - see Ohio R.C. 4727.10

711.01 DEFINED.

Any person now or hereafter engaged within the City in the business of lending money on a deposit of pledges of personal property or other valuable thing, other than securities or printed evidence of indebtedness, or in the business of purchasing personal property, or chooses in action, or other valuable thing, and selling or agreeing to sell the same back to the seller at a price other than the original price of purchase, or in the business of purchasing personal property such as articles made of or containing gold, silver, platinum or other precious metals, including coins or jewels, of any description for the purpose of reducing or smelting them into any form different from their condition or construction when purchased or reselling or marketing the product, or for resale for the purpose of reduction or smelting, is declared and defined to be a "pawnbroker" within the meaning of this chapter.

(Ord. 80-5082. Passed 12-2-80.)

711.02 RECORDS.

Every pawnbroker shall keep and use proper books and forms in which shall be legibly written in the English language, at the time each purchase or loan is made, an accurate description of the goods, articles or things deposited; the time of pledging or selling the same; the amount of money loaned thereon or paid therefor; the rate of interest and charges to be paid on such loan; the time within which such pawn is to be redeemed; the amount of any repurchase price; and the name, age, place of residence and a short description of the person of the pledgor or seller. When any watch is pledged or sold, the pawnbroker shall also write in such book the number of the movement, the number of the case and the name of the maker thereof. Where jewelry or gold or silver articles of any kind are pledged or sold, the pawnbroker shall write in such book all identifying letters or marks inscribed thereon.

(Ord. 80-5082. Passed 12-2-80.)

711.03 RECORD INSPECTIONS.

The books and records required to be kept by Section 711.02 shall at all times be open to the inspection of the Chief of Police, a police officer deputized by him or the Mayor. Upon demand by any of them, the pawnbroker shall produce and show an article thus listed and described which is in his possession.

711.04 DAILY REPORTS TO POLICE DEPARTMENT.

All pawnbrokers shall, before 12:00 noon of every business day, report to the Chief of Police or the head of the Police Department, on forms to be furnished by the Police Department, a description of all articles received by him by pledge or sale on the business day immediately proceeding, together with the number of the ticket issued therefor and the amount loaned or advanced thereon.

(Ord. 80-5082. Passed 12-2-80.)

711.05 WAITING PERIOD BEFORE RELEASING OR CHANGING ARTICLE.

No pawnbroker shall change, alter, smelt or deface any article or voluntarily release possession of any goods, articles or things pledged with him or purchased by him until the expiration of forty-eight hours after delivery to the Chief of Police of a statement relating thereto as provided in Section 711.04, except by permission of the Police Department.

(Ord. 80-5082. Passed 12-2-80.)

711.06 PROHIBITED DEALINGS WITH MINORS, DRUNKARDS AND THIEVES.

No pawnbroker shall receive any pledges or purchase any articles or things from any minor, any habitual drunkard or any person who is known by him to be a thief or a receiver of stolen property, or from any person whom he has reason to suspect or believe to be any of the foregoing.

(Ord. 80-5082. Passed 12-2-80.)

711.07 FICTITIOUS INFORMATION BY SELLER.

No person shall use a fictitious name or address when selling or pawning merchandise to any pawnbroker in the City.

(Ord. 80-5082. Passed 12-2-80.)

711.99 PENALTY.

(a) Whoever violates any section of this chapter by lending money on a deposit of pledges of personal property or other valuable thing, or other than securities or printed evidence of indebtedness; or by purchasing personal property, or chooses in action, or other valuable thing, and selling or agreeing to sell the same back to the seller at a price other than the original price of purchase; or by purchasing personal property such as articles made of or containing gold, silver, platinum or other precious metals, or jewels of any description, for the purpose of reducing or smelting them into any form different from their condition or construction when purchased or reselling or marketing the product or for resale for the purpose of reduction or smelting in violation of any provision of this chapter is guilty of illegal pawnbroking, a misdemeanor of the third degree.

(b) Whoever violates Section 711.07 is guilty of supplying fictitious information to a pawnbroker, a misdemeanor of the third degree.

(Ord. 80-5082. Passed 12-2-80.)

CHAPTER 713

Junk Yards

- 713.01 Definitions.**
- 713.02 Fences required.**
- 713.03 Construction requirements.**
- 713.04 Injunction.**

713.99 Penalty.

CROSS REFERENCES

State licensing and required fencing - see Ohio R.C. 4737.05 et seq.

Junk vehicles - see TRAF. 303.09, 303.10

713.01 DEFINITIONS.

As used in this chapter:

(a) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, rubber, junked, dismantled or wrecked automobiles or parts thereof, iron, steel and other old or scrap ferrous or nonferrous materials which are not held for sale for remelting purposes to an establishment having facilities for processing such materials.

(b) "Junk yard" means an establishment or place of business, other than an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes, which is maintained or operated for the purpose of storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, except an establishment or place where automobiles, wrecked or otherwise, are held or impounded for a period not to exceed ninety days exclusively for storage, repair or resale without alteration.

(c) "Fence" means an enclosure at least six feet in height, constructed of nontransparent material, and maintained so as to obscure the junk in the enclosure from the ordinary view of persons passing upon the State, County, Township and City roads in this City and using adjacent property zoned for residential or business uses.

(Ord. 88-5721. Passed 12-6-88.)

713.02 FENCES REQUIRED.

(a) No person shall operate or maintain a junk yard established on or after the effective date of this section within 1,000 feet of a State or County road, within 300 feet of a Township or City street, road or highway, or adjacent to property zoned residential or business unless a required fence has been erected and is maintained thereafter.

(b) Any person operating or maintaining a junk yard within 1,000 feet of a State or County road, within 300 feet of Township or City street, road or highway, or adjacent to property zoned residential or business prior to the effective date of this section, shall have six months thereafter to erect a required fence if such junk yard is not obscured by natural objects or a fence.

(c) If, after the effective date of this section, by reason of annexation of area to the City, an existing junk yard becomes situated within the City as a zoning nonconforming user, such junk yard, if situated within 1,000 feet of a State or County road within 300 feet of a Township or City street, road or highway, or adjacent to property zoned residential or business, shall have six months thereafter to erect a required fence if such junk yard is not obscured by natural objects or fence.

(Ord. 88-5721. Passed 12-6-88.)

713.03 CONSTRUCTION REQUIREMENTS.

Any fence constructed under this chapter shall be neatly constructed, shall be nontransparent, shall be kept in good order and repair, and no advertisement shall be permitted thereon other than the name and the nature of the business conducted therein.

(Ord. 88-5721. Passed 12-6-88.)

713.04 INJUNCTION.

Whenever the Law Director is of the opinion that a junk yard is being operated or maintained in violation of any provision of this chapter, he may apply, in the name of the City, to a court of competent jurisdiction, alleging the violation complained of and praying for an injunction or other proper relief. In such a case the court may order such junk yard abated as a nuisance or make such other order as may be proper. An action brought under this section shall not be deemed to be a bar to a prosecution under Section 1347.99.

(Ord. 88-5721. Passed 12-6-88.)

713.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree.

(Ord. 88-5721. Passed 12-6-88.)

CHAPTER 715

Amusement Arcades and Devices

715.01 Definitions.

715.02 License required.

715.03 Issuance of license.

715.04 Denial of license.

715.05 Exemptions.

715.06 Applications.

715.07 Issuance restrictions.

715.08 License for mechanical amusement devices.

715.09 License per arcade.

715.10 Fees.

715.11 Additional devices.

715.12 Affidavit required; false affidavit.

715.13 Gambling devices not to be licensed.

715.14 License and registration information.

715.15 License expiration.

715.16 Suspension or revocation.

715.17 License to be displayed.

715.18 Unlicensed or unregistered devices.

715.19 Operation by minors.

715.20 Hours of operation of arcades.

715.21 Prohibited devices.

- 715.22 Records to be kept.**
- 715.23 Transfer of license; replacement of devices.**
- 715.24 Misrepresentation by a minor under the age of eighteen.**
- 715.25 Misrepresentation of name, age or identification of minor under the age of eighteen**
- 715.99 Penalty.**

CROSS REFERENCES

Gambling prohibited - see GEN. OFF. Ch. 517
Using slugs - see GEN. OFF. 545.11
Tampering with coin machines - see GEN. OFF. 545.12

715.01 DEFINITIONS.

As used in this chapter:

- (a) "Amusement arcade" means any place of business at which five or more mechanical amusement devices are located for the use or entertainment of persons patronizing the place of business.
- (b) "Exhibitor" means any individual, corporation or other entity owning and exhibiting or contracting or permitting any mechanical amusement device, as defined in subsection (e) hereof, to be installed, used and exhibited in his own place of business irrespective of the ownership of such device.
- (c) "Gambling device" means a device as defined in Section 517.01 of the General Offenses Code or which contains an automatic pay-off device for the return of slugs, money, coins, checks, tokens, merchandise or anything of value, or which contains an automatic device by the operation of which the player may win at uncertain intervals a free game, a free play or any other additional amusement.
- (d) "Good moral character" means not having been convicted of a crime involving moral turpitude within five years next preceding date of the application.
- (e) "Mechanical amusement device" means a machine, device or instrument which, upon the insertion of a coin, token or slug, operates or may be operated for use as a game, contest of skill or amusement of any description and which is not a gambling device. This definition is not intended to and does not include merchandise vending machines or coin-operated mechanical or electrical musical instruments or devices. It does, however, include, but is not limited to, all electrically operated and "skill-pool" devices.
- (f) "Owner" means any individual, corporation or other entity having title to any mechanical amusement device or amusement arcade as hereinabove defined.

715.02 LICENSE REQUIRED.

No owner or exhibitor shall install or permit the use of any coin-operated mechanical amusement device, and no owner or other person shall operate an amusement arcade without first obtaining an exhibitor's license or an amusement arcade license therefor from the Safety-Service Director or his designee.

715.03 ISSUANCE OF LICENSE.

The Safety-Service Director is authorized to issue licenses to owners and exhibitors of coin-operated mechanical amusement devices, upon compliance with the requirements set forth in this chapter.

715.04 DENIAL OF LICENSE.

The Safety-Service Director is authorized and empowered to deny, for reasonable cause, applications for licenses. No license shall be issued under the provisions of this chapter to any applicant therefor unless the Safety-Service Director has found that such applicant is of good moral character. The lack of such qualification on the part of the applicant shall be deemed grounds for denial of or revocation of such license by the Safety-Service Director.

715.05 EXEMPTIONS.

No license fee shall be charged for mechanical amusement devices exhibited or amusement arcades operated solely for the benefit of a charitable, religious or eleemosynary institution.

715.06 APPLICATIONS.

Every applicant desiring to obtain any exhibitor's license or licenses shall file an application with the Safety-Service Director upon a form to be prescribed by him, prior to the receiving of any such license or licenses, stating the number of mechanical amusement devices intended to be exhibited and including information as to the applicant's arrest record over the five-year period immediately prior to the date of application, such application to include also an affidavit as to the good moral character of the applicant.

715.07 ISSUANCE RESTRICTIONS.

The Safety-Service Director is authorized and empowered to establish, adopt and enforce, or cause to be enforced, such rules and regulations governing the issuance of the licenses and registrations required under this chapter as he may deem reasonable and necessary and not inconsistent with the provisions of this chapter. The Safety-Service Director shall adopt and enforce a rule or regulation requiring an affidavit by each applicant relative to his good moral character.

715.08 LICENSE FOR MECHANICAL AMUSEMENT DEVICES.

The Safety-Service Director may issue a single license for as many as four coin-operated mechanical amusement devices. A separate license shall be required for each location where such devices are to be exhibited.

715.09 LICENSE PER ARCADE.

Each amusement arcade shall be licensed and registered as such amusement arcade and a license and registration therefor shall be required in addition to, and independent of, the license and registration required herein for individual mechanical amusement devices.

715.10 FEES.

The fees for licenses and registration shall be paid at the time of the issuance thereof and shall be as follows:

- (a) Mechanical Amusement Device: Twenty-five dollars (\$25.00) each per year. If the application is filed and the device placed on exhibit after July 1, the fee shall be fifteen dollars (\$15.00) for balance of the year.
- (b) Amusement Arcade: One hundred seventy-five dollars (\$175.00) per year for each place of business. If the application is filed and the amusement arcade commences operation after July 1, the fee shall be one hundred dollars (\$100.00) for the balance of the year. Such fee shall be in addition to and independent of machine or exhibitor's fees.

715.11 ADDITIONAL DEVICES.

A licensee desiring to exhibit additional mechanical amusement devices during the license period shall apply for a new license to replace the licensee's existing license, and upon issuance, such replacement license shall include the devices currently in use and the additional devices the licensee desires to exhibit. Such application need not include information concerning the applicant's arrest record, nor shall an affidavit relative to his good moral character be required. The licensee shall pay at the time of submitting the application the fees required by Section 715.10 (a) for the additional devices. At the time the replacement license is issued, the licensee shall surrender his existing license to the Safety-Service Director.

715.12 AFFIDAVIT REQUIRED; FALSE AFFIDAVIT.

The exhibitor shall be required to furnish the Safety-Service Director the name of the owner of each mechanical amusement device. In the event the exhibitor is also the owner of such device, he shall file an affidavit with the Safety-Service Director setting forth that he is the actual bona fide owner of such mechanical amusement device and that, as such owner, he received all the benefits from the operation thereof and that no other person has any actual or beneficial interest therein, either directly or indirectly.

715.13 GAMBLING DEVICES NOT TO BE LICENSED.

No license or registration shall be issued to any exhibitor or owner for any mechanical amusement device which is a gambling device.

715.14 LICENSE AND REGISTRATION INFORMATION.

Upon payment of the fees required by Section 715.10, the Safety-Service Director shall issue a license and registration which shall contain the name and address of the licensee; the number of mechanical amusement devices exhibited or amusement arcades intended to be operated; the address at which it is desired to exhibit and operate any devices; the nature of the business conducted at such place; the make, name, model and other identifying information with reference to the particular devices desired to be exhibited; the serial number of the license; and such other further information as the Safety-Service Director, in his discretion, may require.

715.15 LICENSE EXPIRATION.

All licenses shall expire at 11:59 p.m. on December 31 of each year unless earlier revoked by the Safety-Service Director .

715.16 SUSPENSION OR REVOCATION.

(a) The license of any person violating any of the terms of this chapter or any of the rules and regulations established and adopted by the Safety-Service Director as provided in Section 715.07, except those relating to the exhibition or operation of such machine, device or amusement arcade for gambling, shall, for the first violation thereof, be suspended by the Safety-Service Director for not less than ten nor more than thirty days; for the second violation thereof, be suspended by the Safety-Service Director for not less than thirty nor more than sixty days; and for the third violation thereof, shall be revoked by the Safety-Service Director. For violation of the terms of this chapter or the rules and regulations established and adopted by the Safety-Service Director relating to the exhibition or operation of such machine, device or amusement arcade for gambling, such license shall be revoked by the Safety-Service Director.

(b) In case of any hearing before the Safety-Service Director involving the denial of a license to an applicant therefor, as provided by Section 715.04, or involving the suspension or revocation of a license of a licensee, as provided herein, the Safety-Service Director shall notify such applicant or licensee of such hearing by registered mail directed to the last address of such applicant or licensee on file with the Safety-Service Director. In the event such license is denied, suspended or revoked, the Safety-Service Director shall notify such applicant or licensee of such denial, suspension or revocation in the same manner as provided above for notification of hearings.

715.17 LICENSE TO BE DISPLAYED.

All licenses issued pursuant to this chapter shall be displayed at some conspicuous place at all locations where mechanical amusement devices are exhibited.

715.18 UNLICENSED OR UNREGISTERED DEVICES.

No person shall keep, maintain, permit or allow any unlicensed and unregistered device to be in or upon any public place, or place of business under the control, supervision or direction of such person, except such device as in this chapter is exempted from license and registration.

715.19 OPERATION BY MINORS.

At locations where the primary purpose of the business conducted is the sale or serving of alcoholic beverages, no exhibitor or owner of a mechanical amusement device shall permit any minor under the age of eighteen years to use or operate any such device at any time that the serving or consumption of alcoholic beverages is permitted unless:

(a) Such device is located in a room in which the serving and consumption of alcoholic beverages is prohibited and such room is separated, by floor-to-ceiling walls and doors which are kept closed except where used by an individual for ingress or egress, from all rooms in which the serving or consumption of alcoholic beverages is permitted; or

(b) Such minor under the age of eighteen years is accompanied by a parent, guardian or adult relative.

715.20 HOURS OF OPERATION OF ARCADES.

No owner or exhibitor of an amusement arcade shall be open or permit playing between the hours of 2:30 a.m. to 9:00 a.m., Tuesday through Saturday; 2:30 a.m. to noon on Sunday; and midnight to 9:00 a.m. on Monday.

715.21 PROHIBITED DEVICES.

(a) No owner or exhibitor shall install or permit the use of any mechanical amusement device which is a gambling device.

(b) Any machine, device, instrument, apparatus or contrivance which is determined to be a gambling device may be seized, destroyed or demolished in the manner provided by law.

715.22 RECORDS TO BE KEPT.

The Safety-Service Director shall keep and maintain on file in his office a full and complete list of all licensees licensed under the provisions of this chapter, and also a full and complete list of all mechanical amusement devices and amusement arcades which are licensed and registered under the provisions of this chapter, together with a cross index showing the location of each such licensed and registered mechanical amusement device and amusement arcade.

715.23 TRANSFER OF LICENSE; REPLACEMENT OF DEVICES.

(a) The license required by this chapter shall not be transferable to any other person or firm.

(b) Mechanical amusement devices may be replaced by other devices of the same classification without notification to the Safety-Service Director.

715.24 MISREPRESENTATION BY A MINOR UNDER THE AGE OF EIGHTEEN.

No person under the age of eighteen years shall knowingly show or give false information concerning his name, age or identification for the

purposes of operating any mechanical amusement device or remaining on the premises of an amusement arcade or an establishment having mechanical amusement devices in violation of any provision of this chapter.

715.25 MISREPRESENTATION OF NAME, AGE OR IDENTIFICATION OF MINOR UNDER THE AGE OF EIGHTEEN.

No person shall knowingly furnish any false information as to name, age or other identification of another person under the age of eighteen for the purpose of such other person operating any mechanical amusement device or remaining on the premises of an amusement arcade or an establishment having mechanical amusement devices in violation of any provision of this chapter.

715.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the fourth degree.

CHAPTER 717

Arborists

717.01 Arborists license.

717.99 Penalty.

CROSS REFERENCES

Abuse of public trees - see GEN. OFF. 541.061

Trees and shrubs - see GEN. OFF. Ch. 557

Street trees - see S.U. & P.S. Ch. 911

717.01 ARBORISTS LICENSE.

It shall be unlawful for any person or firm to engage in the business or occupation of trimming, treating or removing trees within the City without first applying for and procuring a license from the Safety-Service Director or his designee. The license fee shall be twenty-five dollars (\$25.00) annually and paid in advance; provided, that no license shall be required of the City of any public service agencies or its employees. Before any license is issued, each applicant shall first file evidence of possession of Workers' Compensation coverage and of liability insurance in the minimum amounts of five hundred thousand dollars (\$500,000) for bodily injury and one hundred thousand dollars (\$100,000) for property damage, and such coverage and insurance shall be maintained during the time such license is in effect.

(Ord. 95-6136. Passed 4-25-95.)

717.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the fourth degree.

(Ord. 95-6136. Passed 4-25-95.)

CHAPTER 719

Collection of Garbage, Solid Waste and Other Discarded Materials

719.01 Definitions.

719.02 License required.

719.03 Collection, conveyance and disposal; restrictions.

719.04 Condition of vehicles and equipment.

719.05 Dumpsters

719.06 Use of streets and alleys.

719.07 Curbside placement of solid waste.

719.08 Keeping solid waste in vehicles or other equipment.

719.09 Unauthorized collection of recyclable waste materials.

719.99 Penalty.

CROSS REFERENCES

Loads dropping or leaking - see TRAF. 339.08

Notice to remove - see BLDG. 1361.02 et seq.

719.01 DEFINITIONS.

The following words and phrases when used in this Chapter shall have the following meanings, unless the context requires otherwise:

- (a) "Alley" means the right-of-way improved for public use which is not intended for through vehicular traffic and which is intended to provide secondary access to lots and buildings fronting on public streets by providing access to the rear or sides of such lots and buildings.
- (b) "Mayor" means the Chief Executive Officer of the City of Galion, Ohio, or the representative duly authorized by said individual to act in behalf thereof.
- (c) "Commercial Alley" means an alley which in the opinion of the Mayor is required to effectively serve legally existing and/or properly zoned commercial and industrial uses with commercial collection activities and is shown as such on the City Street Map.
- (d) "Commercial establishments" means business establishments engaged in the purchase and sale, and/or barter of commodities including, but not by way of limitation, stores, markets, and restaurants and other establishments maintained for the provision of food and beverage for human consumption, hotels, motels, automotive service stations, and all such similar establishments.
- (e) "Curb" means the tree lawn or devil strip, or any other area of a property between the improved edge of a public street or alley and the property line of the property abutting such street or alley, but excluding any sidewalk, walkway, and any driveway.
- (f) "Curbside collection" means the process or activity of placing properly packaged or contained garbage, solid waste, refuse, compostable material, other discarded material, and/or recyclables, for the purpose of the collection and conveyance thereof by commercial haulers, upon a curb.
- (g) "Collection, commercial collection, or commercial collection activities" means the process or activity effected and/or undertaken by commercial haulers of collecting and/or conveying garbage, solid waste, refuse, other discardable material, and/or recyclables other than that actually produced by said person or in direct connection to the premises of which said person is the owner or an occupant, in compliance with and pursuant to this Chapter.
- (h) "Garbage" means any putrescible animal or vegetable waste resulting from the handling, processing, preparation, cooking and service of food.
- (i) "Ground" means the earth, as well as the surface of a driveway, a sidewalk, a floor, or any other surface on, in or about real property on or in which garbage or other refuse may be placed, deposited, kept, accumulated, and/or stored.
- (j) "Licensed solid waste hauler" means any person engaged in commercial collection activities within the City of Galion, Ohio, who has been issued a license by the Galion City Board of Health to engage in said activity.
- (k) "Person" means the State of Ohio or any political subdivision, agency, office or enterprise thereof, any corporation, public or private, and

any individual, partnership or other entity.

- (l) "Premises" means any land, building or structure on or in which solid waste may be placed, deposited, kept, accumulated and/or stored.
- (m) "Refuse or other refuse" means ashes, crockery, bottles, tin cans, paper and other wood pulp products, boxes, rags, old or discarded clothing, bedding, mattresses and upholstered furniture, and all other similar nonputrescible wastes and discarded materials not otherwise defined herein.
- (n) "Residence" means any enclosure, other than those kept, maintained, or operated solely as commercial or industrial establishments, used as a human domicile, including, but not by way of limitation, one, two and three family and single-family dwellings, mobile homes and house trailers, living quarters within and/or attached to boathouse structures or boatports, camps, and any other structure within which humans may sleep, or prepare or consume food.
- (o) "Safety-Service Director" means the combined Director of Public Safety and Director of Public Service position appointed pursuant Sections 735.01 and 737.01 of the Ohio Revised Code.
- (p) "Solid Waste " means such unwanted residual solid or semisolid material as results from residential, industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of a type that would normally be included in demolition debris, nontoxic fly ash, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, tires, combustible and noncombustible material, street dirt, and debris, and excluding any material that is an infectious waste or a hazardous waste. Solid waste includes, but is not limited to: putrescible animal or vegetable wastes resulting from the handling, processing, preparation cooking, or serving of food; junk, debris, wire, paper, cardboard, furniture, glass, abandoned vehicles or parts thereof, tires, wood, rubber, leather, metals, plastics, crockery, textiles, household appliances, and electronics.
- (q) "Street" means an improved right-of-way open to use of the public as a thoroughfare for vehicular travel and providing principal access to lots and buildings fronting thereon.
- (r) "Substandard local street" means any street or alley which provides principal access to lots and buildings fronting thereon, but which fail to meet both right-of-way width and improvements required by the Galion Subdivision Regulations.
- (s) "Vector" means any insect or arthropod, rodent, or other animal of public health significance capable of harboring or transmitting the causative agents of disease to humans. (Ord. 2019-64. Passed 10-8-19.)

719.02 LICENSE REQUIRED.

(a) All solid waste that has accumulated within the City of Galion shall be collected, conveyed, and disposed of only by persons who have registered with the office of the Safety-Service Director pursuant to the regulations contained in this section. This restriction shall not prohibit the actual procedures of such solid waste, or the owners or occupants of premises wherein or whereupon it was produced, from personally collecting, conveying and disposing of said waste, provided said activities are conducted in full compliance with all applicable state and local codes.

(b) Any person who proposes to engage in the business of solid waste collection, conveyance or disposal shall not undertake or commence said activities unless the same has registered with the office of the Safety-Service Director, and such registration shall take place not later than thirty (30) days prior to the proposed initiation of said activities.

(c) Registration shall take place annually.

(d) Registrations shall be accompanied by an annual license fee as established from time to time by the Galion City Council.

(e) Registrants must provide the office of the Safety-Service Director satisfactory evidence of current commercial motor vehicle liability insurance covering all vehicles and equipment used for the purpose of conveying solid waste, with limits of liability not less than twenty-five thousand dollars (\$25,000) per person, twenty-five thousand dollars (\$25,000) per accident and twenty-five thousand dollars (\$25,000) for property damage. Said policy shall include a provision that requires the City to be provided with written notice at least ten (10) days prior to the proposed cancellation of any such policy. In the event that a hauler proposes to operate additional vehicle(s) or equipment after the start of the license year, said hauler shall provide an endorsement that the additional vehicle(s) and/or equipment is covered by the commercial motor vehicle liability insurance policy current in effect.

(f) Registration is not transferable from one person to another.

(g) Registration shall take place on or before June 1 of each year, as long as the licensee continues in operation. A twenty-five percent (25%) late fee will be collected for any licenses renewed after June 1.

(h) The Safety-Service Director may deny, revoke, or suspend the permit of any person who has demonstrated the unwillingness or inability to comply with any or all of the following applicable codes:

- (1) Laws and regulations of the State of Ohio.
 - (2) Ordinances of the City of Galion.
 - (3) Rules and Regulations of the Galion City Board of Health.
- (Ord. 2019-64. Passed 10-8-19.)

719.03 COLLECTION, CONVEYANCE AND DISPOSAL; RESTRICTIONS.

(a) Solid waste produced and accumulated in connection with the use or occupation of a residence shall be collected and conveyed from the premises at least once each week.

(b) All disposal will be at an approved and licensed solid waste facility, or site licensed for the purpose of salvaging or recycling, as provided by regulations of the Ohio Environmental Protection Agency.

(c) The collection and conveyance of solid waste within the City of Galion by licensed solid waste haulers shall be effected and completed between the hours of 6:00 a.m. and 7:00 p.m., Mondays through Fridays. However, a licensed solid waste hauler shall be permitted to effect such collection, conveyance and disposal on Saturdays between 6:00 a.m. and 11:00 a.m. if a legally recognized holiday occurs between Monday and Friday of that week, or if a mechanical failure or other circumstance verified by the Safety-Service Director in advance makes collection, conveyance and disposal impracticable or impossible on a weekday from Monday through Friday. Licensed solid waste haulers shall not collect, convey or dispose of solid waste within the City of Galion on any Sunday, unless expressly authorized by the Health Commissioner.

(d) Solid waste produced and accumulated in connection with the use or occupation of a commercial or industrial establishment shall be collected, conveyed and disposed at such frequency as the Safety-Service Director may determine based upon a review of the types and quantities of solid waste produced. (Ord. 2019-64. Passed 10-8-19.)

719.04 CONDITION OF VEHICLES AND EQUIPMENT.

(a) The beds of vehicles and other pieces of equipment used for Commercial Collection Activities shall be of durable construction, the end gates of which shall not be less than twenty-four (24) inches high from the floor of the collection vehicle or piece of equipment. The sides of the collection bed shall extend to a minimum height of not less than five (5) feet and the maximum height of such vehicles and equipment shall be thirteen (13) feet six (6) inches high.

(b) The name of the solid waste hauler or company shall be displayed on both sides of the vehicles in letters at least two (2) inches in height.

(c) All vehicles and other equipment used for Commercial Collection Activities shall be maintained in good repair and condition, and be safe to operate on public roadways at all times. Vehicles and other equipment used by solid waste haulers shall be in full compliance with all vehicle code requirements of the State of Ohio and the City of Galion during the periods of use in the City of Galion.

(d) An annual vehicle safety inspection by the Ohio State Highway Patrol or a qualified mechanic is required as proof of roadworthiness for vehicles and other pieces of equipment used for Commercial Collection Activities.

(e) All vehicles and other equipment used for Commercial Collection Activities shall have leak-proof construction, all seams and joints in the solid waste holding compartment shall be sealed to prevent leakage of fluids from the waste.

(f) All solid waste conveyed within the City of Galion shall be placed in watertight, sealed bags or covered containers, unless compressed by a compactor truck or conveyed in an enclosed dumpster unit. The conveyance of loose solid waste by any other means, unless of a size or composition that prevents compaction, shall be forbidden.

(g) All solid waste collected within the City of Galion shall be taken to an approved and licensed solid waste disposal site, or site licensed for the purpose of salvaging or recycling within twenty-four (24) hours of collection. Solid waste shall not be stored on or in the refuse hauler's vehicle beyond the time normally required to complete the collection route. Solid waste shall not be removed from the collection vehicle and placed upon any property other than an approved site, as referenced above.

(h) All vehicles and other pieces of equipment used by solid waste haulers for Commercial Collection Activities shall be cleaned with sufficient frequency as to prevent vector harborage or breeding, odor and nuisance.

(i) Each solid waste hauler is responsible for the proper clean up of all spillage of solid waste or fluids resulting from Commercial Collection Activities.

(j) An appropriate spill kit shall be carried at all times on board vehicles and equipment used for Commercial Collection Activities. Spill kit contents may include a broom or shovel, garbage bags, and absorbent materials (aggregate material, pads or blankets).

(k) All individuals conveying solid waste in their own vehicles shall secure the load so as to prevent any debris or items from blowing out during transportation.

(Ord. 2019-64. Passed 10-8-19.)

719.05 DUMPSTERS.

(a) All dumpsters used by solid waste haulers for the storage of solid waste shall be of watertight construction, have tight-fitting lids, and be maintained in a state of repair by said hauler(s).

(b) Solid waste haulers shall ensure that the lids of dumpsters are closed after the completion of removal of solid waste, and the occupant of the premises shall ensure that the lids of dumpsters are otherwise kept closed, except as may be necessary for the deposit of solid waste.

(c) Dumpsters shall be emptied at least once weekly, and shall be cleaned by the solid waste hauler as often as is necessary to maintain them in a clean condition free from odor.

(d) Dumpsters shall not be stored or kept in the front yard of any property. A solid waste hauler has the duty and responsibility to place dumpsters in the rear yard of any premises in a position that is not visible from a City street. However, the Health Commissioner may authorize temporary placement of a dumpster in a front yard of a premises or within the City right-of-way in conjunction with major household clean up and/or reconstruction, repair and/or demolition. (Ord. 2019-64. Passed 10-8-19.)

719.06 USE OF STREETS AND ALLEYS.

(a) Any vehicle or other equipment used in Commercial Collection Activities may operate on City streets.

(b) No vehicles or other equipment used in Commercial Collection Activities shall be permitted on any alley, except commercial alleys shown on the City Street Map as eligible for such activities.

(c) No vehicle or other equipment used in Commercial Collection Activities and exceeding ten thousand (10,000) pounds gross vehicle weight (GVW) shall be permitted on any substandard local street. (Ord. 2019-64. Passed 10-8-19.)

719.07 CURBSIDE PLACEMENT OF SOLID WASTE.

(a) All solid waste placed at or upon a curb for collection shall become the property of the licensed solid waste hauler charged with responsibility for collecting and conveying same, and no person other than said hauler or his/her authorized agents and employees shall collect or remove same. However, the occupant of the premises upon which or within which said items were produced or accumulated may remove any items previously placed at or upon the curb of the premises prior to the initiation by said hauler of the actual collection or removal of waste.

(b) All solid waste which is stored or kept any place outside of a fully enclosed structure shall be placed within a plastic or non-corrosive metal can which is watertight, rustproof, and easily handled, with a tight-fitting lid which shall be removed only when necessary for the deposit or removal of material.

(c) Containers within which solid waste has been deposited may be placed at or upon the curb for curbside collection no earlier than 6:00 p.m. on the evening prior to the scheduled collection of said materials. Any materials and containers that remain after collection shall be removed from the curb no later than 8:00 p.m. on the date of collection.

(Ord. 2019-64. Passed 10-8-19.)

719.08 KEEPING SOLID WASTE IN VEHICLES OR OTHER EQUIPMENT.

(a) No person shall keep, or permit or suffer the keeping of solid waste in a vehicle or in any piece of equipment that is parked or placed upon the public streets, alleys, rights-of-way and grounds of the City of Galion.

(b) No person shall keep, or permit or suffer the keeping of solid waste in a vehicle or in any piece of equipment that is kept within the City of Galion outside of a fully enclosed structure for a period in excess of forty-eight (48) hours

(c) No person shall keep, or permit or suffer the keeping of solid waste within the City of Galion in such a manner as to cause or create a nuisance to others as a result of the condition, odor, or appearance of same. (Ord. 2019-64. Passed 10-8-19.)

719.09 UNAUTHORIZED COLLECTION OF RECYCLABLE WASTE MATERIALS.

(a) As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(1) "Authorized recycling contractor" means a person, firm, partnership, corporation, or other entity authorized by the Health Commissioner to collect recyclable waste material in the City of Galion.

(2) "Designated recycling collection location" means an authorized place from which an authorized recycling contractor collects recyclable waste material. A designated recycling location includes central collection points where permanent or portable collection bins have been placed for the deposit of recyclable materials by the generators of those materials. A designated recycling location may also include the curbside, if curbside collection of recyclable materials is offered. Curbside means the area between the edge of the pavement and the sidewalk, the area of five feet adjacent to the edge of the paved street or alley if there is no sidewalk.

(3) "Recyclable waste material" means discarded materials which may include, but are not limited to, newspaper and newsprint, glass, aluminum cans, other metal cans, cardboard, plastics, aluminum, scrap material, and plastic milk jugs, which are separated from other garbage or refuse for the purpose of recycling.

(4) "Recycling" means the process of collecting used materials for the purpose of reusing, reprocessing, or remanufacturing same.

(b) Upon placement of properly separated recyclable waste material at a designated recycling collection location for collection by an authorized recycling contractor, the person, firm, partnership, corporation, or other entity generating such recyclable waste material shall relinquish ownership and control of same and such recyclable waste material shall become the property of the authorized recycling contractor.

(c) No person, firm, partnership, corporation, or other entity, other than an authorized recycling contractor, shall remove recyclable waste material which has been placed at a designated recycling collection location.

(d) Whoever violates this section shall be guilty of an unclassified misdemeanor and fined not more than two hundred fifty dollars (\$250.00) for a first offense, fined not more than five hundred dollars (\$500.00) for a second offense within a period of two years, and fined not more than one thousand dollars (\$1,000) for third and subsequent offense(s) within a period of two years. Each unauthorized collection shall constitute a separate and distinct offense.

(Ord. 2019-64. Passed 10-8-19.)

719.99 PENALTY.

Whoever violates any provisions of this chapter is guilty of a minor misdemeanor on the first offense, and on each subsequent offense such person is guilty of a fourth degree misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. The prosecution for a violation of this chapter shall always be for a first offense unless the affidavit upon which the prosecution is instituted contains the allegation that the offense is a subsequent offense.

(Ord. 2019-64. Passed 10-8-19.)

CHAPTER 725

Temporary Businesses

725.01 Definitions.

725.02 License; fee and duration.

725.03 License revocation.

725.04 Deposit for cleaning premises.

725.05 Exceptions.

725.06 Appeal procedure.

725.07 Display of license.

725.99 Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.64

725.01 DEFINITIONS.

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

(a) "Temporary business" means a place opened and maintained for the sale to the public of goods, wares, merchandise, property, tangible or intangible, of any nature whatsoever, or services, other than within an enclosed, permanent building. This definition shall not be construed so as to apply to events or activities, such as sidewalk sales, conducted by an existing business on its premises in conjunction with its established operation.

(b) "Place" includes, but is not limited to, a tent, vacant lot, lot and motor vehicle.

(c) "Sale" has the full meaning of "sale" as applied by or accepted in courts of law or equity, and shall also include an option of sale, a lease or a rental.

725.02 LICENSE; FEE AND DURATION.

(a) Every person, whether principal or agent, who proposes to conduct or engage in a temporary business for the sale of goods, wares, merchandise, property, tangible or intangible, of any nature whatsoever, and services within the City shall, before opening same and before offering for sale such goods, wares, merchandise, property and services procure a license to do so from the Mayor or his designee.

(b) The applicant for a temporary business license shall furnish the Mayor or his designee with the following information on forms provided by the City:

(1) Full name of the applicant.

(2) Date of birth of applicant.

(3) Local address, if any.

(4) Permanent home address.

(5) A physical description of the applicant setting forth age, height, weight, color of hair and eyes and sex.

(6) Social security number, if any.

(7) A description of the nature of the business and the location and the goods, wares, merchandise, property or services to be sold. Written consent of the owner of the premises or other duly authorized person shall be provided.

(8) Telephone number of the applicant.

(9) Number of employees.

(10) Dates and hours of operation.

(11) Whether the applicant has ever been convicted of a crime and, if so, where and the nature of the offense and the punishment or penalty imposed thereof.

(12) Such other information as the Mayor may require.

(c) A nonrefundable fee of fifty dollars (\$50.00) shall be submitted with the application.

(d) The applicant shall register with the Mayor, providing the Mayor their name, address, person or persons to whom correspondence may be directed, and such other information as the Mayor may require.

(e) The license shall be valid for a period not to exceed fourteen days from the date of issuance unless earlier revoked. Unless earlier revoked, any such license may be renewed once in any calendar year not less than six months after the expiration of the initial license for an additional fourteen days upon the payment of the fee required by subsection (c) hereof. No license issued or renewed hereunder shall be assigned or transferred to any other person.

(f) The Mayor shall issue a license to the applicant unless he has determined:

(1) That the applicant has made a false, misleading or deceptive statement in providing the information required under subsection (b); or

(2) That the applicant has been convicted of a felony or of a misdemeanor involving moral turpitude during the five years preceding the date of application; or

(3) That the proposed location of the temporary business would constitute a hazard to the public health, safety and welfare; or

(4) That the applicant has not registered with the Mayor as provided in subsection (d) hereof; or

(5) The proposed location or place of the temporary business would, if permitted, be in violation of any ordinance, resolution, rule or regulation including those pertaining to use restrictions, yard requirements, height regulations or occupy or obstruct any accessory off-street parking space or accessory off-street loading and unloading facility.

725.03 LICENSE REVOCATION.

(a) A license issued under this chapter shall be revoked by the Mayor for any of the following causes:

(1) It is subsequently determined that the licensee provided false, misleading or deceptive information in completing the application form set forth in Section 725.02.

(2) The licensee is convicted of a felony or of a misdemeanor involving moral turpitude.

(3) The licensee is convicted of a violation of any provision of this chapter.

(b) Written notice of such revocation shall be given to the licensee by personal service or by certified mail immediately upon such revocation.

725.04 DEPOSIT FOR CLEANING PREMISES.

The applicant shall also deposit, before such license is issued, the sum of one hundred dollars (\$100.00) to guarantee the cost of cleaning the premises and removing any property therefrom after the termination of the business. If the premises on which such business is conducted are not cleaned and all merchandise, property, refuse and temporary structures are not removed therefrom and properly disposed of within forty-eight hours after the termination of the business, the Mayor shall immediately cause such work to be done and deduct such cost from the deposit. The licensee shall be liable for any deficiency.

725.05 EXCEPTIONS.

(a) The provisions of Sections 725.02 and 725.04 shall not apply to merchants or civic organizations who offer Christmas trees for sale at their place of business.

(b) The provisions of this chapter, other than Section 725.01, shall not apply to any activity, event or function conducted by or on behalf of any recognized nonprofit, educational, philanthropic, civic, religious, political or charitable organization or group provided that the aforementioned

organization or group or person on its behalf shall register with the Mayor stating the name of the organization or group, the nature of the activity, event or function being conducted, the duration and location of such activity, event or function and providing such other information deemed necessary by the Mayor, including evidence satisfactory to the Mayor that the organization or group is a recognized nonprofit, educational, philanthropic, civic, religious, political or charitable organization or group and that the person registering the organization or group is, in fact, authorized to act on its behalf. Written consent of the owner of the premises or other duly authorized person shall be provided. The registration shall be valid for a period not to exceed fourteen days from the date the activity, event or function commences unless earlier revoked. Unless earlier revoked, any such registration may be renewed once in any calendar year not less than six months after the expiration of the initial registration for an additional fourteen days. No registration shall be assigned or transferred to any other organization, group or person. The proposed location of the activity, event or function shall not constitute a hazard to the public health, safety and welfare and shall be approved by the Mayor. The approval of a registration shall constitute a temporary waiver of use restrictions, yard requirements, height regulations and accessory off-street parking requirements. No registration issued pursuant to this section shall be issued at any given premises more than four times in any calendar year.

(c) Persons offering or exposing for sale agricultural articles or products other than pursuant to subsection (b) hereof or persons selling by sample only shall be exempt from the payment of a license fee but shall in all other respects comply with the provisions of this chapter. As used herein, agricultural articles or products means commodities used as food or nonalcoholic drink for human consumption.

(d) The provisions of this chapter shall not apply to a Farmers Market that is duly registered with the Ohio Department of Agriculture or to its qualified vendors who participate in said Market. To be covered by this exception, said registration must be maintained for the duration of the market operation, and a copy thereof must be on file with the Galion Building and Zoning Department. (Ord. 2012-53. Passed 7-24-12.)

725.06 APPEAL PROCEDURE.

If an application for a license is not approved or if any license issued pursuant to the provisions of this chapter is revoked, written notice shall be given to the applicant or licensee by personal service or by certified mail. The applicant or licensee shall have the right, to appeal such disapproval or revocation to Council. Council shall have the power to affirm, modify or reverse the decision of the Director. Any such decision made by Council shall be final.

725.07 DISPLAY OF LICENSE.

Any person conducting a temporary business within this City who has obtained a license in accordance with the provisions of this chapter shall, upon demand, exhibit such license to any police officer, or other City official.

725.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the second degree. Each day's continued violation shall constitute a separate offense.

CHAPTER 729

Vending Machines in the Design Review District #1

729.01 Definitions.

729.02 Temporary sidewalk occupancy permits.

729.03 Application for permits.

729.04 Permit fee and duration.

729.05 Permitted locations.

729.06 Form; contents.

729.07 Permitted vending devices.

729.08 Requirements and conditions of permit.

729.09 Vendors Advisory Committee.

729.10 Permit suspension and revocation.

729.11 Regulations.

729.99 Penalty.

CROSS REFERENCES

Temporary - see GEN. OFF. 545.21

729.01 DEFINITIONS.

When used in this chapter, the following words shall have the following meanings:

- (a) "Building and Zoning Department" means the Galion Building and Zoning Department.
- (b) "Design Review District #1" means the area defined in Section 1311.03 of the Design Review Ordinance, except for parks.
- (c) "Commissary" means a catering establishment, restaurant or any other place in which food, containers or supplies are kept, handled, prepared, packaged or stored.
- (d) "Community event" means an event specifically approved granting use of street and sidewalk areas within a specifically defined area for a period of time not exceeding ten (10) days to a community based organization.
- (e) "Permit" means a temporary sidewalk occupancy authorized by Section 729.02.
- (f) "Permittee" means the person who owns the vending device permitted to occupy a stationary location on a sidewalk.
- (g) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive micro-organisms.
- (h) "Sidewalk" means that portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property.
- (i) "Vending device" means a container for sale, display or transport of merchandise by a peddler, which has wheels and is capable of being moved by one person by muscular power. (Ord. 2004-1. Passed 1-27-04.)

729.02 TEMPORARY SIDEWALK OCCUPANCY PERMITS.

The Building and Zoning Department is hereby authorized to issue temporary sidewalk occupancy permits revocable at the will of Council authorizing the placement of vending devices at permitted locations on sidewalks in the Design Review District #1, subject to the provisions of this chapter.

(Ord. 2004-1. Passed 1-27-04.)

729.03 APPLICATION FOR PERMITS.

- (a) Application for a permit shall be made to the Building and Zoning Department on the form provided by that Department. Such application

shall include, but not be limited to, the following information:

- (1) Name, address and telephone number of the applicant;
 - (2) A description of the vending device to be located on the sidewalk;
 - (3) A signed statement that the applicant is the owner of the vending device;
 - (4) The type of merchandise to be sold;
 - (5) Evidence that all required health licenses have been obtained;
 - (6) The location or alternative locations for which application for a permit is made;
 - (7) A signed affidavit that the owner has an insurance policy currently in effect, and will maintain same during the entire permit period, covering the owner or any other person using the permitted vending device with the owner's consent for any claims or damages to property or injury to persons resulting from any activity carried on under the permit. Such insurance shall provide coverage of not less than twenty-five thousand dollars (\$25,000) for any one incident and shall be combined single limit coverage from an insurance company duly licensed to transact such business in the State, and no deductible shall be allowed from this policy in an amount greater than two hundred fifty dollars (\$250.00).
- (b) A separate application and permit shall be required for each vending device.

(Ord. 2004-1. Passed 1-27-04.)

729.04 PERMIT FEE AND DURATION.

(a) Each application for a permit shall be accompanied by an administrative fee of fifteen dollars (\$15.00). If the application is not issued a permit, the fee shall be refunded.

(b) Permits shall be valid for a period of one year from the date of issuance. Permits may be renewed prior to expiration upon the payment of the permit fee, provided all the requirements of this chapter are met. (Ord. 2004-1. Passed 1-27-04.)

729.05 PERMITTED LOCATIONS.

The Building and Zoning Department shall compile a list of permitted locations where the presence of a vending device on the sidewalk would be compatible with the public interest in use of street and sidewalk areas as a public right-of-way. No vending device shall be permitted in a location where its sales would be of merchandise similar to that of a permanent retail establishment in the immediate vicinity. The Building and Zoning Department may consider the width of the sidewalk; the proximity and location of existing street furniture, including but not limited to signposts, lamp posts, parking meters, bus shelters, benches, phone booths and newspaper vending devices; the presence of bus stops, truck loading zones and taxi stands; pedestrian and vehicular traffic patterns. The Building and Zoning Department may modify the list from time to time as deemed necessary.

(Ord. 2004-1. Passed 1-27-04.)

729.06 FORM; CONTENTS.

(a) Permit shall be issued in a form so that it may be affixed to the vending device.

(b) Each permit shall contain the following information:

- (1) The name and address of the permittee;
- (2) A description and picture of the vending device;
- (3) A description and picture of the permitted location;
- (4) The expiration date of the permit; and
- (5) If applicable, the location of the commissary which supplies the vending device; and any other information the Mayor deems desirable.

(c) Applicants who meet all of the above criteria and file an application shall be issued a permit on a first-come, first-served basis.

(d) No individual or business may hold more than two (2) permits.

(Ord. 2004-1. Passed 1-27-04.)

729.07 PERMITTED VENDING DEVICES.

The Building and Zoning Department shall issue a permit to the applicant only if the applicant's vending device meets all of the requirements of this section.

(a) The vending device does not exceed four (4) feet in width, including wheels; six (6) feet in length, including tongue unless the tongue is capable of being folded up; or five (5) feet in height, excluding canopies, umbrellas or transparent enclosures; the vending device occupies no more than twenty-four (24) square feet of sidewalk space; and, if required, the Health Department has issued a license for the vending device.

(b) If the vending device has a heating apparatus, the vending device shall have been inspected and approved by the Fire Chief or his designee for compliance with provisions of the Fire Prevention Code.

(Ord. 2004-1. Passed 1-27-04.)

729.08 REQUIREMENTS AND CONDITIONS OF PERMIT.

(a) Permittees and their agents shall comply with all of the requirements of this section while engaged in activity at permitted locations.

(1) Each vending device shall be attended at all times by at least one individual.

(2) The vending device shall be placed on the sidewalk only at the location set forth in the permit.

(3) No vending device shall remain in its permitted location between the hours of midnight and 6:00 a.m. and no activity shall be conducted from any permitted location between those hours.

(4) Permittees and their agents shall obey any lawful order of a police officer to remove their vending devices from the sidewalk if necessary to avoid congestion or obstruction in any emergency.

(5) Permittees or their agents selling food from vending devices required by state law to have a food service operation license shall be limited to serving non-potentially hazardous foods or commissary-wrapped food maintained at proper temperatures.

(6) Permittees and their agents shall be responsible for keeping the sidewalk and adjacent curb area within twenty-five (25) feet of the permitted location free of litter. Permittees and their agents shall provide a suitable container for the placement of paper, wrappers and other similar items by customers and others.

(7) The permit shall be affixed to the vending device at all times that the vending device is located on the sidewalk.

(8) Permittees and their agents shall operate in compliance with the following:

A. No merchandise shall be displayed or sold to occupants of vehicles stopped in traffic.

B. No merchandise shall be displayed or sold at any location where the sidewalk or clear area is less than ten (10) feet in width.

C. No merchandise shall be displayed on any utility pole, planter, tree, trash container or other sidewalk/street fixture, nor shall lines or other devices be placed or attached thereon.

D. No vending device shall be placed at a location which hinders or restricts access to a telephone booth, mail box, fire alarm call box, fire hydrant, traffic control box or bus stop.

E. No merchandise shall be displayed or sold in a manner that blocks or restricts the passage of pedestrians or vehicles in the lawful use of sidewalk or streets.

F. No vendor shall make any loud or unreasonable noise of any kind by vocalization or otherwise to advertise or attract attention to his merchandise.

(9) No permittee or agent thereof shall conduct business in violation of the provisions of any ordinance or regulations for a community event.

(b) Permits issued by the Building and Zoning Department shall be subject to the following conditions:

(1) Each permit shall be personal only and shall not be transferable in any manner.

(2) Each permit is valid only when used at the location designated in the permit.

(3) The permit as it applies to a given location may be suspended by Council or the Mayor for up to ten (10) days during the holding of a community event.

(c) No permit shall be required by this chapter for the operation of a permanent retail establishment to use the sidewalk in front of such business if other City requirements are satisfied.

(Ord. 2004-1. Passed 1-27-04.)

729.09 VENDORS ADVISORY COMMITTEE.

The City of Galion Design Review Board, as defined in Section 1311.04 (c) of these Codified Ordinances shall serve as a Vendors Advisory Committee. The Vendors Advisory Committee shall assist vendors under this Chapter to resolve problems relating to sidewalk vending and it may make recommendations to Council for the amendment of this chapter.

(Ord. 2018-5. Passed 3-13-18.)

729.10 PERMIT SUSPENSION AND REVOCATION.

(a) The Building and Zoning Department may suspend or revoke the permit of any permittee if the permittee or his agent fails to abide by the provisions of this chapter or if any required health license has been suspended or revoked.

(b) The Building and Zoning Department shall give written notice of suspension or revocation of the permit to the permittee or his agent stating the reasons therefor. If the reason for the suspension or revocation is that a required health license has been suspended or revoked or that the permittee does not have a currently effective insurance policy as required by this chapter, the action shall be effective upon giving such notice to the permittee or to his agent. Otherwise, such notice shall contain the further provision that the action shall become final and effective ten (10) days thereafter unless, within five (5) days of receipt of the notice, the permittee requests a hearing before the Safety-Service Director or his designee. Within five (5) days after receipt of a request, such person shall hold the hearing, at which time the permittee shall be afforded the opportunity to give his version of the facts which gave rise to the suspension or revocation action. The Safety-Service Director or his designee shall determine whether to proceed with the action or to rescind it and shall so notify the permittee in writing within five (5) days after the hearing.

(c) The action of the Safety-Service Director or his designee may be appealed in accordance with the provisions of state law.

(Ord. 2004-1. Passed 1-27-04.)

729.11 REGULATIONS.

The Mayor may promulgate regulations, not inconsistent with the provisions of this chapter, establishing procedures for the issuance of permits.

(Ord. 2004-1. Passed 1-27-04.)

729.99 PENALTY.

(a) Whoever violates any provision of this chapter, for which no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense.

(b) A second violation within two (2) years of the first conviction shall constitute a misdemeanor of the fourth degree.

(c) A third and any subsequent violation within two (2) years of the first conviction shall constitute a misdemeanor of the first degree.

(Ord. 2004-1. Passed 1-27-04.)

CHAPTER 731

Small Cell Facilities and Wireless Support Structures

731.01 **Purpose and intent.**

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731.01 PURPOSE AND INTENT.

The purpose of this Chapter is to establish general procedures and standards for the siting, construction, placement, collocation, modification, operation, and removal of small cell facilities and/or wireless support structures within the City of Galion ("City") municipal boundaries.

The goals of this chapter are to:

(a) Provide standards for the siting, construction, placement, collocation, modification, operation, and removal of small cell facilities and wireless support structures within the City of Galion.

(b) Establish criteria for making application to promote fair and efficient processing of applications.

(c) Ensure that small cell facilities and wireless support structures conform to all applicable health and safety regulations.

(d) Preserve the character of the City's neighborhoods by limiting the overall number of facilities within the City's rights of way.

(e) Reduce visual clutter and preserve and enhance the aesthetic environment of the City of Galion.

(f) Ensure the safety of motorists, pedestrians, and other users of the City's rights of way by limiting the placement and overall number of facilities within close proximity to roadways, sidewalks, or other such ways of travel.

(g) Establish a fair and reasonable method to recover costs incurred in administering this Chapter. (Ord. 2018-27. Passed 5-22-18.)

731.02 DEFINITIONS.

Within this Chapter, words with specific defined meanings are as follows:

Abandoned.

Any small cell facilities or wireless support structures that are unused for a period of three hundred sixty-five days without the operator otherwise notifying the City and receiving the City's approval.

Agent.

A person that provides the City written authorization to work on behalf of a public utility.

Antenna.

Communications equipment that transmits or receives radio frequency signals in the provision of wireless service.

Applicant.

Any person that submits an application to the City to site, construct, place, collocate, modify, operate, and/or remove a small cell facility or wireless support structure in the City of Galion.

Collocation, Collocate.

To install, mount, maintain, modify, operate, or replace wireless facilities on a wireless support structure or utility pole.

Cable Operator, Cable Service, Franchise.

These words have the same meanings as in the "Cable Communications Policy Act of 1984," 98 Stat. 2779, 47 U.S.C.A. 522.

Decorative pole.

A pole, arch, or structure other than a street light pole placed in the Right of Way specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments have been placed except for any of the following:

- (a) Electric lighting;
- (b) Specially designed informational or directional signage;
- (c) Temporary holiday or special event attachments.

Enclosure.

A cabinet for equipment intended to conceal its contents, prevent electrical shock to users, and protect the contents from the environment.

Equipment.

Electrical and/or mechanical devices or components.

Historic District.

A building, property, or site, or group of buildings, properties, or sites that are either of the following:

- (a) Listed in the National Register of Historic Places or formally determined eligible for listing by the keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the national register, in accordance with section VI.D.1.a.i-v of the nationwide programmatic agreement codified at 47 C.F.R. part 1, Appendix C;
- (b) A registered historic district as defined in Section 149.311 of the Ohio Revised Code.

Municipal Electric Utility.

The same meaning as in section 4928.01 of the Ohio Revised Code.

Municipal Infrastructure.

The structures, facilities, fixtures, and appurtenances, etc. owned by the City of Galion, including but not limited to: poles, fixtures, manholes, pipes, wires, fiber, transformers, hydrants, valves, catch basins, roadways, traffic signals, sidewalks, curb & gutter, street signs, junction boxes, etc.

Ohio Manual of Uniform Traffic Control Devices, OMUTCD.

The uniform system of traffic control devices promulgated by the department of transportation pursuant to Section 4511.09 of the Ohio Revised Code.

Occupy, Use.

With respect to a right of way, to place a tangible thing in a right of way for any purpose, including, but not limited to, constructing, repairing, positioning, maintaining, or operating lines, poles, pipes, conduits, ducts, equipment, or other structures, appurtenances, or facilities necessary for the delivery of public utility services or any services provided by a cable operator.

Permit, Work Permit.

A permit issued by the City that must be obtained in order to perform any work in, on, above, within, over, below, under, or through any part of the right of way, including, but not limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, or installing, as well as the act of opening and cutting into the surface of any paved or improved surface that is part of the right of way. Also, a permit issued by the City that must be obtained in order to occupy the City's right of way.

Permittee.

A person issued a permit.

Person.

Any natural person, corporation, or partnership and also includes any governmental entity.

Public Utility.

A wireless service provider as defined in division (A)(20) of section 4927.01 of the Ohio Revised Code or any company described in section 4905.03 of the Ohio Revised Code except in divisions (B) and (I) of that section, which company also is a public utility as defined in section 4905.02 of the Ohio Revised Code; and includes any electric supplier as defined in section 4933.81 of the Ohio Revised Code.

Public Way Fee.

A fee levied to recover the costs incurred by the City and associated with the occupancy or use of a Right of Way.

Right of Way, Public Way.

The surface of, and the space within, through, on, across, above, or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a compatible public use, which, on or after July 2, 2002, is owned or controlled by a municipal corporation. "Right of way" excludes a private easement.

Small Cell Facility.

A wireless facility that meets both of the following requirements:

- (a) Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six cubic feet in volume.
- (b) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Small Cell Facility Operator, Operator.

A wireless service provider, or its designated agent, or cable operator, or its designated agent, that operates a small cell facility and provides wireless service as defined in division (T) of section 4939.01 of the Ohio Revised Code. For the purpose of this chapter, "operator" includes a wireless service provider or cable operator that provides information services as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C.153(20), and services that are fixed in nature or use unlicensed spectrum.

Substantial Change.

Substantial change means the same as defined by the FCC in 47 C.F.R. § 1.40001 (b)(7), as may be amended, and as applicable to facilities in the public right of way, which defines that term as a collocation or modification that:

- (a) Increases the overall height more than ten percent (10%) or ten feet (whichever is greater);
- (b) Increases the width more than six feet from the edge of the wireless support structure;
- (c) Involves the placement of any new enclosures on the ground when there are no existing ground-mounted enclosures;
- (d) Involves the placement of any new ground-mounted enclosures that are ten percent (10%) larger in height or volume than any existing ground-mounted enclosures;
- (e) Involves excavation or deployment of equipment outside the area in proximity to the installation and other wireless communications equipment already deployed on the ground;
- (f) Would defeat the existing concealment elements of the wireless support structure as determined by the City Engineer; or
- (g) Violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, enclosures or excavation that is inconsistent with the thresholds for a substantial change.

Note: For clarity, the definition in this Chapter includes only the definition of a substantial change as it applies to installations in the public right of way. The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted wireless support structure without regard to any increases in size due to wireless facilities not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on May 16, 2018.

City of Galion Electric Utility.

The City of Galion is a municipal electric utility in accordance with O.R.C. 4928.01, promulgates its own electric rules and regulations, distributes electricity, and bills electric customers.

Utility Easement.

An easement dedicated for the use of City of Galion Electric Utility and/or a Public Utilities Commission of Ohio regulated utility.

Utility Pole.

A structure that is designed for, or used for the purpose of, carrying lines, cables, or wires for electric distribution or telecommunications service. The term excludes street signs and decorative poles.

Wireless Facility.

Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including all of the following:

- (a) Equipment associated with wireless communications;
- (b) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.
- (c) The term includes small cell facilities.
- (d) The term does not include any of the following:
 - (1) The structure or improvements on, under, or within which the equipment is collocated;
 - (2) Coaxial or fiber-optic cable that is between wireless support structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless Service.

Any services using licensed or unlicensed wireless spectrum, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless Service Provider.

A person who provides wireless service as defined in division (A)(20) of section 4927.01 of the Ohio Revised Code.

Wireless Support Structure.

A pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a 15' or taller sign pole, or utility pole capable of supporting wireless small cell facilities. As used in section 4939.031 of the Ohio Revised Code this chapter, "wireless support structure" excludes all of the following:

- (a) A utility pole or other facility owned or operated by a municipal electric utility;
- (b) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses. (Ord. 2018-27. Passed 5-22-18.)

731.03 APPLICABILITY.

No small cell facility operator may collocate or remove a small cell facility or construct, maintain, modify, operate, replace, or remove wireless support structures in, along, across, upon, and/or under the right of way except in conformance with all provisions of this Chapter and any other applicable requirements of the City of Galion. (Ord. 2018-27. Passed 5-22-18.)

731.04 PROCEDURES.

(a) Permit Required. Unless otherwise exempted, it shall be unlawful for any person to collocate or remove a small cell facility or construct, maintain, modify, operate, replace, or remove wireless support structures in, along, across, upon, and/or under a right of way unless a permit has been issued by the Safety-Service Director.

(b) Application Requirements. This section specifies the necessary requirements for a complete permit application. A complete application shall consist of the following:

- (1) Application Fee. The applicant must provide an applicable permit application fee in the amount of Two Hundred Fifty Dollars (\$250), which amount shall forthwith be listed in the City's Schedule of Fees.
- (2) RF Compliance Affidavit. Applicants must submit a sworn affidavit prepared and signed by an RF engineer with knowledge about the proposed project that affirms the proposed project will be compliant with all applicable governmental regulations in connection with human exposure to radiofrequency emissions. The affidavit must include:
 - A. All frequencies on which the equipment will operate;
 - B. How many channels will be used on each frequency;
 - C. The effective radiated power ("ERP")
 - D. Output level in measured watts; and
 - E. The height above ground for the lowest point on the lowest transmitter.

The required disclosures above must be included for all transmitters on the support structure, which includes without limitation existing collocated antennas and antennas used for wireless backhaul (such as microwave dish antenna or U/E relay).

- (3) Regulatory Authorization. To the extent that the applicant claims any regulatory authorization or other right to use the public right of way, the applicant must provide a true and correct copy of the certificate, license, notice to proceed or other regulatory authorization that supports the applicant's claim.
- (4) Owner's Authorization. Applicants must submit evidence sufficient to show that either:
 - A. The applicant owns the proposed support structure or
 - B. The applicant has obtained the owner's authorization to file the application.
- (5) Site Plans and Structural Calculations. The applicant must submit fully dimensioned site plans, elevation drawings and structural calculations prepared, sealed, stamped and signed by a Professional Engineer licensed and registered by the State of Ohio. Drawings must depict any existing wireless facilities with all existing wireless communications equipment and other improvements, the proposed facility with all proposed wireless communications equipment and other improvements and the legal boundaries of the leased or owned area surrounding the proposed facility and any associated access or utility easements.
- (6) Equipment and Enclosure Specifications. The applicant shall provide dimensioned elevations, cut sheets, material samples or other construction documents necessary to evaluate for compliance with this Chapter.
- (7) Statement of Intent. The applicant shall provide a statement of a wireless support structure's intended purpose.

(c) Application Type.

- (1) Each application to collocate or remove a small cell facility or construct, maintain, modify, operate, replace, or remove wireless support structures in, along, across, upon, and/or under a right of way shall be classified as one of three types. The three types of applications are:
 - A. Small Cell Minor. An application that:
 - (i) Involves removal or replacement of small cell facilities and any associated equipment on an existing wireless support structure; and such removal or replacement does not constitute a substantial change; or
 - (ii) Involves the routine maintenance of a small cell facility.
 - B. Small Cell Substantial. An application that:
 - (i) Involves the installation of a new small cell facility on a wireless support structure; or
 - (ii) Involves the removal or replacement of a small cell facility on an existing wireless support structure and such removal or replacement constitutes a substantial change.
 - C. Wireless Support Structure. An application for a proposal to construct, modify or replace a wireless support structure in the Right of Way.
- (2) Applications seeking to collocate a small cell facility to a wireless support structure owned by the City and located within the City Right of Way shall also be required to obtain an Attachment Certificate and shall be subject to an attachment fee in an amount set by the City's Schedule of Fees ordinance.

(d) Decisions.

- (1) The Safety-Service Director shall review the application for conformance with the standards of this Chapter and shall either:

- A. Approve, approve with conditions, or deny a Small Cell Minor application; or
- B. Grant or deny consent for Small Cell Substantial and Wireless Structure applications.
- (2) If a request is denied, the reasons for denial shall be provided in writing to the applicant.
- (3) The City reserves the right to deny an application if any one of the following conditions exist:
 - A. The application does not comply with a provision of this Chapter or a provision of the City of Galion Codified Ordinances;
 - B. The applicant is not authorized to conduct business in the State of Ohio;
 - C. The applicant is not current in its obligation to pay to the City fees or taxes imposed by this Chapter;
 - D. The design or location is deemed unsafe or non-compliant in regards to transportation and engineering standards for construction within the right of way;
 - E. The design is counter to the health, safety, and welfare of the City;
 - F. The design or location is in conflict with current or proposed accessibility standards;
 - G. The design does not meet standards related to electrical, structural, safety or construction best practices.
 - H. The proposed design is in conflict with existing infrastructure, facilities, and/or utilities.
- (4) Except as allowed in subsection (c)(6) below, applications shall be reviewed and a decision rendered according to Section 731.04(d)(1) - Decisions, within the following time periods:
 - A. Small Cell Minor. Small Cell Minor applications shall be rendered within sixty days of the date of filing.
 - B. Small Cell Substantial. Small Cell Substantial applications shall be rendered within ninety days of the date of filing.
 - C. Wireless Support Structure. Wireless Support Structure applications shall be rendered within 120 days of the date of filing.
- (5) The time period required in subsection (c)(4) above may be tolled only:
 - A. By mutual agreement between the applicant and the City;
 - B. If the application is determined to be incomplete; or
 - C. The number of applications exceeds the City's capacity to process them in a timely manner. If such number of applications exceeds capacity then the following tolling time periods may be instituted:
 - (i) The time period may initially be tolled for up to fifteen days when the number of applications received within any consecutive thirty day period exceeds fifteen applications;
 - (ii) For every additional fifteen applications that the City receives above the fifteen applications stated in (a) the time period may be tolled an additional fifteen days; and
 - (iii) However, in no instance shall the time tolled exceed ninety consecutive days.
- (6) To toll the time period for incompleteness, the City shall provide the applicant notice within thirty days of the date of filing. Such notice shall include a listing of the missing documents and/or information. The time period resumes once the applicant submits a response. If an application is still incomplete, the City shall notify the applicant within ten days of the response.
- (7) If multiple applications are received by the City to install two or more wireless support structures that would violate the spacing requirements of Section 731.05(b) - Design & Siting Requirements, or to collocate two or more small cell facilities on the same wireless support structure, the City shall process and render a decision in the order they are received.
- (8) In the event that an application is received by the City to install a wireless support structure or small cell facility in a location in common with another application for a facility in the ROW, preference shall be granted in the following order of service provided:
 - A. Municipal Infrastructure
 - B. Electricity
 - C. Natural Gas
 - D. Landline Telephone
 - E. Fiber
 - F. CATV
 - G. Petroleum Pipelines
 - H. Wireless Service
- (e) Amendments. Amendments to an application in process which are not part of a response to a notice of incompleteness or a correction notice shall be treated as a new application.
- (f) Issuance of Permit and Certificates.
 - (1) When an application is approved or granted consent, a permit shall be issued to the applicant authorizing the following:
 - A. Small Cell Work Permit. A permit to perform the approved action, removal, replacement, or maintenance work, subject to any conditions;
 - B. Small Cell Collocation Consent. Consent to perform the approved removal, replacement, or installation, and grant occupancy within the City Right of Way, subject to any permits or conditions;
 - C. Wireless Support Structure. Consent to construct, modify or replace a wireless support structure in the Right of Way subject to any permits or conditions.
 - (2) An applicant seeking collocation of a small cell facility to a wireless support structure owned by the City and located within the City Right of Way shall be issued an Attachment Certificate authorizing such attachment, subject to any conditions.
- (g) Scope of Approval.
 - (1) No permit or certificate authorized by this Chapter shall be transferrable.
 - (2) No permit or certificate authorized by this Chapter shall convey title, equitable or legal, in the Right of Way.
- (h) Duration of Approval.
 - (1) The work authorized by the permit issued must be completed within 180 days from the date of issuance, unless otherwise conditioned as part of the approval.
 - (2) An Attachment Certificate is valid for ten years from the date of issuance and may be renewed by the applicant in successive five year terms. Any request for renewal is subject to approval by the Safety-Service Director and may be denied for cause.
 - (3) In the event that any court of competent jurisdiction invalidates any portion of federal law which mandates approval of any permit, such permit shall automatically expire one year from the date of the judicial order.
 - (4) In the event that any court of competent jurisdiction invalidates any portion of state law which mandates approval of any permit shall automatically expire sixty days from the date of the judicial order and any structure shall be removed in accordance with Section 55.05.1(M) of the General Standards unless otherwise authorized.
- (i) Revocation. The following are grounds for revocation or denial of approval:
 - (1) The intentional provision of materially misleading information by the applicant (the provision of information is considered "intentional" where the applicant was aware of the inaccuracies or could have discovered the inaccuracies with reasonable diligence);
 - (2) The failure to comply with any condition of approval, order, or other applicable law, rule, or regulation;
 - (3) The site, structure or operation is otherwise not in compliance with any other provision(s) of applicable law;
 - (4) The subject site or use is otherwise not in compliance due to incomplete work or projects, or is not in compliance due to unperformed or slow to perform work as part of an open permit.
- (j) Appeals. City Council shall hear and decide upon appeals where it is alleged there is an error in any written decision made by the Safety-Service Director in the enforcement of this Code.
 - (1) A complete written appeal shall be filed by the appellant within 10 days of the written decision of the Safety-Service Director or the appeal shall become void. The appeal shall be filed with the Clerk of Council. The written appeal shall:
 - A. Cite specific provisions of this Chapter that are alleged to have been interpreted in error or the specific action being appealed and the grounds on which the appeal is being made;
 - B. Include any required application fee in an amount set by the City's Schedule of Fees ordinance.
 - C. Include such other information as may be required to render a reasonable decision;
 - D. A statement as to why the appellant has standing as an aggrieved party to pursue the appeal.
 - (2) Any person or entity claiming to be injured or aggrieved by any final action of City Council shall have the right to appeal the decision the court of common pleas as provided in ORC Chapters 2505 and 2506.

- (3) City Council shall not be required to hear any case that has been the subject of an appeal during the previous twelve months, unless substantial new evidence, critical to the case, becomes available.
(Ord. 2018-27. Passed 5-22-18.)

731.05 STANDARDS.

(a) General. The City of Galion desires to promote orderly small cell facility and wireless support structure installations using the smallest and least intrusive means available to provide services to the community. All such installations in the public right of way shall comply with all applicable provisions in this section. All applications shall be subject to the following conditions:

- (1) Compliance with all Applicable Laws. Permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations, ordinances, or other rules.
- (2) Right to Inspect. The City or its designee may inspect a small cell facility or wireless support structure within the right of way upon reasonable notice to the permittee. The permittee shall cooperate with all inspections. The City reserves the right to support, repair, disable, or remove any elements of the small cell facility or wireless support structure in emergencies or when the small cell facility or wireless support structure threatens imminent harm to persons or property.
- (3) Contact information. Permittee shall at all times maintain accurate contact information for all parties responsible for the small cell facility or wireless support structure, which shall include a phone number, street mailing address, and email address for at least one natural person. All such contact information for responsible parties shall be provided to the Safety-Service Director.
- (4) Indemnities. The permittee and, if applicable, the non-government owner of a small cell facility or wireless support structure shall defend, indemnify, and hold harmless the City and its agents, officers, officials, and employees from:
 - A. Any and all damages, liabilities, injuries, losses, costs, and expenses arising out of any claims, demands, lawsuits, writs of mandamus, or other actions or proceedings brought against the City to challenge, attack, seek to modify, set aside, void, or annul the City's approval of the applicable permit or certificate; and
 - B. Any and all damages, liabilities, injuries, losses, costs, and expenses and any claims, demands, lawsuits, or other actions or proceedings of any kind, whether for personal injury, death, or property damage, arising out of or in connection with the activities or performance of the permittee or its agents, employees, licensees, contractors, subcontractors, or independent contractors.
 - C. In the event the City becomes aware of any such actions or claims, the City shall promptly notify the permittee and shall reasonably cooperate in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the permittee (as applicable) shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.
- (5) Interference with City Communication Services. In the event that the City has reason to believe that permittee's operations are causing interference with the City's radio communications operations, WAN, and/or fiber network, then the permittee shall, at its cost, immediately cooperate with the City to either rule out permittee as the interference source or eliminate the interference. Cooperation with the City may include, but shall not be limited to, temporarily switching the equipment on and off for testing.
- (6) Adverse Impact. Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the small cell facility or wireless support structure.
- (7) Maintenance. The site and the small cell facility or wireless support structure, including but not limited to all landscaping, fencing, and related equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.
- (8) Good Condition. Small cell facilities and wireless support structures shall at all times employ best practices and maintain in use only the best available technology and methods for preventing failures and accidents so that the same shall not menace or endanger the life or property of any person.
- (9) Graffiti and Vandalism. Permittee shall remove any graffiti at permittee's sole expense.
- (10) Exposure to RF Radiation. All small cell facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards.
- (11) Utility Lines. Service lines must be undergrounded whenever feasible to avoid additional overhead lines.
- (12) Relocation for Public Improvements. Permittee shall remove and relocate the permitted small cell facility and/or wireless support structure at permittee's sole expense to accommodate construction of a public improvement project by the City.
- (13) Removal if Discontinued. In the event that the use of a small cell facility is discontinued, the owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued. If a small cell facility is not removed within ninety days of discontinued use, the City may remove it at the owner's expense irrespective of the notice requirement under this section.
- (14) Abandoned. In the event that the use of a small cell facility is abandoned, the City may remove it at the owner's expense.
- (15) Site Restoration.
 - A. Upon completion of the new work, the contractor shall restore the street and/or alley pavement as required;
 - B. Upon completion of the new work, the contractor shall restore all concrete walks, driveway aprons, pavers, bricks, and other concrete as required;
 - C. Upon completion of the new work, the contractor shall restore all tree lawns and/or sod strips with topsoil and sod.
- (16) General Construction. All work and designs shall comply with the following general standards for construction in the City's right of way:
 - A. City of Galion Codified Ordinances;
 - B. Any City Standard Construction Drawings;
 - C. Any City Construction and Material Specifications;
 - D. City of Galion Electric Rules and Regulations;
 - E. Ohio Department of Transportation (ODOT) Location and Design Manual;
 - F. ODOT Standard Drawings;
 - G. ODOT Construction and Material Specifications;
 - H. Ohio Manual of Traffic Control Devices;
 - I. American Association of State Highway Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets;
 - J. AASHTO Roadside Design Guide;
 - K. AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities;
 - L. AASHTO Guide for Development of Bicycle Facilities;
 - M. United States Access Board (USAB) Proposed Guidelines for Pedestrians in the Public Right-of-Way;
 - N. USAB American with Disabilities Act Accessibility Guidelines;
 - O. National Fire Protection Association 70 National Electric Code; and
 - P. all other applicable local, state, and federal codes and regulations.
- (17) Taxes and assessments. To the extent taxes or other assessments are imposed by taxing authorities on the use of City property as a result of an applicant's use or occupation of the right of way, the applicant shall be responsible for payment of such taxes, payable annually unless otherwise required by the taxing authority.
- (18) Interference. Small cell wireless and wireless support structures shall be constructed and maintained in such a manner that will not interfere with the use of other property.
- (19) Financial Condition. All owners must procure and provide to the City a bond, or must provide proof of an equivalent financial mechanism, to ensure compliance with all provisions of this chapter. Such bond or financial mechanism must specifically cover the cost of removal of the item placed in the right of way.
- (20) Setbacks for Visibility and Access. Any new small cell facility or wireless support structure and other improvements associated with a new small cell facility or wireless support structure or an existing small cell facility or wireless support structure must be

setback from intersections, alleys and driveways and placed in locations where it will not obstruct motorists' sightlines or pedestrian access.

- (21) Obstructions. Any new small cell facility or wireless support structure and other improvements associated with a new small cell facility or wireless support structure or an existing small cell facility or wireless support structure shall not obstruct any:
- A. Worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors;
 - B. Access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop (including, without limitation, bus stops, streetcar stops, and bike share stations);
 - C. Worker access to above ground or underground infrastructure owned or operated by any public or private utility agency;
 - D. Fire hydrant access;
 - E. Access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the right of way; or
 - F. Access to any fire escape.
- (22) Historic or Architecturally Significant Structures. Any new utility installation and other improvements associated with a new utility installation or an existing utility installation may not be placed directly in front of any historic or architecturally significant structures in prominent or highly visible locations, including any structure in a historic district as defined in Section 731.02.
- (23) No placement of any small cell facility or wireless support structure shall necessitate tree trimming, cause removal of, or otherwise damage any tree located within the City's right of way or a designated utility easement. Such small cell facility or wireless support structure shall not be located within the eventual mature dripline or tree crown of any existing tree located within the City's right of way or a designated utility easement.
- (b) Design and Siting Requirements.
- (1) General Requirements.
- A. Wireless support structures shall align with other poles to achieve a uniform inline appearance.
 - B. Wireless support structures shall be setback from the edge of pavement according to applicable safety and construction standards as set forth in Section 731.05(a).
 - C. All small cell facilities and wireless support structures and any related items shall be installed and maintained plumb and level and shall maintain an orderly and neat appearance.
 - D. All equipment and enclosures shall be attached, anchored and/or strapped tightly to poles using corrosion resistant steel hardware.
 - E. Wireless support structures shall support no more than two small cell facilities.
 - F. Ambient noise suppression measures or placement of the equipment in locations less likely to impact adjacent properties shall be required to ensure compliance with all applicable noise regulations.
 - G. Unless otherwise required for compliance with FAA or FCC regulations, the small cell facility or wireless support structure shall not include any permanently installed lights. Any lights associated with the equipment shall be appropriately shielded from public view. This shall not be interpreted to prohibit streetlights or the placement of luminaires by the City.
- (2) Location.
- A. In accordance with ORC 4939.0314(D), Authority of a Municipal Corporation, the City shall reserve the right to propose an alternate location to the proposed location of a new wireless support structure, provided the alternate location is within 100 feet or a distance equal to the width of the right of way in or on which the new wireless support structure is proposed, whichever is greater. The City of Galion also finds that certain locations and collocation configurations are preferred. A preferred location and collocation configuration should be utilized whenever possible and should only be surpassed if in the determination of the Safety-Service Director, clear and convincing evidence supports such a decision. Cost alone should not be grounds for such a determination. The order of preference is as follows:
 - (i) First, small cell facilities should be collocated on an existing pole or wireless support structure within a utility easement. If no such pole or wireless support structure is available then proceed to the next preference;
 - (ii) Second, small cell facilities should be collocated on an existing pole or wireless support structure within an alley. If no such pole or wireless support structure is available then proceed to the next preference;
 - (iii) Third, small cell facilities should be collocated on a new wireless support structure within a utility easement. If no such location is available then proceed to the next preference;
 - (iv) Fourth, small cell facilities should be collocated on a new wireless support structure within an alley. If no such location is available then proceed to the next preference;
 - (v) Fifth, small cell facilities should be collocated on a wireless support structure currently supporting a small cell facility located within the City right of way. If no such wireless support structure is available then proceed to the next preference;
 - (vi) Sixth, small cell facilities should be collocated on an existing wireless support structure located within the City right of way. If no such existing wireless support structure is available then proceed to the next preference;
 - (vii) Seventh, small cell facilities should be collocated on a new wireless support structure located within a utility easement. If no such location is available then proceed to the next preference;
 - (viii) Eighth, small cell facilities should be collocated on a new wireless support structure located within an alley. If no such location is available then proceed to the next preference
 - (ix) Ninth, small cell facilities should be collocated on a new wireless support structure located within the City right of way.
 - B. Any new wireless support structure shall be located at least 500 feet from any existing small cell facility.
- (3) Wireless Facilities Design.
- A. Wireless support structures shall be subject to the following design standards:
 - (i) Wireless support structures shall be limited to forty feet in height.
 - (ii) Wireless support structures shall be capable of supporting at least two small cell facility operators.
 - (iii) New wireless support structures shall have the following design elements:
 - a. Material - aluminum poles;
 - b. Color - black anodized;
 - c. Diameter - twelve inches;
 - d. Style - smooth round tapered profile;
 - e. Base - trapezoidal pedestal base on a reinforced concrete footing/foundation pier;
 - f. Exception - If the aesthetics and character of the immediate area would be better matched by a wireless support structure of a different material, color, style, or base as determined by the Safety-Service Director, then such design elements may be substituted with an alternate design element. Such determination shall be based on the following factors:
 - 1. The design features of nearby wireless support structures serving in a similar capacity;
 - 2. The design features of the existing or proposed streetscape, district, or site;
 - 3. The historical context of a district or specific site;
 - 4. A desire to camouflage or conceal the wireless support structure from view.
 - B. Small cell facilities shall be subject to the following design standards:
 - (i) The City reserves the right to require the following:
 - a. Antenna and all associated equipment shall be concealed to the extent deemed necessary by the Safety-Service Director in response to the aesthetic context of the small cell facility. Some possible configurations include but shall not be limited to the following:
 - 1. Antenna(s) associated with the first fitting on a wireless support structure shall be top-mounted and concealed within a radome that also conceals the cable connections, antenna mount and other hardware. The Safety-Service Director may approve a side-mounted antenna with the initial fitting if, in the Safety-Service

Director's discretion, the side-mounted antenna would be a better match to the aesthetics and character of the immediate area and would promote the purposes of this Chapter.

2. GPS antennas be placed within the radome or directly above the radome not to exceed six inches.
- (ii) Each Antenna and all associated equipment shall not exceed six cubic feet in volume.
- (iii) All portions of a Small Cell Facility other than an antenna and as identified by the ORC 4939.01 (P)2, shall not exceed twenty-eight cubic feet in volume per facility.
- (iv) Small cell facilities mounted to a wireless support structure shall be completely concealed within a common enclosure capable of containing at least two small sell facilities. Such common enclosures shall:
 - a. Not exceed twenty-one cubic feet in volume;
 - b. Not exceed ninety inches in height, twenty inches in width, or twenty inches in depth;
 - c. Not extend more than twenty-four inches away from the pole on which it is mounted;
 - d. Shall be centered on the vertical axis of the pole to which it is mounted;
 - e. Be mounted at a distance of at least ten feet measured from grade to the bottom of the enclosure;
 - f. Be mounted on the side of the pole facing away from nearest traffic lane's direction of travel.
- (v) Such common enclosures shall have the following design elements:
 - a. Material - The enclosure material shall be metal, a composite, or an equivalent material as determined by the Safety-Service Director.
 - b. Color - The enclosure shall match the color of the pole on which it is mounted.
 - c. Style - The enclosure shall match the style of the pole on which it is mounted.
 - d. Coordinated Design Elements - Common enclosures shall match the material, color, and style of nearby existing common enclosures when:
 1. Such enclosures are located within 5000 feet of an existing common enclosure; and
 2. Such enclosures are mounted on wireless support structures of a similar or matching design.
 - e. Exception - If the aesthetics and character of the immediate area would be better matched by an enclosure of a different material, color, style, or by deviating from the design of a nearby existing common enclosure as determined by the Safety-Service Director, then such design elements may be substituted with an alternate design element. Such determination shall be based on the following factors:
 1. The design features of nearby poles serving in a similar capacity;
 2. The design features of the existing or proposed streetscape, district, or site;
 3. The historical context of a district or specific site;
 4. A desire to camouflage or conceal the enclosure from view.
- (vi) All ground mounted equipment shall be placed in an underground vault. No above grade ground mounted equipment in service of a small cell facility is permitted unless the following conditions can be satisfied as determined by the Safety-Service Director:
 - a. The applicant has submitted clear and convincing evidence that the equipment cannot feasibly be pole-mounted, placed in an underground vault, or hidden within or integrated into an existing streetscape element (i.e. - bus stop shelter). Increased costs alone shall not be a consideration. If a ground mounted enclosure is approved, the Safety-Service Director shall reserve the right to require any of the following conditions:
 1. Concealed Enclosure - All equipment shall be completely concealed within a metal, composite, or equivalent material enclosure as determined by the Safety-Service Director.
 2. Smallest Size - The enclosure shall be no larger than necessary based on the smallest available size of the proposed equipment as determined by the Safety-Service Director.
 3. Camouflage - Camouflaging elements may be required. Such elements may include, but shall not be limited to, public art displayed on the enclosure, strategic placement in less visible or obtrusive locations, placement within an existing streetscape element, landscape screening, and strategic painting or coating to camouflage such enclosure or equipment.
 - b. The maximum height of any such enclosure shall be thirty inches.

(c) Reservation of Right of Way. The City reserves the right to reserve space for future public safety or transportation uses in the right of way or on a wireless support structure or pole owned or operated by the City in a documented and approved plan in place at the time an application is filed. A reservation of space shall not preclude placement of a pole or collocation of a small cell facility. If replacement of the City's pole or wireless support structure is necessary to accommodate the collocation of the small cell facility and the future use, the small cell facility operator shall pay for the replacement of the pole or wireless support structure, and the replaced pole or wireless support structure must accommodate the future use.

(Ord. 2018-27. Passed 5-22-18.)

731.06 NONCONFORMITY.

(a) A nonconforming small cell facility and/or wireless support structure shall immediately lose its nonconforming designation and must be brought into compliance with all of the provisions of this chapter, and all other applicable City laws and ordinances or be removed if any of the following conditions are present:

- (1) The nonconforming small cell facility and/or wireless support structure or a part of the nonconforming small cell facility and/or wireless support structure is altered, modified, relocated, replaced, or changed in any manner whatsoever;
- (2) The nonconforming small cell facility and/or wireless support structure is damaged or deteriorated and requires any process of reconstruction, repair, maintenance, or restoration, and the cost of said reconstruction, repair, maintenance, or restoration exceeds fifty percent (50%) of the small cell facility and/or wireless support structure's replacement cost;
- (3) The nonconforming small cell facility and/or wireless support structure is abandoned. (Ord. 2018-27. Passed 5-22-18.)

731.07 CONFLICT WITH OTHER PROVISIONS.

In the event that any other applicable law or code requires any more restrictive requirements, the most restrictive requirement shall control. (Ord. 2018-27. Passed 5-22-18.)

731.08 SEVERABILITY.

The provisions of any part of this chapter are severable. If any provision or subsection, or the application of any provision or subsection to any person or circumstances, is held invalid, the remaining provisions, subsection, and applications of such ordinance to other persons or circumstances shall not be made invalid as well. It is declared to be the intent of this section that the remaining provisions would have been adopted had such invalid provisions not been included in this chapter when originally adopted by Council.

(Ord. 2018-27. Passed 5-22-18.)

731.99 PENALTY.

(a) Any person in violation of any of the terms of this chapter, or who, being the owner or agent of the owner of any lot, tract, or parcel of land, shall suffer or permit another to erect, construct, reconstruct, alter, repair, convert, attach, or maintain any such facility, shall be deemed to have violated the provisions hereof and commits a minor misdemeanor each day during the period such violation continues.

(b) If any utility installation is erected, constructed, reconstructed, altered, repaired, converted, attached, or maintained in violation of this chapter or of any regulations made pursuant hereto, the proper officer of the City, in addition to other remedies, may institute in the name of the City any appropriate action or proceeding, whether by legal process or otherwise, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, attachment, or use, to restrain, correct, or abate such violation, to prevent the use of such utility installation, and/or to prevent any illegal act, conduct, business, or use in or about such utility installation.

(c) The Safety-Service Director is authorized to make requests and to issue orders regarding utility installations in the right of way for the purpose of public safety and compliance with this chapter of the City of Galion Codified Ordinances. The Safety-Service Director is also

authorized to conduct visual and external inspections of utility installations in the right of way at any time and shall make efforts to coordinate with the provider responsible for a utility installation for any internal inspection of the relevant equipment.
(Ord. 2018-27. Passed 5-22-18.)

CHAPTER 741

Sexually Oriented Businesses

- 741.01 **Purpose and intent.**
- 741.02 **Definitions.**
- 741.03 **License required.**
- 741.04 **Application for business license.**
- 741.05 **Issuance of a business license.**
- 741.06 **Employee license application.**
- 741.07 **Issuance of sexually oriented business employee license.**
- 741.08 **Expiration and renewal of license.**
- 741.09 **Suspension.**
- 741.10 **Revocation.**
- 741.11 **Appeal rights.**
- 741.12 **Transfer of license.**
- 741.13 **Additional regulations concerning the operation of a sexually oriented business.**

CROSS REFERENCES

Criminal conduct in sexually oriented business - see GEN. OFF. Ch. 535

Adult entertainment facilities - see P. & Z. Ch. 1183

741.01 PURPOSE AND INTENT.

(a) In enacting this chapter, the Council of the City of Galion makes the following statement of intent and findings:

- (1) Adult entertainment establishments require special supervision from the public safety agencies of this City in order to protect and preserve the health, safety, morals, and welfare of the patrons and employees of the businesses as well as the citizens of this City.
- (2) The Council finds that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature.
- (3) The concern over sexually transmitted diseases is a legitimate health concern of this City that demands reasonable regulation of adult entertainment establishments by this City in the specified manner, and expanded authority for reasonable regulation of adult entertainment establishments by local governments, in order to protect the health and well-being of the citizens.
- (4) Minimal regulations enacted by this City are a legitimate and reasonable means of accountability to ensure that operators of adult entertainment establishments comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- (5) There is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, cause increased crime, particularly in the overnight hours, and downgrade property values.
- (6) The Council desires to minimize and control these adverse effects by regulating adult entertainment establishments in the specified manner, and by minimizing and controlling these adverse effects, the Council seeks to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.
- (7) The Council has determined that current local zoning and other locational criteria do not adequately protect the health, safety, and general welfare of the people of this City and that expanded regulation of adult entertainment establishments is necessary.
- (8) It is not the intent of the Council in enacting this chapter to suppress or authorize the suppression of any speech activities protected by the First Amendment, but to enact content-neutral regulations that address the secondary effects of adult entertainment establishments.
- (9) It is not the intent of this Council to condone or legitimize the distribution of obscene material, and this Council recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in this State.

(b) It is the intent of this Council in enacting this chapter to regulate in the specified manner adult entertainment establishments in order to promote the health, safety, morals, and general welfare of the citizens of this City and establish reasonable regulations to prevent the deleterious secondary effects of adult entertainment establishments within this City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent of this Council in enacting this chapter to restrict or deny, or authorize the restrictions or denial of, access by adults to sexually oriented materials protected by the First Amendment, or to deny, or authorize the denial of, access by the distributors and exhibitors of adult entertainment and adult materials to their intended market. Neither is it the intent nor effect of this Council in enacting this chapter to condone or legitimize the distribution or exhibition of obscene material.

(c) Based on evidence concerning the adverse secondary effects of adult uses on communities presented in hearings and in reports made available to the legislature and subsequently adopted by the Ohio General Assembly as findings under Section 3 of House Bill 23 (and on findings incorporated in the cases of *Township of Littleton, Colorado v. Z.J. Gifts D-4, L.L.C.* (2004), 541 U.S. 774; *Township of Erie v. Pap's A.M.* (2000), 529 U.S. 277; *Barnes v. Glen Theatre, Inc.* (1991), 501 U.S. 560; *Township of Renton v. Playtime Theatres, Inc.* (1986), 475 U.S. 41; *Young v. American Mini Theatres* (1976), 426 U.S. 50; *California v. LaRue* (1972), 409 U.S. 109; *DLS, Inc. v. Township of Chattanooga* (6th Cir. 1997), 107 F.3d 403; *East Brooks Books, Inc. v. Township of Memphis* (6th Cir. 1995), 48 F.3d 220; *Harris v. Fitchville Township Trustees* (N.D. Ohio 2000), 99 F. Supp. 2d 837; *Bamon Corp. v. Township of Dayton* (S.D. Ohio 1990), 730 F. Supp. 90, aff'd (6th Cir. 1991), 923 F. 2d 470; *Broadway Books v. Roberts* (E.D. Tenn. 1986), 642 F. Supp. 486; *Bright Lights, Inc. v. Township of Newport* (E.D. Ky. 1993), 830 F. Supp. 378; *Richland Bookmart v. Nichols* (6th Cir. 1998), 137 F. 3d 435; *Deja Vu v. Metro Government* (6th Cir. 1999), 1999 U.S. App. LEXIS 535; *Threesome Entertainment v. Strittmather* (N.D. Ohio 1998), 4 F. Supp. 2d 710; *J.L. Spoons, Inc. v. Township of Brunswick* (N.D. Ohio 1999), 49 F. Supp. 2d 1032; *Triplett Grille, Inc. v. Township of Akron* (6th Cir. 1994), 40 F. 3d 129; *Nightclubs, Inc. v. Township of Paducah* (6th Cir. 2000), 202 F. 3d 884; *O'Connor v. Township and County of Denver* (10th Cir. 1990), 894 F. 2d 1210; *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County* (6th Cir. 2001), 2001 U.S. App. LEXIS 26007; *State of Ohio ex rel. Rothal v. Smith* (Ohio C.P. 2002), Summit C.P. No. CV 01094594; *Z.J. Gifts D-2, L.L.C. v. Township of Aurora* (10th Cir. 1998), 136 F. 3d 683; *Connection Distrib. Co. v. Reno* (6th Cir. 1998), 154 F. 3d 281; *Sundance Assocs. v. Reno* (10th Cir. 1998), 139 F. 3d 804; *American Library Association v. Reno* (D.C. Cir. 1994), 33 F. 3d 78; *American Target Advertising, Inc. v. Giani* (10th Cir. 2000), 199 F. 3d 1241; and other cases and on reports of secondary

effects occurring in and around adult entertainment establishments in Phoenix, Arizona (1984); Minneapolis, Minnesota (1980); Houston, Texas (1983); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma Township, Oklahoma (1986); Cleveland, Ohio (1977); Dallas, Texas (1997); St. Croix County, Wisconsin (1993); Bellevue, Washington (1998); Newport News, Virginia (1996); Tucson, Arizona (1990); St. Paul, Minnesota (1988); Oklahoma Township, Oklahoma (1986 and 1992); Beaumont, Texas (1982); New York, New York (1994); Ellicottville, New York (1998); Des Moines, Iowa (1984); Islip, New York (1980); Adams County, Colorado (1987); Manatee County, Florida (1987); New Hanover County, North Carolina (1989); Las Vegas, Nevada (1978); Cattaraugus County, New York (1998); Cleburne, Texas (1997); Dallas, Texas (1997); El Paso, Texas (1986); New York Times Square study (1994); Report to ACLJ on the Secondary Impacts of Sex Oriented Businesses (1996); findings from the Report of the Attorney General's Working Group On The Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); and on testimony to Congress in 136 Cong. Rec. S. 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S. 5636, 134 Cong. Rec. E. 3750; and also on findings from the paper entitled "Stripclubs According to Strippers; Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; and from various other police reports, testimony, newspaper reports, and other documentary evidence, and subsequent findings in *Sensations, Inc. v. City of Grand Rapids*, Michigan Decency Action Council (6th Cir. 2008), 526 F. 3d 291; 729, *Inc. v. Kenton County Fiscal Court* (6th Cir. 2008), 515 F. 3d 485; and *Andy's Rest. & Lounge, Inc. v. City of Gary* (7th Cir. 2006), 466 F. 3d 550, and the Council's independent review of the same the Council of the City of Galion finds:

- (1) Adult entertainment establishments lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments.
- (2) Certain employees of adult entertainment establishments, as defined in this chapter as adult theaters and cabarets, engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments.
- (3) Sexual acts, including masturbation and oral and anal sex, occur at adult entertainment establishments, especially those that provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows. The "couch dances" or "lap dances" that frequently occur in adult entertainment establishments featuring live nude or seminude dancers constitute or may constitute the offense of "engaging in prostitution" under Ohio R.C. 2907.25.
- (4) Offering and providing private or semiprivate booths or cubicles encourages such activities, which create unhealthy conditions.
- (5) Persons frequent certain adult theaters, adult arcades, and other adult entertainment establishments for the purpose of engaging in sexual activity within the premises of those adult entertainment establishments.
- (6) Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis salmonella, campylobacter and shigella infections, chlamydial, myoplasmal and ureoplasmal infections, trichomoniasis, and chancroid.
- (7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985, and 253,448 through December 31, 1992.
- (8) A total of 10,255 AIDS cases had been reported in Ohio as of January 1999. Ohio has required HIV reporting since 1990, and the reported information shows 7,969 people living with (HIV) (4,213) and (AIDS) (3,756) in the State.
- (9) Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Ohio.
- (10) The number of cases of early (less than one year) syphilis in the United States reported annually has risen. 33,613 cases were reported in 1982, and 45,200 cases were reported through November 1990.
- (11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.
- (12) The Surgeon General of the United States in his report of October 22, 1986 has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, and exposure to infected blood and blood components, and from an infected mother to her newborn.
- (13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (14) Sanitary conditions in some adult entertainment establishments are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (15) The findings noted in subsection (c)(1) to (14) hereof raise substantial governmental concerns.

- (16) Adult entertainment establishments have operational characteristics that require or mandate subject them to reasonable government regulation in order to protect those substantial governmental concerns.
- (17) The enactment of this chapter will promote the general welfare, health, morals, and safety of the citizens of this City.
(Ord. 2010-50. Passed 10-26-10.)

741.02 DEFINITIONS.

(a) As used in this chapter, "adult arcade," "adult bookstore," "adult novelty store," "adult video store," "sexually oriented business," "adult entertainment establishment," "adult motion picture theater," "adult theater," "distinguished or characterized by their emphasis upon," "nude or seminude model studio," "nudity," "nude," "state of nudity," "regularly features," "regularly shown," "seminude," "state of seminudity," "sexual encounter establishment," "specified anatomical areas," and "specified sexual activity" have the same meanings as in Ohio R.C. 2907.39.

(b) "Employee" means a person who performs any service or work on the premises of a sexually oriented business, including but not limited to providing entertainment, performing work of a management or supervisory nature, or performing support functions, on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent, lessee or otherwise, and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person on the premises exclusively for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does employee include a person exclusively on the premises as a patron or customer.

(c) "License" means a license to act or operate a sexually oriented business, issued pursuant to this chapter.

(d) "Licensee" means a person in whose name a license to operate has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the sexually oriented business. With respect to an Employee license issued under this chapter, licensee means an employee as defined by subsection (b) hereof in whose name a license has been issued authorizing employment at sexually oriented business.

(e) "Operate" means to control or hold primary responsibility for the operation of a sexually oriented business, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. "Operate" or "Cause to be Operated" shall mean to cause to function or to put or keep in operation. Operator means any person on the premises of a sexually oriented business who is authorized to exercise overall operational control or hold primary responsibility for the operation of a sexually oriented business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

(f) "Person" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(g) "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, sexually oriented business, adult entertainment establishment, adult motion picture theater, or adult theater as defined by Section 741.02(a).

(h) "Specified criminal activity" means any of the following offenses:

- (1) Prostitution or promoting prostitution; soliciting; loitering to engage in solicitation; sexual performance by a child; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar offenses to those described above under the criminal or penal code of any local jurisdiction, state, or country;
- (2) For which:
 - A. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or
 - B. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.
- (3) The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined in this section.

(i) "Transfer of ownership or control" of a sexually oriented business shall mean any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 2010-50. Passed 10-26-10.)

741.03 LICENSE REQUIRED.

(a) No person shall:

- (1) Operate a sexually oriented business as defined by Section 741.02(g) without a valid sexually oriented business license issued by the City pursuant to this chapter.
- (2) In connection with operating a sexually oriented business, retain the services of a person as an employee, as defined in this chapter, who is not licensed as a sexually oriented business employee by the City pursuant to this chapter.

(b) Any person who violates subsection (a) (1) hereof shall be guilty of a misdemeanor of the first degree for a first offense, and a felony of the fourth degree for a second offense.

(c) A violation of subsection (a) (2) hereof shall be a ground for the suspension of a sexually oriented business license as provided for in Section 741.09.

(d) No person shall act as an employee, as defined in this chapter, on the premises of a sexually oriented business without having secured a sexually oriented business employee license ("employee license") pursuant to this chapter.

(e) A violation of this section shall be a ground for the suspension of a sexually oriented business employee license as provided for in Section 741.09.

(Ord. 2010-50. Passed 10-26-10.)

741.04 APPLICATION FOR BUSINESS LICENSE.

(a) An original or renewal application for a sexually oriented business license shall be submitted to the Safety-Service Director or his or her designee on a form provided by the City. The City's application may require and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the City to determine whether the applicant meets the qualifications established in this chapter.

(b) A nonrefundable filing fee shall be paid at the time of filing the application, as follows:

Operator License: Three hundred dollars (\$300.00)

Employee License: Fifty dollars (\$50.00)

(c) An application for a sexually oriented business license shall identify and be signed by the following persons:

- (1) If the business entity is owned by an individual, that individual.
- (2) If the business entity is owned by a corporation, each Officer or Director of the corporation, any individual owning or controlling more

than fifty percent (50%) of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the proposed sexually oriented business.

- (3) If the business entity is owned by a partnership (general or limited), a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, each partner (other than limited partners); and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the proposed sexually oriented business.

(d) An application for a sexually oriented business license must designate one or more individuals who are to be principally responsible for the operation of the proposed sexually oriented business, if a license is granted. At least one person so designated must be involved in the day-to-day operation of the proposed sexually oriented business on a regular basis. Each person so designated, as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this chapter, and shall be considered a licensee if a license is granted.

(e) An application for a sexually oriented business license shall be completed according to the instructions on the application form, which shall require the following:

- (1) If the applicant is:
 - A. An individual, state the legal name and any aliases of such individual; or
 - B. A partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any; or
 - C. A joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, state the complete name of the organization and provide a copy of the legal document establishing the organization, if any; or
 - D. A corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and state the names and capacities of all Officers and Directors, the name of the registered corporate agent, and the address of the registered office for service of process.
- (2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.
- (3) State whether any applicant has been convicted of a specified criminal activity as defined in this chapter, and if so, the specified criminal activity involved and the date, place, and jurisdiction of each such conviction.
- (4) State whether any applicant has had a previous license under this chapter or other similar regulation of another jurisdiction denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and state whether the applicant has been a partner in a partnership or an officer, or fifty percent (50%) or greater owner of a corporation licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- (5) State whether any applicant holds any other licenses under this chapter or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other licensed businesses.
- (6) State the location of the proposed sexually oriented business, including a legal description of the property (i.e., permanent parcel number), street address, and telephone number(s), if any.
- (7) State the mailing address and residential address of each applicant and each person signing the application.
- (8) Submit a recent photograph of each applicant who is a natural person, taken by a Galion police officer that clearly shows the applicant's face.
- (9) If the applicant is a natural person, submit a Webcheck (i.e. fingerprints and criminal record).
- (10) For any applicant who is a natural person, describe and identify the location of any tattoos on such person's face, arms, legs, or hands, or any other anatomical area that normally would be visible when such person is on the premises of the proposed sexually oriented business
- (11) State the driver's license number and Social Security number of each applicant who is a natural person and each person signing the application, or, for an applicant that is not a natural person, the applicant's federally issued tax identification number.
- (12) Submit proof that each applicant who is a natural person is at least eighteen (18) years old.
- (13) Submit a sketch or diagram showing the configuration of the premises of the sexually oriented business. The diagram shall also designate the place at which the adult business license will be conspicuously posted, if granted. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- (14) The above-required disclosures facilitate the police investigation into the applicant's criminal background regarding crimes of a sexual nature so that the City can determine whether the chapter's civil disabilities provisions apply. Such provisions exist to combat the sex crimes connected with sexually oriented establishments by temporarily prohibiting those recently convicted of such crimes from employment with those establishments. In addition, the required disclosures ensure continuing compliance with the chapter's licensing and permitting requirements.
- (15) The information gathered pursuant to the above provisions constitutes protected private information and is exempt from Ohio's Public Records Act in accordance with the decision of the Sixth Circuit Court of Appeals in *DejaVu of Cincinnati v. Union Township* (6th Cir. 2005), 411 F.3d 777.

(Ord. 2010-50. Passed 10-26-10.)

741.05 ISSUANCE OF A BUSINESS LICENSE.

(a) Upon receipt of an application for a sexually oriented business license, the Safety-Service Director or his/her designee shall promptly request that the Galion Police Department review the information provided in the application concerning the criminal background of the applicant(s) and that the Galion Police Department shall transmit the results of its investigation in writing to the Safety-Service Director or his/her designee within five (5) days of the completion of its investigation.

(b) Within five (5) days of receipt of an application for a sexually oriented business, the Safety-Service Director or his/her designee shall notify the City Fire Chief and the Galion City Health Commissioner of such application. In making such notification, the Safety-Service Director or his/her designee shall request that the City Fire Chief and Galion City Health Commissioner promptly inspect the premises for which the sexually oriented business license is sought to assure compliance with the regulations under their respective jurisdictions.

(c) The City Fire Chief shall provide to the Safety-Service Director or his/her designee a written certification of whether the premises are in compliance with the City and State Fire Regulations within ten (10) days of receipt of notice of the application.

(d) The Safety-Service Director or his/her designee shall commence the inspection of the premises for which a sexually oriented business license is sought promptly upon receipt of the application, and shall complete, within ten (10) days after receipt of the application, a written certification of whether the premises are in compliance with the City's Zoning Ordinance, the City's Property Maintenance Code, and the

provisions of this chapter related to physical characteristics of the premises, and whether the City has received notice from any state or county agency of the premises being in violation of any applicable state building or property codes.

(e) Within thirty (30) days after receipt of a completed sexually oriented business license application, the Safety-Service Director or his/her designee shall approve or deny the issuance of a license. The Safety-Service Director or his/her designee shall approve the issuance of a license to an applicant unless he/she determines that one or more of the following findings is true:

- (1) An applicant who is a natural person is under eighteen (18) years of age.
- (2) An applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face; provided, however, that no license shall be denied solely on the ground that an applicant has refused to disclose its social security number in accordance with the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, § 7(a)(1).
- (3) An applicant has, within the preceding twelve (12) months, been denied a sexually oriented business license by any jurisdiction or has had a license to operate a sexually oriented business revoked by any jurisdiction, unless the reason(s) for such previous denial or revocation has been adequately addressed in its current application.
- (4) An applicant has been convicted of a specified criminal activity as defined in this chapter.
- (5) The proposed sexually oriented business would violate or fail to be in compliance with any provisions of this chapter, the Galion Zoning Resolution, the Galion Property Maintenance Code, or state statute or regulation.
- (6) The application and investigation fee required by this chapter has not been paid.
- (7) An applicant is in violation of or not in compliance with any provision of this chapter, except as provided in Section 741.05(f).

(f) If the Safety-Service Director or his/her designee determines that one or both of the following findings are true, the license issued pursuant to this section shall contain a requirement that the licensee correct all deficiencies specified within 120 days of the date the license is issued:

- (1) The results of inspections of the premises by the Galion Fire Chief or its designee or the Galion City Health Commissioner or its designee indicate that the premises are not in compliance with applicable laws and regulations under their respective jurisdictions.
- (2) An applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business, which are not the subject of a pending appeal or other legal challenge.

(g) A sexually oriented business license shall state on its face the name of the applicant, the expiration date, and the address of the licensed sexually oriented business. All sexually oriented business licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(h) The Safety-Service Director or his/her designee shall advise the applicant in writing within three (3) days of the Safety-Service Director's decision of the reasons for any license denial. If the City finds, subsequent to denial, that the basis for the denial of the license has been corrected or abated, the applicant may reapply. (Ord. 2010-50. Passed 10-26-10.)

741.06 EMPLOYEE LICENSE APPLICATION.

(a) An application for an Employee license shall be submitted to the Safety-Service Director or his/her designee on a form provided by the City. The application may request, and the applicant shall provide, such information as reasonably necessary (including fingerprints) to enable the City to determine whether the applicant meets the qualifications established in this chapter.

(b) An application for an employee license shall be completed according to the instructions of the application form, which shall require the following:

- (1) State the applicant's name and any other names (including "stage" names) or aliases used by the applicant.
- (2) State the applicant's date and place of birth.
- (3) State the applicant's height, weight, and hair and eye color.
- (4) Submit a recent photograph of each applicant who is a natural person, taken by a Galion police officer that clearly shows the applicant's face.
- (5) If the applicant is a natural person, submit a Webcheck (i.e. fingerprints and criminal record).
- (6) Describe and identify the location of any tattoos on the applicant's face, arms, legs, or hands, or any other anatomical area that normally would be visible when the applicant is on the premises of the proposed sexually oriented business.
- (7) State the applicant's present residence address and telephone number.
- (8) State the applicant's present or intended business address and telephone number.
- (9) State the applicant's driver's license number and Social Security number.
- (10) Submit proof that the applicant is at least eighteen (18) years old.
- (11) Provide a statement detailing the sexually oriented business-related license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate a sexually oriented business, in this or any other jurisdiction, and whether the applicant has ever had a sexually oriented business-related license, permit, or authorization to do business denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation, or suspension. Attach a copy of any order of denial, revocation, or suspension.
- (12) State whether the applicant has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved and the date, place and jurisdiction of each such conviction.
- (13) The above-required disclosures facilitate the police investigation into the applicant's criminal background regarding crimes of a sexual nature so that the City can determine whether the chapter's civil disabilities provisions apply. Such provisions exist to combat the sex crimes connected with sexually oriented establishments by temporarily prohibiting those recently convicted of such crimes from employment with those establishments. In addition, the required disclosures ensure continuing compliance with the chapter's licensing and permitting requirements.
- (14) The information gathered pursuant to the above provisions constitutes protected private information and is exempt from Ohio's Public Records Act in accordance with the decision of the Sixth Circuit Court of Appeals in *DejaVu of Cincinnati v. Union Township* (6th Cir. 2005), 411 F.3d 777.

(Ord. 2010-50. Passed 10-26-10.)

741.07 ISSUANCE OF SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE.

(a) Upon the filing of a completed application for an employee license, the Safety-Service Director or his/her designee shall issue a license to said applicant immediately.

(b) Within five (5) days of receipt of a completed application for an employee license, the Safety-Service Director or his/her designee shall request that the Galion Police Department initiate an investigation of the information provided in the application concerning the criminal background of the applicant. The Galion Police Department shall document the results of its investigation in writing within five (5) days of the completion of its investigation and transmit this writing to the Safety-Service Director or his/her designee.

(c) Within ten (10) days after completion of the criminal background investigation of the applicant, the Safety-Service Director or his/her

designee shall either affirm the prior issuance of the license or revoke the license. The Safety-Service Director or his/her designee shall affirm the prior issuance of a license to an applicant unless he/she determines that one or more of the following findings are true:

- (1) The applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face; provided, however, that no license shall be denied solely on the ground that an applicant has refused to disclose its social security number in accordance with the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, § 7(a)(1).
- (2) The applicant is under eighteen (18) years of age.
- (3) The applicant has been convicted of a specified criminal activity as defined in this chapter.
- (4) The employee license is to be used for employment in a business prohibited by local, state, or federal law, statute, rule or regulation.
- (5) The applicant has, within the preceding twelve (12) months, been denied an employee license by any jurisdiction or has had an employee license revoked by any jurisdiction, unless the reason(s) for such previous denial or revocation has been adequately addressed in his/her current application.

(d) If the employee license is revoked, the Safety-Service Director or his/her designee shall advise the applicant in writing within three (3) days of the reason(s) for any such revocation.

(Ord. 2010-50. Passed 10-26-10.)

741.08 EXPIRATION AND RENEWAL OF LICENSE.

(a) Each license issued pursuant to this chapter shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than ninety (90) days and no less than thirty (30) days before the expiration date. If application is made less than thirty (30) days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.

(b) An application for renewal of a sexually oriented business license shall be submitted to the Safety-Service Director or his/her designee on a form provided by the City. The completed renewal application shall describe any changes or additions to, or deletions from the information provided in the applicant's initial license application pursuant to this chapter. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or such application shall be revised to reflect any change in circumstances or conditions. Sketches or diagrams submitted with an initial sexually oriented business license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram still depicts the premises accurately.

(c) The Safety-Service Director or his/her designee shall make determinations concerning the approval of license renewals based on the same criteria and time mandates used to evaluate applications for new licenses under this chapter.

(d) The Safety-Service Director or his/her designee shall advise the applicant in writing within three (3) days of the reason(s) for any denial of a license renewal.

(e) An application for renewal of an employee license shall be submitted to the Safety-Service Director or his/her designee on a form provided by the City. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to this chapter. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or requires revision to reflect any change in circumstances or conditions.

(f) When the City denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial. However, if the City finds, subsequent to denial, that the basis for the denial of the renewal license has been corrected or abated, the applicant may reapply prior to the expiration of the one-year period.

(Ord. 2010-50. Passed 10-26-10.)

741.09 SUSPENSION.

(a) The City shall suspend a sexually oriented business license for a period not to exceed thirty (30) days if it determines that a licensee:

- (1) Has violated or is not in compliance with any section of this chapter; or
- (2) Has knowingly allowed an employee to violate or fail to comply with any section of this chapter.

(b) The City shall suspend a sexually oriented business license for a period not to exceed thirty (30) days if it determines that a licensee or its employee or agent has refused to allow, or has prohibited or has interfered with, an inspection of the licensed sexually oriented business premises as authorized by Section 741.05(b) or (c) or any other reasonable inspection.

(c) The City shall suspend an employee license for a period not to exceed thirty (30) days if it determines that a licensee has violated or is not in compliance with any section of this chapter.

(d) The Safety-Service Director or his/her designee shall advise the licensee in writing within three (3) days of the reason(s) for any suspension.

(Ord. 2010-50. Passed 10-26-10.)

741.10 REVOCATION.

(a) The City shall revoke a sexually oriented business license or employee license if a cause of suspension under this chapter occurs and the license has been suspended two times within the preceding twelve (12) months.

(b) The City shall revoke a sexually oriented business license if it determines that:

- (1) A licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are false;
- (2) The licensee(s) failed to comply with any requirement stated in the license, pursuant to this chapter, to correct specified deficiencies within 120 days.
- (3) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- (4) A licensee has knowingly allowed prostitution, solicitation, or the commission of a felony on the premises;
- (5) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- (6) A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises;
- (7) A licensee has been convicted of a specified criminal activity, as defined in this chapter, during the term of the license; or
- (8) A licensee is delinquent in payment to the City, County, or State for any taxes or fees that were assessed or imposed in relation to any business.

(c) The City shall revoke an employee license if it determines that:

- (1) The licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are false;
- (2) The licensee has knowingly acted as an employee on the premises of a sexually oriented business during a period of time when the licensee's license was suspended; or

- (3) The licensee has been convicted of a specified criminal activity, as defined in this chapter during the term of the license.
- (d) The Safety-Service Director or his/her designee shall advise the licensee in writing within three (3) days of the reason(s) for any revocation.
- (e) When the City revokes a license pursuant to subsections (a), (b)(3)-(7), (c)(2) or (3) above, the licensee shall not be issued another license for one (1) year from the date the revocation became effective.
- (f) When the City revokes a license pursuant to subsections (b)(1), (b)(8) or (c)(1) above, the applicant may be granted a license if the basis for the revocation has been corrected or abated and at least thirty (30) days have elapsed since the date the revocation became effective.
- (Ord. 2010-50. Passed 10-26-10.)

741.11 APPEAL RIGHTS.

- (a) In the event of the denial, suspension, or revocation of a new or renewal license under this chapter, the applicant may pursue an appeal to Crawford County Court of Common Pleas pursuant to Ohio R.C. Chapter 2506. This appeal provision is intended to comply with the requirement for prompt judicial review stated by the United States Supreme Court in *Township of Littleton, Colorado v. Z. J. Gifts D-4 (2004)*, 124 S. Ct. 2219.
- (b) Any licensee lawfully operating a sexually oriented business prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this chapter, so that the status quo of the licensee is maintained during the pendency of an appeal of a decision rendered under this Ordinance and during the entire time required for the court to rule on the appeal pursuant to subsection (a) above.
- (c) Any licensee lawfully acting as an employee in a sexually oriented business prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this chapter, so that the status quo of the licensee is maintained during the pendency of an appeal of a decision rendered under this chapter and during the entire time required for the court to rule on the appeal pursuant to subsection (a) above.
- (d) In the event that any judicial review of the denial of a new or renewal license application or the revocation or suspension of a license is still pending thirty (30) days before the expiration date of any license, the licensee may file a renewal license application with the Mayor or his/her designee pursuant to this chapter. In the event that an application for renewal of a license is denied and the applicant seeks judicial review of that denial, the City has the right to consolidate such review with any pending judicial actions in regards to the previous denial, suspension or revocation of a license.
- (e) If, during the pendency of any appeal pursued under subsection (a) above, there are additional denials of a renewal license application or suspensions or revocations of that license, the City has the right to consolidate the appeal pursued under Section 741.11(a) above for the additional denials, suspensions or revocations with any pending appeal for that same licensee.
- (Ord. 2010-50. Passed 10-26-10.)

741.12 TRANSFER OF LICENSE.

- (a) A sexually oriented business license is not transferable from one licensee to another or from one location to another. Any purported transfer of a sexually oriented business license shall automatically and immediately revoke that license.
- (b) An employee license is not transferable from one licensee to another, but the use of the license by the individual to whom it was issued may be transferred from one licensed sexually oriented business to another such licensed establishment during the term of the license, provided that the licensee gives written notice of such transfer to the Safety-Service Director or his/her designee within fifteen (15) days of such transfer. (Ord. 2010-50. Passed 10-26-10.)

741.13 ADDITIONAL REGULATIONS CONCERNING THE OPERATION OF A SEXUALLY ORIENTED BUSINESS.

- (a) Sexual Activity, Live Entertainment and Performances.
- (1) Any employee appearing on the premises of a sexually oriented business in a state of nudity or semi-nudity, as defined in this chapter, must be on a stage that is at least 24 inches from the floor, and at a distance at least 36 inches from all parts of a clearly designated area in which patrons will be present.
 - (2) All live entertainment and performances in a sexually oriented business must take place on a stage that is at least 24 inches from the floor and a distance of at least 36 inches from all parts of a clearly designated area in which patrons will be present.
 - (3) The stage shall be separated from the area in which patrons may be present.
 - (4) No employee, as defined in this chapter, appearing on the premises of a sexually oriented business in a state of nudity or semi-nudity, may intentionally or knowingly touch a customer or a customer's clothing or knowingly permit himself or herself to be touched by a customer or a customer's clothing.
 - (5) The provisions of subsections (a) (1)-(3) shall not apply to an employee's use of any restroom or any single-sex dressing room that is accessible only to entertainers.
 - (6) In addition, subsections (a) (1)-(3) shall not apply to live performances in which the patron and performer are separated by an impenetrable barrier such as, but not limited to, glass or plexiglas.
- (b) Minors Prohibited. No person under the age of 18 years shall be permitted on the premises of a sexually oriented business.
- (c) Hours of Operation. A sexually oriented business shall close no later than 12:00 midnight or not later than the closing time required under its permit to sell alcoholic beverages, whichever is later. However, all sexually oriented businesses must cease all specified sexual activity, as defined by this chapter, no later than 12:00 midnight and shall not reopen earlier than 11:00 a.m. or the applicable day and times allowed by the State of Ohio Division of Liquor Control. (Ord. 2010-50. Passed 10-26-10.)

CHAPTER 752

Massage Establishments

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- 752.06 Cause for denial, revocation or suspension of license.**
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- 752.08 Application for massage technician, massagist or body work practitioner license.**
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- 752.13 Facilities required.**
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- 752.19 Time limit for filing.**
- 752.20 Current license holders.**
- 752.99 Penalty.**

CROSS REFERENCES

Procuring - see GEN. OFF. 533.08
 Soliciting - see GEN. OFF. 533.09
 Prostitution - see GEN. OFF. 533.10

752.01 DEFINITIONS.

For the purpose of this chapter, the following words are defined and shall have the meaning ascribed to them as hereafter set forth:

(a) "Massage" means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external parts of the human body with the hands or with any portion of the body or with the aid of any mechanical, electrical or other apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniment antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give other consideration or any gratuity therefor. Massage shall also mean the giving, receiving or administering of a bath to any person.

(b) "Massage establishment" means any establishment having a fixed place of business where any person, firm, association or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in subsection (a) hereof for any consideration whatsoever.

(c) "Massage technician, massagist or body work practitioner" means any person who engages in the practice of massage as defined in subsection (a) hereof, who holds a diploma or other certificate of graduation from a recognized school of massage.

(1) "Recognized school of massage" means any properly accredited school or institution of learning which has for its purpose the teaching of the theory, ethics, practice, method, profession or work of massage technician and has a program which requires a residence course of study of not less than 1,000 hours to be given in not less than six calendar months before the student may be furnished with a diploma or certificate of graduation from such school or institution of learning showing the successful completion of the course. Schools offering a correspondence course not requiring actual attendance at class shall not be deemed a recognized school.

(d) "Employee" means any and all persons other than the massage technician, who render service to the operator and who receives compensation from the operator.

(e) "Person" means any individual, co-partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form of character.

(f) "Operator" means the permit operator of a massage establishment.

(g) "Patron" means any person who receives a massage under such circumstances that it is reasonably expected that such person will pay money or give any consideration therefor.

(h) "Sexual or genital area" means genitals, public area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

752.02 ESTABLISHMENT LICENSE REQUIRED.

(a) No person shall engage in or carry out the business of massage, in or upon any premises within the City, unless that person has a valid establishment license issued by the City pursuant to the provisions of this chapter for each and every separate office or place of business conducted by such person. A person who has a communicable or infectious disease shall not work in any establishment licensed under this chapter.

(b) No person shall be engaged in the business of or be employed as a massage technician, massagist or body work practitioner, in the City, unless he or she has obtained a license under this chapter.

752.03 EXEMPTIONS.

This chapter shall not apply to the following establishments:

(a) Hospitals, nursing homes or other health care facilities licensed by the State.

(b) A person licensed or registered by the State of Ohio Medical Board while performing the licensed or registered profession.

(c) A licensed cosmetologist, registered barber, registered apprentice, licensed chiropractor, licensed practical nurse, registered nurse while performing the profession or vocation.

(d) A person working under the direction or supervision of individuals or establishments previously mentioned in this section while performing such profession or vocation.

752.04 APPLICATION FOR ESTABLISHMENT LICENSE.

Every applicant for an establishment license shall file an application under oath with the City on a form provided by the Mayor or his designee and pay a five hundred dollar (\$500.00) non-refundable annual license fee. Copies of the application shall be returned within five days and be referred to the Zoning Inspector, the City Health Officer and the Fire Chief. The respective Inspector, Officer or Chief shall within thirty days after receipt of the application inspect the premises proposed to be operated as a massage parlor, and shall make written verification to the Mayor's office concerning compliance with the codes of the City that they administer. The application shall then be referred to the Chief of Police for investigation of the applicant's character and qualifications. The application for establishment license shall set forth the following as to each and every employee, massage technician, massagist or body work practitioner.

(a) A definition of the service to be provided.

(b) The location, mailing address, and all telephone numbers where the business is to be conducted.

(c) The name and resident address of each applicant (hereinafter all provisions which refer to applicant include an applicant which may be a corporation or partnership):

(1) If the applicant is a corporation, the names and addresses of each of the officers and directors of such corporation and each stockholder owning more than ten percent (10%) of the stock of the corporation, and the addresses of the corporation itself, if different from the address of the massage establishment.

(2) If applicant is a partnership, the names and address of each of the partners including limited partners, and the address of the partnership itself, if different from the massage establishment.

(d) The two previous addresses immediately prior to the present address of the applicant.

(e) Proof that the applicant is at least twenty-one years of age.

- (f) Individual or partnership applicant's height, weight, color of eyes and hair and sex.
- (g) Copy of identification. Only current drivers license, social security card or birth certificate will be acceptable.
- (h) Two color portrait photographs of the applicant at least three inches by three inches. If the applicant is a corporation or partnership, two color photographs of at least three inches by three inches of each officer, managing agent or partner.
- (i) Business, occupation or employment of the applicant for the three years immediately preceding the date of the application.
- (j) The massage parlor or similar business license history of the applicant; whether such person, in previously operating in this or another city or state has had a business license revoked or suspended in the last five years, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (k) All criminal convictions of applicant for the past five years, other than misdemeanor traffic offenses, but including all violations of this chapter, with the dates of convictions, nature of the crimes and place convicted.
- (l) The name and address of any massage establishment owned or operated by any person whose name is required to be given in subsection (c) hereof where the business or profession of massage is carried on.
- (m) A description of any other business to be operated on the same premises and a description of any other business to be operated on adjoining premises, owned or controlled by the applicant.
- (n) A list of all of the employees of the establishment, including all massagists, massage technicians or body work practitioners and any and all other employees.
- (o) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualification of the applicant for the permit.

Upon completion of the above provided form and the furnishing of all foregoing information and fees, the Mayor shall accept the application for the necessary investigations. The holder of an establishment license shall notify the Mayor's and the Police Department of each change in any of the dates required to be furnished by this section within ten days after such change occurs.

752.05 ISSUANCE OF LICENSE.

(a) Approval or Denial of Application. The Manager's office shall act to approve or deny an application for a license under this chapter within a reasonable period of time, and in no event later than ninety days from the date that the application was accepted by the Manager's office.

(b) License Must be Issued. The Manager's office must issue a license unless the City Manager's or his agent finds good cause for denying the license. Good cause for denying the license shall be all of the reasons listed in Section 752.06.

752.06 CAUSE FOR DENIAL, REVOCATION OR SUSPENSION OF LICENSE.

The City Manager's or his agent may deny, revoke, or suspend an establishment license for the following reasons:

- (a) The correct license fee has not been tendered to the City.
- (b) The applicant or any partner, stockholder, director, the manager or person principally in charge of the establishment has been convicted of any of the following offenses or convicted of an offense without the State of Ohio that would have constituted any of the following offenses if committed within the State of Ohio, in the past five years.
 - (1) An offense involving the use of force or violence upon the person of another that amounts to a felony pursuant to the laws of the State of Ohio.
 - (2) An offense involving sexual misconduct, which constitutes a felony or misdemeanor under the laws of the State of Ohio.
- (c) The applicant for a license has knowingly made any false, misleading, or fraudulent statement of fact in the license application, or in any document required by the City in connection with this chapter.
- (d) The applicant has had an establishment, or other similar license denied, revoked, or suspended by the City or any other state or local agency within the past five years.
- (e) The application was not completely filled out or the application was not correctly filled out.
- (f) The establishment would not comply with all applicable laws, including but not limited to, the City's building, zoning, and health regulations, and with this chapter.
- (g) Any person has committed, on the premises of the establishment, an act that would constitute prostitution pursuant to the laws of the State, or any offense involving narcotics, dangerous drugs, or gambling, whether or not such person has been convicted of such prostitution, narcotics, dangerous drugs or gambling offense under the laws of the State.
- (h) The establishment or any employees of the establishments have not complied with the provisions of this chapter.

752.07 HEARING AND APPEALS.

(a) Denial of License. Upon determination by the Mayor or his agent that license applied for ought not to be issued, a notice shall be sent to the applicant by certified mail stating the reason for the denial, and advising the applicant of the right to a hearing to appeal the denial and the right to correct any defect in the application or premises.

(b) Hearing on Denial of License. When a hearing is requested by an applicant on denial of a license, not less than ten days written notice of such hearing shall be given to the applicant, which notice shall designate the time and place where the hearing will be held.

(c) Revocation or Suspension of License. Any license issued under this chapter may be revoked or suspended by the Mayor for the causes listed in this chapter after notice and hearing.

(d) Hearing on Revocation or Suspension. When a hearing is set by the Mayor in a revocation or suspension procedure the licensee shall receive not less than twenty days written notice, which notice shall contain the charges made, as well as the time and place where the hearing will be held.

(e) Rights Granted. At a hearing conducted pursuant to this chapter, the applicant or licensee shall have the right to be represented by counsel, the present witnesses, to testify and cross examine any other witnesses, and to subpoena witnesses. Proceedings shall be conducted under oath.

(f) Mayor Presides. The Mayor shall preside at the hearing and shall make the final determination.

(g) Adverse Decision. If any decision adverse to the applicant or licensee is made by the Mayor after a hearing as provided above, the Manager shall provide the applicant or licensee with a written reason for such decision, as well as a notice of the applicant or licensee's right to appeal to the courts of the State.

752.08 APPLICATION FOR MASSAGE TECHNICIAN, MASSAGIST OR BODY WORK PRACTITIONER LICENSE.

(a) The Mayor pursuant to this chapter shall issue a license to be employed as a massage technician, massagist or body work practitioner in the City of Galion upon receipt of an application, unless the Mayor finds:

- (1) The applicant does not meet the requirements as set forth in Section 752.01(c)(1).
- (2) That the application does not contain all of the required information or the application contains material misrepresentations.
- (3) That the applicant has pleaded guilty to, or has been convicted of any offense under Ohio R.C. Chapter 2907, Sex Offenses or any similar statutes since the enactment of Chapter 2907 or of any similar statutes from any other jurisdiction.
- (4) That the applicant has been convicted of or plead guilty to any offense involving force or violence which would constitute a felony under the laws of the State of Ohio.

(5) That the applicant has been convicted of or plead guilty to any crime involving the use of illegal narcotics.

(b) A massage technician, massagist or body work practitioner license issued pursuant to this chapter shall terminate at the expiration of one year from the date of its issuance unless subject to suspension or revocation.

752.09 HEARINGS AND APPEAL.

The procedure for hearings and appeal upon license denial shall be the same as Section 752.07(a) through (g) inclusive.

752.10 TRANSFER OF LICENSE.

(a) No license issued under this chapter shall be transferable to another person or location.

(b) The change of location of a massage establishment shall require the submission of a new application and the issuance of a new license.

752.11 LICENSE LOCATION.

(a) Display Required. All establishments, licensed under this chapter, shall display their license in a visible location in the establishment for which the license was issued.

752.12 TERM OF LICENSE.

(a) Annual Term. Licenses shall be granted for an initial term ending December 31, next following the issuance of license, unless sooner suspended or revoked. Such license shall be renewed annually, and any renewal shall be for a term of one year from January 1 to December 31.

752.13 FACILITIES REQUIRED.

No license to operate a massage establishment shall be issued unless an inspection by appropriate department of the City reveals that the establishment is in compliance with each of the following minimum requirements:

(a) A readable sign shall be displayed at the main entrance identifying the establishment as a massage establishment.

(b) Construction of rooms used for toilets, tubs, steam baths and showers shall be made of water proof materials, and shall be installed in accordance with the City Building Code. Plumbing fixtures shall be installed in compliance with the Plumbing Code.

(c) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

(d) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massagers. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(e) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massagers. No common use of towels or linen shall be permitted.

(f) Toilet facilities shall be provided in convenient locations, with separate facilities for each sex.

(g) Lavatories or washbasins provided with both hot and cold running water shall be installed in either toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.

(h) All electrical equipment shall be installed in accordance with the requirements of the City Electrical Code.

752.14 OPERATING REQUIREMENTS.

(a) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(b) Price rates for all services shall be prominently posted in the reception area available to all prospective customers.

(c) All employees of massage establishment shall be clean and wear non-transparent outer garments. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall be self closing.

(d) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity, and shall be laundered after each use thereof and stored in a sanitary manner.

(e) No massage establishment shall place, publish or distribute any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services.

(f) No massage establishment shall permit a person under the age of twenty-one to come to or remain on the premises of any massage establishment, as a massagist, employee or patron.

752.15 HOURS OF OPERATION.

No massage establishment shall be kept open for any purpose between the hours of 11:00 p.m. and 8:00 a.m. and no person shall allow a massage establishment to remain open between the hours of 11:00 p.m. and 8:00 a.m.

752.16 INSPECTION REQUIRED.

(a) It shall be the duty of the Mayor or his agent(s) to inspect massage establishments from time to time to determine compliance with this chapter.

(b) Inspections are to be made at reasonable times, with due regard to the nature of the business to be inspected.

(c) Upon showing of proper credentials, the representatives of the Mayor, including police officers, shall be entitled to inspect portions of the massage establishment open to the public to determine compliance with this chapter.

752.17 UNLAWFUL ACTS.

(a) It shall be unlawful for any person, in a massage establishment, to place his or her hands upon, to touch any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person.

(b) It shall be unlawful for any person, in a massage establishment, to expose his or her genital parts, or any portion thereof, to any other person.

(c) It shall be unlawful to allow the sexual or genital parts of patrons, of establishments licensed under this chapter, to be exposed when in the presence of an employee, massagist, massage technician or body work practitioner.

(d) It shall be unlawful for any person owning, or operating or managing a massage establishment to cause, allow or permit on the premises of such establishment, any person to perform such acts prohibited by subsections (a), (b) or (c) of this section.

(e) It shall be unlawful for any massage service to be carried on within any room or area which is fitted with a door which is capable of being locked.

752.18 NAME AND PLACE OF BUSINESS.

No person granted a license pursuant to this chapter shall operate under a name not specified in this license, nor shall he conduct business under any other designation or location not specified in his license.

752.19 TIME LIMIT FOR FILING.

Applications for renewals of licenses must be filed not more than sixty days nor less than thirty days prior to termination of an existing license.

752.20 CURRENT LICENSE HOLDERS.

Any license issued pursuant to any previous licensing ordinance of the City shall expire on the date of expiration designated under such ordinance. Applications for license renewals shall be pursuant to this chapter.

752.99 PENALTY.

Any person, firm, corporation, organization or agent who violates any provision of this chapter or fails to comply with any requirements thereof, shall be guilty of a misdemeanor of the first degree.

CHAPTER 769

Tattooing Establishment (Repealed)

EDITOR'S NOTE: Former Chapter 769 was repealed by Ordinance 2016-14.

CHAPTER 775

Nursing and Rest Homes

775.01 Electric generator required.

775.99 Penalty.

CROSS REFERENCES

State law provisions - see Ohio R.C. Ch. 3721; OAC 3701-17

Exiting nursing and rest homes - see OAC 4101:2-90

775.01 ELECTRIC GENERATOR REQUIRED.

(a) Every nursing home, rest home, home for the aged and similar facility operating within the City of Galion shall have an operational back-up electric generator of sufficient amperage to provide emergency electric power for heating, cooling, refrigeration, necessary lighting, necessary respiratory apparatus and other electrical equipment necessary to maintain operational status during a loss of electric power. Such generator shall be equipped with an automatic electrical transfer switch, to prevent electrical backfeed to the distribution system of the City. The Mayor or his designee may periodically check the homes and similar facilities located in the City for purposes of verifying the existence of such back-up electric generators and the fact that they are operational.

(b) For purposes of this section, the following words shall have the meaning indicated:

(1) "Nursing home", "rest home" and "home for the aged" shall have the same meanings as defined and used for those terms in Ohio R.C. 3721.01(A).

(2) "Similar facility" means an institution or facility which is not included within the terms "nursing home", "rest home", or "home for the aged" as defined and used in Ohio R.C. 3721.01(A), but is similar in the sense that the facility is occupied by unrelated persons who are dependent upon the services of others by reason of illness, age, or mental or physical impairment, some of whom are also dependent upon electricity to operate health-related or other equipment for their safety and welfare.

(Ord. 92-5971. Passed 8-11-92.)

775.99 PENALTY.

Any owner and/or manager of a nursing home as described in this chapter shall be guilty of a misdemeanor of the third degree for a first offense. For each subsequent offense, the violator is guilty of a misdemeanor of the second degree.

(Ord. 92-5971. Passed 8-11-92.)

CHAPTER 781

Private Alarm Systems

781.01 Definitions.

781.02 Alarm permit required.

781.03 Application for permit.

781.04 Issuance of alarm permit.

781.05 Cancellation of permit.

781.06 Response by permittee or agent required.

781.07 Local alarms.

781.08 False alarm fee.

781.081 Fee when no alarm permit.

781.09 Telephone dial alarms.

781.10 Alarm monitoring service.

781.11 Limitations of liability.

781.12 Exceptions.

781.99 Penalty.

CROSS REFERENCES

Making false alarms - see GEN. OFF. 509.07

781.01 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

(a) "Direct alarm system" means any device designed and installed for the purpose of detecting and signaling an alarm to the Police and/or Fire Departments either directly or through a central alarm station.

(b) "False alarm" means a signal from an alarm system which results in an emergency response by police or fire personnel when in fact no emergency exists.

(c) "Central alarm station" means a facility which receives signals from alarm systems and alerts police and/or fire personnel of the need to make an emergency response.

(d) "Local alarm" means an alarm system that gives a signal which is visible or audible to persons in the vicinity of the premises.

(Ord. 92-5960. Passed 11-24-92.)

781.02 ALARM PERMIT REQUIRED.

The owner or occupant of any premises within the City protected by an alarm system as defined in Section 781.01(a) or (d) hereof is required to obtain an alarm permit. No owner or occupant shall cause to be placed in operation an alarm system for which a permit has not been issued, or in connection with which a permit has been cancelled.

(Ord. 92-5960. Passed 11-24-92.)

781.03 APPLICATION FOR PERMIT.

Applications for alarm permits shall be provided by the Office of Mayor and shall require any applicant thereof to furnish information sufficient to identify the applicant, the location of the premises to be protected by the alarm system and such other information as the Chiefs of the Police and Fire Departments may deem necessary for safe and proper emergency response by their departments.

(Ord. 92-5960. Passed 11-24-92.)

781.04 ISSUANCE OF ALARM PERMIT.

(a) An alarm permit shall be issued by the office of the Mayor upon receipt of a twenty-five dollar (\$25.00) fee. When any application for a new alarm system is filed with the office of the Mayor, said application shall first bear the endorsement of approval by the Chief of the Fire Department relative to fire alarms and by the Chief of the Police Department relative to other alarms.

(b) Each owner or occupant required hereunder to have an alarm permit shall be required to submit a renewal card/form to the office of the Mayor not later than December 31, of each year for the next succeeding year. A renewal card/form will be sent yearly to the holder of each alarm permit, with a thirty day return time, and said renewal card/form shall state the name and address of the installer of the private alarm system, when and by whom said system was most recently certified, the type of alarm, and the location of the alarm. Said renewal card/form will also contain a list of individuals to be contacted and who will be able to respond within thirty minutes of any alarm for that system.

(c) Each owner or occupant shall during any year notify the office of Mayor of any change in information contained in the alarm permit or the last submitted renewal card.

(d) A failure by an owner or occupant to return the renewal card/form to the Mayor on or before December 31 of any year shall cause the alarm permit of such owner or occupant to expire. (Ord. 2000-15. Passed 2-22-00.)

781.05 CANCELLATION OF PERMIT.

The Office of Mayor may cancel any permit issued in this section if in his judgement or that of the Police and Fire Chiefs the continued operation of the alarm system is inconsistent with the stated purposes of this section, or if as a result of malfunction, improper maintenance, or other cause, there has occurred an unreasonable number of false alarms. Prior to such cancellation, the subject permit holder shall be given by U.S. certified mail - return receipt requested at the address shown on his/her alarm permit notice of the intended cancellation, the date thereof and the right to be heard concerning same prior thereto.

(Ord. 92-5960. Passed 11-24-92.)

781.06 RESPONSE BY PERMITTEE OR AGENT REQUIRED.

The owner or occupant, or his/her agent, or premises protected by an alarm system described in Section 781.01(a) or (d) hereof must respond to the protected premises within thirty minutes of notification of an alarm. The person responding to the protected premises must be authorized to enter and inspect the premises and further assist police or fire personnel who have responded to an alarm signal. Each owner or occupant of protected premises must provide current information on persons to be contacted in the event of receipt by Police or Fire Departments of an alarm signal.

(Ord. 92-5960. Passed 11-24-92.)

781.07 LOCAL ALARMS.

An alarm system which has a local alarm must be designed and maintained to reset or shut off automatically the local portion of the alarm signal within fifteen minutes following activation.

(Ord. 92-5960. Passed 11-24-92.)

781.08 FALSE ALARM FEE.

The owner or occupant of premises protected by an alarm system shall pay a fee to the City for false alarms in accordance with the following fee schedule:

(a) False Alarms.

(1) For each false alarm, in excess of three during any calendar year, received from a premises for which an alarm permit is in effect, which results in the response of Fire Department personnel and equipment, and/or Police Department personnel and equipment, the following fees shall apply:

4-7	\$50.00/false alarm
8-11	\$100.00/false alarm
12	Permit cancellation

(2) For each false alarm receive from a premises for which an alarm permit has been cancelled, which results in the response of the Fire Department personnel and equipment, and/or Police Department personnel and equipment, the following fees shall apply:

1st False Alarm	\$75.00
2nd False Alarm	\$150.00
3rd and Subsequent False Alarms	\$250.00

(b) Exemptions. When the Chief of Police or Fire Chief determines that the cause of the false alarm was beyond the control of a permittee, that false alarm shall be exempted from this provisions.

(c) Payment of False Alarm Fee. Invoices for the appropriate false alarm fees shall be mailed to the owner or occupant by U.S. certified mail, return receipt requested, and by regular U.S. mail, or as an alternative to mailing said invoice, same may be personally delivered to said owner or occupant. The amount due on said bill shall be paid on or before thirty days after said invoice has been deposited in the mail or personally delivered to said owner or occupant, as the case may be. A failure to pay a false alarm fee within such period of thirty days by the owner or occupant of a premises having an alarm permit shall also result in cancellation of such permit. (Ord. 2000-15. Passed 2-22-00.)

781.081 FEE WHEN NO ALARM PERMIT.

In the event the Police Department or Fire Department respond to a private alarm for which there is no current alarm permit under 781.04, either because no alarm permit has been obtained or because an alarm permit has expired due to the failure of the owner or occupant to renew same, the owner or occupant of the premises shall obtain an alarm permit from the Office of the Mayor within five business days from the date of such response by the Police Department or Fire Department. The owner or occupant shall be charged a fee of one hundred dollars (\$100.00), which includes the cost of Police or Fire Department response and the cost of an alarm permit. (Ord. 2000-15. Passed 2-22-00.)

781.09 TELEPHONE DIAL ALARMS.

No alarm system shall be permitted which through the use of a mechanical device transmits a recorded message via telephone trunk lines to the Police or Fire Department except when the Chiefs of Police and Fire Departments establish and designate certain telephone trunk lines for that purpose. No telephone dial alarm device shall be connected to the E-911 emergency phone trunk line. No telephone dial alarm device shall be connected so as to continuously engage Police and Fire Department phone lines after the initial alarm. (Ord. 92-5960. Passed 11-24-92.)

781.10 ALARM MONITORING SERVICE.

The Chief of Police is authorized to provide for alarm monitoring equipment in the Police Department and to promulgate rules to operate the station. (Ord. 92-5960. Passed 11-24-92.)

781.11 LIMITATIONS OF LIABILITY.

The City shall have no duty or obligation to any permittee under this section or any other person to monitor, receive or transmit alarm signals or other information or to respond to such signals or information in any manner whatsoever. Further, the City assumes no responsibility for the installation, maintenance or operation of any alarm system within the City. (Ord. 92-5960. Passed 11-24-92.)

781.12 EXCEPTIONS.

The requirements imposed under Section 781.02 and 781.06 to 781.08 shall not apply to alarm systems which are operated by the City or which are used solely to warn inhabitants of a structure of an occurrence and any signal which does not carry to adjoining property or public ways. Smoke and/or carbon monoxide detectors installed in single family residential structures are specifically exempted from this section. (Ord. 2000-15. Passed 2-22-00.)

781.99 PENALTY.

Whoever violates any provision of this chapter shall be subject to a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). (Ord. 2000-15. Passed 2-22-00.)

CHAPTER 791

Video Service Providers

791.01 Fees.

791.02 Powers of the Safety-Service Director.

791.01 FEES.

(a) Council, by the authority granted to it by Ohio R.C. 1332.32(B)(2)(g), does hereby declare that for purposes of determining any provider fee payable to the City by a Video Service Provider (VSP) operating or desiring to operate within the City, advertising revenue, as defined in Ohio R.C. 1332.32(B)(2)(g), shall be included with the revenues set forth in Ohio R.C. 1332.32(B)(1) in computing gross revenue.

(b) The provider fee owed to the City by any provider of video service to City residents shall be five percent (5%) of gross revenues as established in subsection (a) hereof. (Ord. 2007-69. Passed 9-25-07.)

791.02 POWERS OF THE SAFETY-SERVICE DIRECTOR.

(a) The Safety-Service Director shall provide the written notice of the provider fee set forth herein, as required by Ohio R.C. 1332.32(C)(2), to any video service provider who has given the City written notice of its intent to initially provide or additionally provide video services to subscribers within the City corporation limits.

(b) The Safety-Service Director is hereby authorized to negotiate with and/or send written notice to any VSP licensed to do business in the City of Galion to provide public, educational and government (PEG) channels, if and when the City is able to provide satisfactory PEG channel content.

(c) The Safety-Service Director is hereby authorized to negotiate with any VSP licensed to do business in the City of Galion concerning any other issue or item that may be introduced or made available by any such VSP or that may be sought by the City.

(d) The Safety-Service Director is hereby authorized to negotiate with any VSP licensed to do business in the City of Galion, and others, concerning the use of power poles required by such VSPs and others including the rental fee for the use thereof. (Ord. 2007-69. Passed 9-25-07.)

CODIFIED ORDINANCES OF GALION

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

TITLE ONE - Streets and Sidewalks

- Chap. 901. Street Excavations.
- Chap. 903. Sidewalks, Curbs and Driveways.
- Chap. 905. Street Construction Standards.
- Chap. 909. Repair of Sidewalks.
- Chap. 911. Street Trees.

TITLE THREE - Utilities

- Chap. 919. Utility Billing and Collection (Electric, Water, Sewer and Stormwater).
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- Chap. 923. Stormwater Management Regulations.
- Chap. 925. Sewers Generally.
- Chap. 929. Electricity.
- Chap. 931. Security Deposit for Utility Service.
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TITLE FIVE - Other Public Services

- Chap. 941. Parks.
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CODIFIED ORDINANCES OF GALION
PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE
TITLE ONE - Streets and Sidewalks

- Chap. 901. Street Excavations.
- Chap. 903. Sidewalks, Curbs and Driveways.
- Chap. 905. Street Construction Standards.
- Chap. 909. Repair of Sidewalks.
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CHAPTER 901

Street Excavations

- 901.01 Excavation permit.**
- 901.02 Deposit for restoration of surface; exception.**
- 901.03 Installation of utilities; regulations.**
- 901.99 Penalty.**

CROSS REFERENCES

- Openings by the Municipality - see Ohio R.C. 723.02
- Surface treatment - see Ohio R.C. 723.23, 723.31
- Liability for damage - see Ohio R.C. 723.49 et seq.
- Power to require permit for facility construction or location - see Ohio R.C. 4905.65
- Digging, excavation and piling earth on streets - see Ohio R.C. 5589.10
- Barricades and warning lights; abandoned excavation - see GEN. OFF. 521.03

901.01 EXCAVATION PERMIT.

No opening through, undermining or removal of any pavement or surface in any public streets or other public grounds of the City shall be undertaken by any person until a permit therefor has been issued by the Safety-Service Director or his designee unless otherwise hereinafter provided.

901.02 DEPOSIT FOR RESTORATION OF SURFACE; EXCEPTION.

(a) All applicants for the excavation permit required by Section 901.01 shall deposit with the Safety-Service Director a sum sufficient to cover the cost of repairing and replacing the surface of street or public ground.

(b) An additional amount may be required by the Safety-Service Director to be deposited if in the opinion of the Safety-Service Director the amount of the deposit is insufficient. Any amount deposited shall be applied to the actual cost of restoring the pavement or surface of the street. In the event the actual cost of restoring the pavement or surface exceeds the amount of deposit, then the applicant shall pay the City the cost exceeding the amount of the deposit within ten days after being notified thereof.

(c) If the cost of repairs is less than the amount deposited, the remainder shall be refunded by the City upon the presentation of the deposit receipt.

(d) Public utilities which occupy streets or public grounds under franchise with the City shall not be required to obtain the permits specified herein or to make the deposits set forth, but shall pay all costs of restoring the pavement or surface within a reasonable time after the work has been completed and not later than thirty days thereafter.

901.03 INSTALLATION OF UTILITIES; REGULATIONS.

In order to standardize and regulate the future installation of utilities in or on any public street, alley or property within the corporation limits of the City, the following standards and regulations are adopted:

(a) Plans of the proposed installation shall be submitted to the Safety-Service Director for approval, and shall indicate location, size, depth and/or height of such proposed utility;

(b) Approval of the plans shall not relieve the utility company of its responsibility for damages for injury to public or private property;

(c) At least one week before breaking ground the utility company shall notify, in writing, all City departments and all public service corporations whose pipe, conduit or other structures may be affected by its operations;

(d) All area disturbed by the installation shall receive immediate temporary repair, and permanent repair no later than six months from the time the area was disturbed. This requirement shall be in accordance with the standards of the City;

(e) In case of emergency only, the Safety-Service Director has the authority to waive the requirements of subsections (a) and (c)

901.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the second degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 903

Sidewalks, Curbs and Driveways

- 903.01 Definitions.**
- 903.02 Construction permit; exceptions.**
- 903.03 Permit application; issuance.**
- 903.04 Sidewalk requirements.**
- 903.05 Driveway requirements.**
- 903.06 Prohibitions.**
- 903.07 Violations by a corporation; forfeiture.**
- 903.08 Violations by officers of a corporation.**
- 903.09 Curb cuts.**
- 903.10 Appeals.**
- 903.99 Penalty.**

CROSS REFERENCES

Changing established grade - see Ohio R.C. 727.07
Construction or repair at owner's expense - see Ohio R.C. 729.01 et seq.
Sidewalks and gutters - see Ohio R.C. 729.01 et seq.
Notice to construct or repair sidewalks - see Ohio R.C. 729.03 et seq.
Sidewalk repairs - see S.U. & P.S. Ch. 909

903.01 DEFINITIONS.

As used in this chapter:

- (a) "Driveway" means a paved or unpaved area, built on a public right of way, serving as a means of vehicular egress or ingress between a public street and privately owned property.
- (b) "Sidewalk" means an improved surface for carrying pedestrian traffic on a public right of way.
(Ord. 70-4273. Passed 11-17-70.)

903.02 CONSTRUCTION PERMIT; EXCEPTIONS.

(a) Except as specifically exempted herein, no person shall construct, alter, remove, demolish or commence the construction, alteration, removal or demolition of a sidewalk, driveway, curb or gutter within a public right of way without first filing with the Building Inspector or his designee an application in writing and obtaining a formal permit for the work. No person shall perform such work, or permit or employ others to perform such work, except in conformity with a permit.

(b) No permit shall be required for work performed as a condition precedent to the approval of a subdivision plat by the Planning Commission, if such work conforms to construction plans and specifications which meet the approval of the Commission.

(c) No permit shall be required for repair or replacement of an existing sidewalk or driveway, to bring it to approximately its original condition.

903.03 PERMIT APPLICATION; ISSUANCE.

Application for a permit under this chapter shall be on a prescribed form and shall be accompanied by three copies of plans, sketches and descriptions sufficient to completely describe the proposed work. The Building Inspector shall examine the application, with respect to the configuration, materials, construction and drainage of the proposed work, and if it appears that the proposed work will be in conformity to Sections 903.04 and 903.05, and all other applicable ordinances and acceptable engineering and construction procedure, and upon receipt of a permit fee and a performance bond the Building Inspector shall approve the application and issue a permit for the proposed work.

903.04 SIDEWALK REQUIREMENTS.

(a) Profile. All sidewalks constructed on any public street or highway shall be laid so that the top surface of the walk and the grass strip between the walk and street shall, at all points, slope toward the established curb grade, as determined by the City Engineer, at a slope of three-eighths of an inch to the foot; provided that, at street intersections where the grade of the intersecting street prevents compliance with the provision stated above, the grade shall be as specified by the Engineer.

(b) Widths. Sidewalks shall be not less than four feet wide. The outer edge of the sidewalk shall be twelve inches from the right-of-way line. The Building Inspector may alter this requirement in business or commercial areas or in cases of unusual terrain or the need to align with existing sidewalks.

(c) Construction Specifications. Sidewalks shall be constructed of not less than four inches of Portland cement concrete, conforming to Specification Class C of the State Department of Transportation. Asphaltic concrete shall not be used except by license from Council. Construction of sidewalks shall be in conformance to sound construction practice and in conformance to the specifications on file in the office of the City Engineer.

(d) Grade Stakes. Prior to the construction of a sidewalk, the Engineer shall be requested to set as many grade stakes as he deems necessary to indicate the correct elevation of the sidewalk. No person shall construct a sidewalk which does not conform to such grade stakes.

903.05 DRIVEWAY REQUIREMENTS.

(a) Geometrics. Each driveway shall have an entrance which is not more than thirty-five feet wide at the curb line and shall thence narrow via smoothly curved returns to a driveway width of not more than twenty-five feet. The angle between the curb and the center line of the driveway shall not be less than sixty degrees. The Building Inspector shall have authority to impose reasonable requirements concerning the placement of a driveway to alleviate hazards of vehicles entering and leaving a public thoroughfare.

(A.O.)

(b) Number Permitted. One driveway may be placed on each street line of a lot for each 150 feet, or portion thereof, of street frontage along that lot line, except that when such property is accessible from one street frontage only and frontage is not less than 100 feet, then two driveways may be placed for each 150 feet, or portion thereof, of frontage.

(c) Materials.

(1) Driveways shall be constructed either of Portland cement concrete conforming to Specifications Class C of the State Department of Transportation, with a minimum thickness of five inches, or six inches of granular sub-base with two and one-half inches of asphaltic concrete conforming to Item 404 of those specifications.

(Ord. 70-4273. Passed 11-17-70.)

(2) Wherever a driveway crosses a proposed sidewalk, it shall be constructed of either Portland cement concrete or asphaltic concrete, as applicable, in accordance with the above requirements.

(Ord. 73-4511. Passed 9-18-73.)

(3) Wherever a driveway crosses an existing sidewalk which is constructed of not less than four inches of Portland cement concrete, is in good condition and is of the proper elevations, the sidewalk may be used as part of the driveway.

(4) Whenever any existing concrete must be removed to provide for the construction of a driveway, the material shall be removed either to an existing joint or to a joint nearby cut by sawing, with the approval of the Building Inspector.

(Ord. 70-4273. Passed 11-17-70.)

903.06 PROHIBITIONS.

No person shall violate any of the sections or provisions of this chapter, or any other made in pursuance thereof; nor shall any person obstruct or interfere with the execution of any order or willfully or illegally fail to obey the order.

(Ord. 70-4273. Passed 11-17-70.)

903.07 VIOLATIONS BY A CORPORATION; FORFEITURE.

A corporation shall, for any violation, obstruction, interference or omission mentioned in Section 903.06, forfeit and pay to the City not more than three hundred dollars (\$300.00), to be collected in a civil action brought in the name of the City. No proof of actual charges shall be required, but the court or jury, finding other facts to justify recovery, shall determine the amount by reference to all the facts, culpatory, exculpatory or extenuating, adduced upon trial.

(Ord. 70-4273. Passed 11-17-70.)

903.08 VIOLATIONS BY OFFICERS OF A CORPORATION.

No officer of a corporation violating Section 903.06 who has authority over the matter involved in the violation, shall permit the violation of the section.

(Ord. 70-4273. Passed 11-17-70.)

903.09 CURB CUTS.

(a) Permit Required. No curb shall be changed or removed in conjunction with the construction of a driveway and no driveway on or across a public street or public right of way or public property shall be repaired or installed without first having a written permit from the Building Inspector. This section shall not apply when the work is done by City forces or under a contract administered by the City, or when the curb cut is made with respect to property for which a permit for new building construction has been issued.

(b) Application. An applicant for a permit under this section shall file with the Building Official an application containing the following information:

- (1) Name and address of the owner or agent in charge of the property abutting the proposed work area;
- (2) The name and address of the party doing the work;
- (3) Location of the work area;
- (4) Attached plans showing details of the proposed alterations;
- (5) Estimated cost of the alteration;
- (6) Such other information as the Building Inspector shall find reasonably necessary to the determination of whether a permit should issue hereunder.

(c) Fee. The permit fee shall be twenty dollars (\$20.00) for each curb cut; provided, however, when sidewalks, driveways or streets are being altered or repaired simultaneously with a curb cut, only one permit or fee shall be required.

(d) Standards for Issuance of Permit. The Building Inspector shall issue a permit under this section when it is determined that:

- (1) The plans for the proposed operation have been approved by the Mayor, in accordance with accepted traffic engineering standards, or his designee, to whom they shall be forwarded by the Building Official within a reasonable time after receipt thereof.
- (2) The work shall be done according to the standard specifications of the City for public work of like character.
- (3) The operation will not unreasonably interfere with vehicular or pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to and from the property affected and adjacent properties.
- (4) The health, welfare and safety of the public will not be unreasonably impaired.

(e) Inspection of Work. All work shall be subject to inspection by the City during its performance and upon its completion.

(f) Permit Expiration. A permit issued under this section shall expire for work not started within thirty days or completed within sixty days after the date of issuance thereof, and a new permit shall be required before beginning or completing the work.

(Ord. 89-5776. Passed 10-3-89.)

903.10 APPEAL.

Any person aggrieved by a decision of the Building Inspector or his designee concerning the requirements of this chapter may appeal said decision to or request a variance from the Galion Board of Zoning Appeals within twenty (20) calendar days from the receipt of such decision. An application for such appeal/variance can be obtained at the Galion Building and Zoning Department, 301 Harding Way East, Galion, Ohio 44833.

(Ord. 2011-29. Passed 4-26-11.)

903.99 PENALTY.

No person shall violate any provision of this chapter, fail to comply with any lawful order issued by the Building Inspector under this chapter, or proceed with the installation, alteration or repair of any work in a manner which does not comply with the approved plans and permit issued for such work, or in violation of a stop work order issued for the work by the Building Inspector under this chapter. A person upon conviction of a violation, shall forfeit and pay not more than one hundred dollars (\$100.00).

CHAPTER 905

Street Construction Standards

905.01 Width and pavement slope.

905.02 Base course, prime coat and paved surface.

905.03 Curbs and gutters.

905.04 Conflict with other regulations.

905.99 Penalty.

CROSS REFERENCES

Surface treatment - see Ohio R.C. 723.23, 723.31

Changing established grade - see Ohio R.C. 727.07

Street excavations - see S.U. & P.S. 901.01 et seq.

Driveway construction - see S.U. & P.S. 903.05

905.01 WIDTH AND PAVEMENT SLOPE.

All streets shall have a minimum right of way of sixty feet and a pavement width not less than thirty-six feet, including curb and gutter. The

pavement slope shall be one-fourth of an inch per foot from the center line and all excavations in the street right of way shall be filled with compacted I-22, to meet State Department of Transportation specifications.

905.02 BASE COURSE, PRIME COAT AND PAVED SURFACE.

(a) The base course shall meet the State Department of Transportation specifications for Item B-20, waterbound, in two, four-inch compacted courses.

As an alternate No. 1, the base course shall meet the Department specifications for Item B-19, crushed limestone, constructed into, five-inch compacted courses.

(b) The prime coat shall meet the Department specifications for Item T-30.

(c) The paved surface of the street shall consist of the following:

(1) One and one-half inch asphaltic concrete leveling course, meeting the requirements of the Department specifications for Item B-35;

(2) One-inch asphaltic concrete surface course meeting the requirements of the Department of Transportation specifications for Item T-35,

Type C.

(Ord. 3830. Passed 9-15-64.)

905.03 CURBS AND GUTTERS.

Concrete curb and/or gutter shall meet the requirements of the Ohio Department of Transportation specifications for Item I-12. The configurations and dimensions shall be approved by the City Engineer.

(Ord. 3830. Passed 9-15-64.)

905.04 CONFLICT WITH OTHER REGULATIONS.

The provisions of this chapter shall control wherever they impose greater restrictions than those imposed by other laws, ordinances, rules, regulations, permits, easements, agreements or covenants.

(Ord. 3830. Passed 9-15-64.)

905.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which an offense occurs or continues.

CHAPTER 909

Repair of Sidewalks

909.01 Duty of abutting owner.

909.02 Work to comply with City specifications.

909.03 Repair or replacement of sidewalks; criteria.

909.04 Notice to owners and time limit.

909.05 Failure of owners to construct; remedy of City.

909.06 Permit required.

909.07 Permit application.

909.99 Penalty.

CROSS REFERENCES

Construction or repair at owner's expense - see Ohio R.C. 729.01 et seq.

Notice to construct or repair sidewalks - see Ohio R.C. 729.03 et seq.

Duty to keep sidewalks clean and in repair - see GEN. OFF. 521.06

909.01 DUTY OF ABUTTING OWNER.

All sidewalks, curbing and gutters within the City shall be kept in repair by the owner of the property abutting thereon by constructing, repairing or relaying of the same, as may be required by the City. (Ord. 91-5898. Passed 7-9-91.)

909.02 WORK TO COMPLY WITH CITY SPECIFICATIONS.

No person shall construct, replace or repair, or cause to be constructed, replaced or repaired, any curb, gutter or sidewalk on any public way within the City which does not comply with the rules and regulations established by the Mayor pursuant to Sections 903.04 and 903.05 .

(Ord. 91-5898. Passed 7-9-91.)

909.03 REPAIR OR REPLACEMENT OF SIDEWALKS; CRITERIA.

The City Engineer shall use the following criteria in the determination of whether sidewalks shall be repaired or replaced:

(a) Any section having a transverse joint or crack with an elevation difference upon either side of such joint or crack of 5/8" or more at any point.

(b) Any section having a crack or cracks in it of more than 5/8" wide.

(c) Any section having shallow spalling, with such deterioration covering twenty-five percent (25%) or more of the surface.

(d) Any section having deep spalling which in the judgment of the sidewalk inspector is potentially unsafe.

(e) Any section having a transverse slope toward either the curb or the property of more than 5/8" per foot or in such manner as to cause water to pond.

(f) Any section with a longitudinal slope with respect to adjacent sections consisting of a "V" upward or downward of 5/8" per foot or more, or when water is caused to pond.

(g) Settlement of any section at a curb, catch basin, manhole cover, step, cellar door, service door, or other feature when the elevation difference is 5/8" or more.

(h) Any section of sidewalk having two or more major cracks regardless of elevation difference.

These criteria shall be used singly or in combination to determine if defects warrant repair or replacement of sidewalks. (Ord. 91-5898. Passed 7-9-91.)

909.04 NOTICE TO OWNERS AND TIME LIMIT.

The owners of lots where sidewalks, curbing or gutters are to be constructed or repaired shall be notified in accordance with Ohio R.C. 715.261 relative thereto and in accordance with the following procedure:

(a) Council shall request an inspection.

(b) Council shall pass a resolution determining the necessity to proceed with the notification of owners.

- (c) Notices shall be sent, by registered mail, to owners, to repair or replace in not more than thirty days.
- (d) If the notice is returned, or an owner cannot be located, then public notice shall be given in the newspaper.
- (e) If a property owner does not construct or replace, the City shall proceed with the work or hire a contractor.
(Ord. 91-5898. Passed 7-9-91.)

(f) The cost of construction shall then be assessed to the property owner or if not reimbursed within thirty days, the Clerk of Council may certify to the County Auditor for placement of the tax duplicate the costs incurred, including the cost of service or publication of notice and any reasonable administrative costs, together with a proper description of the premises, and such costs shall become a lien against such premises and shall be collected as other taxes and returned to the Municipality as provided in Ohio R.C. 715.261.

909.05 FAILURE OF OWNERS TO CONSTRUCT; REMEDY OF CITY.

Upon failure of the owner of any property to cause sidewalks, curbing or gutters to be constructed within the time mentioned in Section 909.04, the Mayor is authorized and directed to cause such sidewalks, curbing or gutters to be constructed and to assess the entire cost of the same against such property and cause the same to become a lien thereon, to be collected in such manner as may be provided by State law, the Codified Ordinances or other City ordinances. The Mayor is hereby authorized and directed to contract for such work with the lowest and best bidder, after advertisement according to law. The Mayor may, at his discretion, let the entire job in one contract, or in several contracts, to cover each of the separate streets.

(Ord. 91-5898. Passed 7-9-91.)

909.06 PERMIT REQUIRED.

Before any work is commenced to construct, replace or repair any sidewalk, curbing or gutters within the City, a permit shall be secured by the person who will be performing such work. (Ord. 91-5898. Passed 7-9-91.)

909.07 PERMIT APPLICATION.

Applications for permits to construct, replace or repair any sidewalk, curbing or gutters within the City shall be made in writing by the owner of the property or by his authorized agent. (Ord. 91-5898. Passed 7-9-91.)

909.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a minor misdemeanor. This section shall not apply when the City proceeds with an action as provided in Section 909.05.

(Ord. 91-5898. Passed 7-9-91.)

CHAPTER 911

Street Trees

- 911.01 Definitions.**
- 911.02 Permit.**
- 911.03 Spacing of street trees.**
- 911.04 Trees prohibited on public property.**
- 911.05 Stump removal.**
- 911.06 Adoption of rules.**
- 911.99 Penalty.**

CROSS REFERENCES

- Power to regulate shade trees - see Ohio R.C. 715.20
- Assessments for tree planting or maintenance - see Ohio R.C. 727.011
- Injury or destruction - see GEN. OFF. 541.06

911.01 DEFINITIONS.

As used in this chapter:

- (a) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (b) "Street" or "highway" are synonymous and mean the entire width of every public way, easement or right-of-way, between the property lines, when any part thereof is open to the use of the public for the purpose of vehicular and/or pedestrian traffic, and includes alleys.
- (c) "Public property" shall include all other grounds owned by the City of Galion, including parks.
- (d) "Property line" means the line between the outer edge of a street or highway and the abutting real estate.
- (e) "Treelawn" means that part of a street or highway, lying between the property line and that portion of the street or highway usually used for vehicular traffic. This definition includes curb strips, but also any other unpaved street right-of-way, whether or not a sidewalk is present, and regardless of a sidewalk's location.
- (f) "Public trees" shall include all shade and ornamental trees now or hereafter growing on any street or on any public property.
- (g) "Property owner" means the person owning real property as shown by the County Auditor's Plat of the City of Galion, Crawford County, Ohio, including the executor, administrator, or beneficiary of the estate of a deceased owner.
- (h) "Tree" means a tall growing woody plant with one or more perennial main stems or trunk which develops branches from the aerial section of the stem rather than the base; capable of being pruned to provide at least six feet of clear branchless trunk below the crown within five years of planting.
- (i) "Shrub" means a low growing woody plant with one or several perennial main stems producing branches, shoots, or multiple stems from or near the base of the plant and incapable of being pruned to provide at least six feet of clear branchless trunk within five years of planting. (Ord. 95-6133. Passed 4-25-95.)

911.02 PERMIT.

(a) No person shall hereafter plant any tree or shrub upon any public way, street or alley unless he shall have first obtained a permit in writing from the Chief Building Inspector specifying the size, type, species and location on the public right-of-way, street or alley, of the tree or shrub so to be planted.

(b) The Chief Building Inspector shall have the authority to deny a permit to any person who proposes to plant any tree or shrub upon a public way, street or alley of a size, type or species found to be undesirable or so found to be undesirable for the location proposed; or he may deny a permit to any person who proposes to plant any tree or shrub upon a public right-of-way, street or alley if at a location found to be of a size or type unsuitable for planting of trees or shrubs. (Ord. 95-6133. Passed 4-25-95.)

911.03 SPACING OF STREET TREES.

(a) The spacing of Street Trees will be in accordance with the three species size classes referred to in Galion’s Permitted List of Street Trees, and no trees may be planted closer than the following:

- Small Trees: thirty feet;
- Medium Trees: forty feet; and
- Large Trees: fifty feet;

except in special plantings designed or approved by the Street Tree Commission.

(b) The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classified in Galion’s Permitted List of Street Trees and no trees may be planted closer to the curb or sidewalk than the following:

- Small Trees: two feet = four feet tree lawn;
- Medium Trees: three feet = six feet tree lawn;
- Large Trees: four feet = eight feet tree law.

(c) No Street Tree shall be planted closer than thirty-five feet of any street corner, measured from the point nearest intersecting curbs of curb lines. No Street Tree shall be planted closer than ten feet to any fire hydrant.

(d) No Street Trees other than those species referred to as Small Trees in Galion’s Permitted List of Street Trees may be planted under or within twenty-five lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, or other utility. (Ord. 95-6133. Passed 4-25-95.)

911.04 TREES PROHIBITED ON PUBLIC PROPERTY.

(a) The following trees shall not be planted on treelawns or public property without specific consent of the Mayor or his designee:

- Acer Saccharinum (Silver Maple)
- Acer Negundo (Boxelder)
- Aesculus Species (Horse Chestnut, Buckeye)
- Ailanthus Altissima (Tree of Heaven Ailanthus)
- Betula Species (except Betula Nigra) (Birch, except River Birch)
- Catalpa Species (all Catalpa)
- Elaeagnus Angustifolia (Russian Olive)
- Evergreens
- Fruit tree cultivars bred for fruit production
- Ginkgo Biloba (Female) (Female Ginkgo)
- Liriodendron Tulipifera (Tulip Tree)
- Morus Species (all Mulberry)
- Populus Species (all Poplar/Cottonwood)
- Pyrus Calleryana “Bradford” (Bradford pear)
- Robinia Pseudoacacia (Black Locust)
- Salix Species (all Willow)
- Sorbus Aucuparia (European Mountain Ash)
- Shrubs
- Ulmus Americana (American Elm)
- Ulmus Pumila (Siberian Elm)
- Ulmus Rubra (Red Elm)

(b) Whenever any tree or shrub shall be planted or set out in conflict with the provisions of this chapter, the Mayor or his designee may cause removal of the same without obligating the City to replace the illegally planted tree(s). (Ord. 95-6133. Passed 4-25-95.)

911.05 STUMP REMOVAL.

All stumps of street and park trees shall be removed twelve inches below the surface of the ground to facilitate landscaping. Removal shall be done by the owners, at their own expense, within six months. Stump chips shall be removed and replaced with top soil, to the level of the grade. (Ord. 95-6133. Passed 4-25-95.)

911.06 ADOPTION OF RULES.

The Street Tree Commission, with the approval of City Council, may adopt rules consistent with this chapter and Chapter 541, which provide detailed guidelines for administration of this chapter and Chapter 541. (Ord. 95-6133. Passed 4-25-95.)

911.99 PENALTY.

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000) per violation, or imprisoned for a term not exceeding sixty days, or both, in addition to the costs of prosecution and any required restitution for damages incurred by the City. (Ord. 95-6133. Passed 4-25-95.)

TITLE THREE - Utilities

- Chap. 919. Utility Billing and Collection (Electric, Water, Sewer and Stormwater).
- Chap. 921. Water.
- Chap. 923. Stormwater Management Regulations.
- Chap. 925. Sewers Generally.
- Chap. 929. Electricity.
- Chap. 931. Security Deposit for Utility Service.
- Chap. 933. Stormwater Utility.
- Chap. 935. Stormwater Discharge Regulations.

CHAPTER 919

Utility Billing and Collection (Electric, Water, Sewer and Stormwater)

- 919.01 **Billing and payment.**
- 919.02 **Applications for utility services.**
- 919.03 **Termination of utility service.**
- 919.04 **Payment plans.**

919.01 BILLING AND PAYMENT.

(a) Customer bills are calculated and mailed on the third (3rd) business day of the month to the service location or to the mailing address currently on file with the City Utility Department. The due date for customer payment is the twenty-first (21st) day of the month, which due date appears on the customer's bill. Failure of a customer to receive a bill for utility services does not relieve the customer from responsibility for prompt payment.

(b) Bills for utility services not paid in full by the due date shall be considered delinquent and shall be subject to a late fee of zero percent (0%) of the entire bill.

(c) Customer payments must be received in house by the City of Galion Utility Department located at 115 Harding Way East or by an authorized agent or depository by 4:00 p.m., local time, on the due date, or the payment is delinquent. Postmarked dates, check dates, or items placed in the drop box after close of business on the date due will not be used as the basis for determining timely payment.

(d) Return Payment / NSF Fee for any utility payment is thirty dollars (\$30.00) per occurrence. (Ord. 2020-23. Passed 4-14-20.)

919.02 APPLICATIONS FOR UTILITY SERVICES.

(a) Applications for utility service shall be made in person at the City of Galion Utility Office at 115 Harding Way East, Galion, Ohio 44833. An applicant must provide the following information and sign an Agreement for Utility Services:

Full name of the applicant(s)

Service address where utility services are to be provided Mailing address if different than service address Telephone number(s) of applicant(s)

Social security number of applicant(s) (optional)

Proof of identification by driver's license or state-issued photo ID (copy kept on file) Proof of ownership of property, if applicable

(b) If applicant is a tenant, the following information must also be provided:

Copy of a signed lease agreement

Mailing address of the property owner

(c) Grounds for denial of an application include, but not limited to the following:

(1) The premises require specific repairs or changes, such as additional water taps and electric lines, before utility service can be safely provided.

(2) An applicant or his/her roommate owes the City on an outstanding utility bill for an account in his/her own name or for an account at a previous residence where the individual lived.

(3) The applicant provides false information or intentionally opens various accounts under different names in an attempt to trick or deceive the City to provide utility services.

(4) The property owner is not in good standing on an account at the location.

(Ord. 2020-23. Passed 4-14-20.)

919.03 TERMINATION OF UTILITY SERVICE.

(a) Upon a bill becoming delinquent, a fourteen (14) day Notice of Intended Termination of Service shall be sent by mail to the service address and/or the customer mailing address, if different. If the customer is a tenant, a copy of said Notice shall also be sent by mail to the owner of the premises. Such Notice shall indicate that the service is being terminated for nonpayment, the date after which service will be terminated, and the appeal rights afforded to any person affected by the Termination Notice by which such person may contest such termination.

(b) The customer and/or the property owner may appeal the decision to terminate service or to deny an application for service to the Safety-Service Director and/or his/her designee by contacting the City of Galion Municipal Utilities Office at least one full business day before the date stated on the Notice of Intended Termination as the termination date. The appeal rights of the customer and/or the property owner shall consist of a face-to-face meeting with the Safety-Service Director and/or his/her designee, or if the appellant prefers, a telephone meeting at which the matter shall be discussed. Persons exercising these appeal rights shall be entitled to reasonable access to City records concerning the affected service address and may request copies of such documents at the requestor's copy expense.

(c) The Safety Service Director and/or his/her designee is empowered, when good cause is shown, to compromise or adjust bills, to negotiate and compromise payment disputes, to enter into payment plans as authorized below, and to cancel or postpone termination of service. An appeal on a decision to terminate service shall cause such termination to be stayed until the appeal has been determined. If that determination upholds the initial decision to terminate, the person appealing shall be provided with a new termination date to which no appeal rights shall apply.

(d) The consumer of the utilities is responsible for the payment of the utility bills; however, the property owner must notify the city when the rental unit becomes vacant. Failure to do so may result in the property owner being liable for utility bills incurred during the vacancy. The property owner may transfer utility bills to their name at any time without a required deposit provided they are currently in good financial standing with the City.

(Ord. 2020-23. Passed 4-14-20.)

919.04 PAYMENT PLANS.

(a) The Safety Service Director and/or his/her designee is hereby granted authority to offer and accept payment plans to Galion utility customers for delinquent accounts under the following conditions:

(1) No payment plans shall be extended to persons who have previously defaulted on a payment plan or have attempted to commit fraud against the City Utility Department.

(2) Under no circumstances will payment arrangements be made extending beyond a six (6) month period.

(3) There will be three types of "Utility Payment Extension / Arrangements" that the Safety - Service Director and/or his/her designee can consider and approve if sufficient grounds exist:

A. The "medical payment extension" may be an extension of up to thirty (30) calendar days after the due date without late fees being assessed on the customer account. Proof of the medical condition, on the form provided, is required from a medical doctor or health care provider stating why said medical condition warrants extension of payment due.

B. The "financial hardship" agreement may extend the time to pay without late fees for up to one hundred eighty (180) calendar days with one-sixth (1/6) of the delinquent balance plus the current bill being paid by the current month's due date. Proof of financial hardship must be presented to the Safety-Service Director.

C. The "monthly check" arrangement is to assist customers dependent on monthly checks. The purpose of this agreement is to bring customer accounts to a current status. To extend the payment due date until the 1st, 2nd or 3rd day of the next month, the customer must agree to pay the delinquent month's balance and one-half (1/2) of the current month's bill on the agreed date. The customer must agree to pay the second half (1/2) of the outstanding bill plus the next month's entire bill during the following month.

(b) The following procedures will be followed when extending a "Utility Payment Extension / Arrangement:"

(1) Customer is allowed one agreement in a 12-month period.

(2) The one agreement is allowed per customer- not per service location.

(3) Customer should be made aware that there will be no further deferment or extension on the agreed payment date.

(4) Receipt of an NSF payment on an arrangement, missing a payment date or paying less than the arrangement agreement amount is considered a "broken" arrangement, and service will be disconnected without further notification.

(5) In considering the feasibility of a payment arrangement, the Safety - Service Director and/or his/her designee will analyze the customer's history and amount of past payments to see if extension is a rational solution.

(Ord. 2020-23. Passed 4-14-20.)

CHAPTER 921

Water

921.01 Water rental rates established.

921.02 Water rental rate changes.

921.03 Conditions required for water connection.

921.04 Surveys of private water supplies.

- 921.05 Right of entry and inspection.**
- 921.06 Discontinuance of water service.**
- 921.07 Tap-in fees; water line extensions; fire plugs.**
- 921.08 Tap-in fee where no water line assessment paid.**
- 921.09 Well water testing fee.**
- 921.10 Charges for sprinkler system or storage tank.**
- 921.11 Backflow prevention.**
- 921.12 Installation of remote water meters.**
- 921.13 Surcharge for excessive water usage.**
- 921.14 Availability of City water to properties outside City corporation limits.**
- 921.15 Attachment to fire hydrants.**
- 921.99 Penalty.**

CROSS REFERENCES

Power to provide and regulate water system - see Ohio R.C. 715.08, 717.01, 743.01
 Water pollution - see Ohio R.C. 715.08, 743.23, Ch. 6111; S.U. & P.S. Ch. 925
 Water works mortgage revenue bonds - see Ohio R.C. 715.09 et seq.
 Compulsory water connections - see Ohio R.C. 729.06, 743.23
 Management and control of water works - see Ohio R.C. 743.02 et seq.
 Weekly deposit of water works money collected - see Ohio R.C. 743.06
 Tampering with water hydrants, pipes or meters; unauthorized connections - see Ohio R.C. 4933.22
 Fluoridation - see Ohio R.C. 6111.13

921.01 WATER RENTAL RATES ESTABLISHED.

Rates for water rental within the City shall be those currently in effect and those which shall be amended periodically.

921.02 WATER RENTAL RATE CHANGES.

The Safety-Service Director is hereby authorized to make the necessary changes in the water rentals in amounts sufficient for the purpose of paying the expenses of conducting and managing the Water Works of the City, and to do so in a manner that is most equitable upon all premises supplied with water, in terms of both the manner of assessment and collection.

921.03 CONDITIONS REQUIRED FOR WATER CONNECTION.

No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than regular public water supply of the City enters the supply or distributing system of the City.

921.04 SURVEYS OF PRIVATE WATER SUPPLIES.

The Mayor shall cause surveys and investigations to be made of all industrial and other properties served by the public water supply where private, auxiliary or emergency water supplies other than the public water supply are known to exist or where such supplies are likely to exist. These surveys and investigations shall be made a matter of public record and shall be repeated as often as the Mayor deems necessary.

921.05 RIGHT OF ENTRY AND INSPECTION.

The Mayor or the Mayor's duly authorized representative shall have the right to enter at any time any property served by a connection to the public water supply or distributing system of the City, for the purpose of inspecting the piping systems. On demand, the owner, lessors or occupants of any property so served shall furnish the Mayor any information which it requests regarding water supply used or useful on the property. Refusal of this information when demanded shall be deemed evidence of the presence of improper connections pursuant to this chapter.

921.06 DISCONTINUANCE OF WATER SERVICE.

The Mayor is authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this chapter is known to exist, and to take other precautionary measures the Mayor deems necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to the property shall not be restored until the connection has been eliminated or corrected in compliance with this chapter.

921.07 TAP-IN FEES; WATER LINE EXTENSIONS; FIRE PLUGS.

Tapping charges and water line extensions for water customers of the City shall be subject to the following regulations:

- (a) The owner or developer shall assume the entire cost for the construction of all extensions;
- (b) For each service connection there shall be paid to the City the regular established fee for individual house service taps or commercial taps, meter charge, system capacity charge and frontage charge according to a schedule on file in the office of the Treasurer.
- (c) Applicants for the City water service must furnish the City with properly engineered plans for the proposed water line extension. These plans shall meet the City water works standards and the design shall meet the approval of the City Engineer. Subsequent extensions of the lines shall require properly engineered plans and shall be subject to the tapping charges set forth herein;
- (d) The installation of fireplugs shall be mandatory and these installations shall be at the expense of the owner or developer. The location and design of the fire plugs shall be in accordance with the design criteria established by the Superintendent of the Water Department, the City Engineer and the Mayor;
- (e) A charge shall be required in each instance, the amount to be determined by the Mayor for entering upon the street right of way. This charge shall be used for replacement of existing surface in the right of way. (See Section 901.02)

921.08 TAP-IN FEE WHERE NO WATER LINE ASSESSMENT PAID.

There is established a fee to be paid by the property owners who tap City water lines. Property owners who have not paid an assessment for a water line shall, in addition to the normal tapping fee, pay a prorated front foot fee for a water line. The amount of the fee shall be determined on a lineal foot basis for foot frontage and shall be established by the Mayor.

921.09 WELL WATER TESTING FEE.

The Mayor shall charge a fee for each testing of well water, relative to its hardness, bacterial content, etc., at the City filtration plant. The fee shall be assessed for the purpose of covering the cost of labor and chemicals involved therein.

921.10 CHARGES FOR SPRINKLER SYSTEM OR STORAGE TANK.

- (a) The Mayor is authorized and directed to establish from time to time charges he deems proper, based on costs of labor and materials in the

Water Department, for the preceding year, to be paid annually, quarterly or otherwise as he may direct for each tap made in connection with a sprinkler system and for each elevated water storage tank.
(Ord. 69-4190. Passed 11-18-69.)

(b) A service fee shall be charged annually to each user of a sprinkler system.

921.11 BACKFLOW PREVENTION.

(a) No person or firm shall:

- (1) Make or maintain a physical connection between any other source of water or liquid and the public water supply piping system;
- (2) Physically connect any water spigot or outlet to a drain or sewer; nor
- (3) Install, maintain or operate any water spigot or outlet below a free overflow or submerged.

(b) The Water Department will require an approved backflow prevention device on each water line at the outlet of the water meter where an actual or potential health hazard exists as determined by the Water Department and the authorized agent thereof. The type of device required shall depend on the degree of hazard as determined by the Department or its agent. It shall be the responsibility of the water user to provide and maintain these devices as required.

(c) No firm or persons whose premises or property is serviced by the Municipal water supply system shall deny the right of entry for the purposes of inspection and/or testing backflow prevention devices or for the purposes of cross connection control to an authorized agent of the Water Department upon presentation by the individual of identifying credentials. Further, such agents of the Water Department shall be held harmless from all liability and damages arising should he, upon the request and by authorization of the water user, proceed to repair any malfunctioning backflow prevention device. Such repairs when performed by the City's agent shall be charged to the water user at the standard rate set forth by the Department.

(d) If the water user elects to proceed with the repairs required by subsection (c) hereof by himself or with personnel of his own, or another firm or corporation, the water user shall notify the City's Water Department, in writing, before proceeding with the repairs. A department representative must be present to observe such repairs and to test the device upon completion thereof. Should additional tests be required because of failure of the water user to successfully repair the backflow prevention device a thirty-five dollar (\$35.00) fee will be charged for each additional test required to certify the unit.

(e) Provisions governing the enforcement of this section shall be those specified in the current edition of the manual of Backflow Prevention and Cross-Connection Control as published in Chapter 3745-5 (HE-34) of the Ohio Administrative Code.
(Ord. 88-5719. Passed 12-6-88.)

921.12 INSTALLATION OF REMOTE WATER METERS.

The installation of remote meters is hereby required and mandatory throughout the City.

Those persons signing up for remote meters on or before September 30, 1986 shall be charged the sum of fifteen dollars (\$15.00) at the time of application. Those property owners having remote meters installed after September 30, 1986 shall be charged the actual cost of the unit which is presently the sum of twenty-five dollars (\$25.00), following installation of the meter.
(Ord. 86-5562. Passed 8-19-86.)

921.13 SURCHARGE FOR EXCESSIVE WATER USAGE.

(a) It is the policy of the City to charge a surcharge to any person, firm or corporation using more than the amount of water allowed under the terms of this section during any period or periods when the Mayor determines in his discretion that a water emergency exists by reason of insufficient or inadequate water supply or pressure exists to provide safe and adequate water service to the City or any portions thereof, after voluntary requests to reduce water consumption or prohibition of non-essential water use have failed to eliminate or appreciably reduce the problem or appear to an inadequate response to a severe water problem, if such voluntary request or prohibition is possible in view of the extent of water supply or pressure.

(b) The Mayor is hereby authorized to declare a water emergency to exist when a shortage of water available for the customers in the City or insufficient pressure exists within the public water supply system upon adoption of an approving resolution by Council. Upon the declaration of such emergency by the Mayor, he is authorized to place into effect the provisions of this section until such time as the Mayor or Council determines that the emergency is terminated.

(c) During any period or periods of water emergency as declared to exist pursuant to the terms of this section, each water customer shall be allowed an amount of water per month calculated as follows:

(1) Residential customers using over 300 cubic feet per month: Eighty percent (80%) of the water used by the customer during the same month of the preceding year when such water emergency was not in effect. In the event that the customer was not a customer of the Galion water supply during the same month of the preceding year, then quantity allowed shall be calculated upon the basis of 700 cubic feet.

(2) Multiple family buildings served by one meter: The total allowed for all persons served by the meter shall be eighty percent (80%) of the water flow through the meter during the same month of the preceding year when such water emergency was not in effect.

(3) Business and industries: The amounts allowed shall be eighty percent (80%) of the amount used by the same business or industry in the same month of the preceding year. This requirement shall not apply to any business which established to the satisfaction of the Mayor that it has experienced a substantial change affecting water usage since the month used as a basis of measurement of year earlier, in which case the amount allowed shall be determined by the Mayor taking into account the nature and extent of such changes.

(d) In addition to the amount due under the water rates in effect for water consumed, the following surcharges shall be charged for any water used by any customer over the amounts allowed by this section: The amount of ten dollars (\$10.00) for the first 100 cubic feet; fifteen dollars (\$15.00) for the second 100 cubic feet; and twenty dollars (\$20.00) for each 100 cubic feet over the initial 200 cubic feet subject to the surcharge. Fractional amounts of less than 100 cubic feet shall be prorated.

(e) In the event that the situation of any water customer is such that the amount of water allowed for the customer pursuant to the terms of this section without the imposition of the surcharge is unreasonable due to unusual or extenuating circumstances, then the customer may appeal the surcharge placed upon any monthly bill to the Council Water Review Committee, such committee shall consist of the three members of the Laws and Ordinances Committee and an alternate appointed by the Laws and Ordinances Committee, plus three citizens appointed by the Mayor, and shall serve upon all surcharge appeals filed during any water emergency. An appeal shall be filed by a water customer by mailing or delivering a letter requesting an appeal to the Committee at the City Building 301 Harding Way East, Galion, Ohio 44833. Upon receipt of the notice of the

appeal, the Water Review Committee shall notify the water customer of the time and place for a hearing upon such appeal. Following the hearing, the Committee shall either approve the original surcharge or make such adjustment as it determines to be reasonable under the circumstances. The filing of such appeal by the water customer shall not excuse the payment of such penalty surcharge when due as initially billed, and in the event that the Water Review Committee makes an adjustment, then a credit shall appear on the next water bill of the customer after such decision has been made.

(f) After deducting all costs attributable to administering and collecting the surcharges provided for in this section, the balance of moneys collected shall be placed in a special water fund to be spent solely for the investigation and implementation of methods and measures intended to increase the capacity of the public water supply and the continued availability of water services to the customers of the system.

(g) The amount of the surcharge shall be added to the customer's monthly water bill until paid, and if not promptly paid when due, the City of Galion may proceed with the termination or shut-off of such customer's water service pursuant to existing provisions relating thereto or the Law Director may file a court action to collect any surcharge provided for and imposed in accordance with this section.

(h) The Mayor shall provide public information at the time the provisions of this section are imposed and in effect, including the following: press releases to all local news media, public service announcements offered to radio, television and cable television stations, and pamphlets or flyers included with water bills or otherwise delivered to water customers.

(Ord. 88-5725. Passed 11-22-88.)

921.14 AVAILABILITY OF CITY WATER TO PROPERTIES OUTSIDE CITY CORPORATION LIMITS.

(a) It is hereby declared to be the policy of the City that no person, property owner, corporation, entity, association, or organization, including land subdividers or developers or agents thereof, subject to the exceptions outlined in subsections (c) and (d) below, shall be permitted to connect to or extend in any manner, any City water line unless the property benefitting from such connection or extension is first annexed into the City.

(b) Any property located outside of the City corporation limits that is presently being provided with City water service shall be exempt from such policy and shall be entitled to continue receiving such service upon the following terms and conditions:

- (1) The use of such water at said premises shall be subject to all City ordinances and regulations relating thereto, including without limitation, all regulations pertaining to backflow prevention.
- (2) Each existing tap shall serve only one principal structure on a lot or parcel of real property, and no taps into an existing tap or service line shall be permitted. Laterals may not be extended from one property to another.
- (3) The cost of maintaining, repairing and replacing any existing service line from the point of tapping into the City water line to the premises served by such line shall be at the sole cost of the property owner.
- (4) The rate for water service provided to customers outside the City corporation limits shall be the basic rate charged to customers located within the corporation limits, plus a surcharge of fifty percent (50%) for usage reflected in the July 2002 billing cycle and thereafter; provided, however, the City has and reserves a right to change from time to time both the basic rate and surcharge to be assessed and collected from all water customers located outside its City corporation limits.
- (5) The City does not represent or warrant that at all times there will be a sufficient supply of water to meet the needs of water customers located outside its corporation limits nor that there will always be adequate pressure in its water lines.

(c) An exception to the policy adopted in paragraph (a) above which requires annexation before City water will be provided outside the corporation limits is granted if there is an agreement between Galion City Council, the Board of County Commissioners having jurisdiction of the territory where such water service may be provided, and the owner(s) of all property(ies) to receive such water service. Said agreement shall require said property owner(s) to file or join in an application with the appropriate County Commissioners to have such property(ies) annexed to the City of Galion as soon as such process can be commenced and to diligently pursue such proceedings to conclusion, and shall require that the Board of Township Trustees having jurisdiction over the subject property(ies) also adopt a resolution agreeing not to object to such annexation of the property(ies) to the City of Galion.

(d) An exception to the policy adopted in paragraph (a) above which requires annexation before City water will be provided outside the corporation limits is granted to any person, property owner, corporation, entity, association, or organization including land subdividers or developers or agents thereof in control of a parcel of property outside the corporate limits which is used for residential purposes and is further one through which or is immediately adjacent to a parcel through which runs an existing water line. Such a parcel may be connected to said existing line subject to the provisions of subsections (b) (1) through (5) above. All costs of said connection shall be borne by the property owner. This exception to the standard policy disallowing connections outside of the corporate limits shall be in effect only as long as said parcel continues in residential use.

(Ord. 2015-95. Passed 11-10-15.)

921.15 ATTACHMENT TO FIRE HYDRANTS.

(a) Due to the possibility of dangerous backflow, no person, firm, corporation, or governmental entity shall attach to or withdraw water from a fire hydrant connected to the Galion Water System, or authorize anyone to withdraw water from a fire hydrant connected to the Galion Water System, except as permitted in this section.

(b) Provided proper training in their use and understanding the hazards associated with incorrect operation have been demonstrated to the satisfaction of the Mayor or his designated representative, there are five (5) User Types permitted to operate a fire hydrant connected to the Galion Water System and to withdraw water therefrom, subject to the following conditions:

- (1) User Type 1. This User Type consists of the Galion Fire Department and other fire departments that are called for mutual aid and that typically draw water from a public water supply into tanks that do not contain anti-corrosive chemicals and/or agents. This User Type does not require the use of a backflow prevention device. Except for the Galion Fire Department, all connections to a Galion fire hydrant must be reported to the Galion Police/Fire Dispatcher, or Fire Chief on the scene, either on radio frequency or by telephone (419-468-9111) prior to attachment to a fire hydrant and the withdrawal of water.
- (2) User Type 2. This User Type consists of fire departments that typically fill tanks from streams, creeks or ponds rather than from a public water supply and/or fire departments that have tanks containing anti-corrosive chemicals or agents and/or fire departments that do not have tanks meeting the NFP 1901 standard. This User Type must use a backflow device previously approved by the Mayor or his designated representative between the hydrant and the tank. All connections by this User Type to a Galion fire hydrant must be reported to the Galion Police/Fire Dispatcher, either on radio frequency or by telephone (419-468-9111) prior to attachment to a hydrant is made.

- (3) User Type 3. This User Type consist of Galion Public Works Department employees and equipment. Routine, periodic or quality driven flushing of fire hydrants does not require the use of backflow device so long as an air gap is maintained between the end of the hose and the point of use. Provided a City employee remains on site to ensure that an air gap is maintained, the filling of swimming pools by City employees does not require the use of a backflow device. Any filling of equipment (i.e. trucks, including those owned by the City) does require the use of a backflow device or an air-gap device that has been preapproved by the Mayor or his designated representative. Before any attachment by User Type 3 is made to a fire hydrant connected to the Galion Water System, the Galion Water Division Superintendent must be notified.
- (4) User Type 4. This User Type includes attachment to a fire hydrant by a licensed food vendor. This type of use if for a limited amount of time and is controlled by the Galion Health Department as to the type of hose used and the backflow devices required. Before attachment is made to a fire hydrant connected to the Galion Water System, a User Type 4 must first notify the Galion Health Department.
- (5) User Type 5. This User Type is for all other water use including bulk sale of water. All such other use shall occur at the fill station at the Water Treatment Plant and must be overseen by employees of the Water Treatment Plant.

In addition to the foregoing permitted uses, further exceptions may be considered by the Mayor or his designated representative, and if approved, any such exception must be authorized in writing as to the time, location and manner of attaching to a fire hydrant connected to the Galion Water System, including the type of backflow prevention device, if any.

(c) Any person, firm, corporation or governmental entity that attaches to a fire hydrant connected to the Galion Water System in violation of the terms and requirements of this section shall be guilty of a first degree misdemeanor.

(Ord. 2003-26. Passed 3-11-03.)

921.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 923

Stormwater Management Regulations

923.01 Title.

923.02 Authority.

923.03 Applicability.

923.04 Purpose.

923.05 Definitions.

923.06 Compliance required; occupancy permits.

923.07 Stormwater system composition and design.

923.08 Easements.

923.09 Additional requirements.

923.01 TITLE.

These regulations shall hereafter be known, cited and referred to as the "Stormwater Management Regulations" of the City of Galion.

923.02 AUTHORITY.

These regulations are adopted pursuant to the power and authority vested through Ohio Revised Code, Codified Ordinances and other applicable laws and statutes of the State of Ohio.

923.03 APPLICABILITY.

These regulations shall be applicable to any person, firm, corporation or business proposing to construct buildings or develop land within the City.

923.04 PURPOSE.

In order to promote the public health, safety and general welfare of the residents of the City, these Stormwater Management Regulations are hereby enacted for the general purpose of assuring the proper balance between man's use of land and the preservation of a safe and beneficial environment. More specifically, the provisions of these regulations, as amended from time to time, are intended to:

- (a) Reduce property damage and human suffering; and
- (b) To minimize the hazards of personal injury due to flooding.

923.05 DEFINITIONS.

For the purpose of this chapter certain terms and words shall be used, interpreted and defined as set forth in this section. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular shall include the plural, and vice-versa; the words, "these regulations", means "this chapter"; the word, "person", includes corporation, partnership, and unincorporated association of persons; and the word "shall" is always mandatory.

- (1) "100 year storm" means rainstorms of a specific duration having a one percent (1%) chance of occurrence in any given year.
- (2) "10 year storm" means that the calculated flows will occur on the average of no more than once every ten years. Since this is an average occurrence, it may be possible that higher flows occur several times in any ten-year period and then not occur again for many years.
- (3) "Base flood" means the flood having a one percent (1%) chance of being equalled or exceeded in any given year, that is the 100 year flood.
- (4) "By-pass channel" means a channel formed in the topography of the earth's surface to carry stormwater runoff through a specific area.
- (5) "Channel" means a water course of perceptible extent which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water, and which has a definite bed and banks.
- (6) "Common use" means a storm sewer or ditch or swale which has been in use for over twenty-one years or is located in a street right of way or is encumbered by a recent easement for stormwater purposes.
- (7) "Culvert" means any transverse drain under a road, driveway, bridge or other means of access to the travelled portion of a highway.
- (8) "Control structure" means a structure designed to control the volume of stormwater runoff that passes through it during a specific length of time.
- (9) "Detention basins" means any man-made area which serves as a means of controlling and temporarily storing stormwater runoff.
- (10) "Detention storage" means the temporary detaining or storage of stormwater in reservoirs, on rooftops, on parking lots and other areas under predetermined and controlled conditions.
- (11) "Development" means any change of land use or improvement of any parcel of land.
- (12) "Differential runoff" means the volume and rate of flow of drainage area which is or will be greater than that volume and rate which

pertained prior to proposed development or redevelopment.

(13) "Downhill" means drainage to a lower area.

(14) "Drainage system" means a network consisting of any combination of type of open channels, holding basins and enclosed facilities employed to convey the runoff of natural waters.

(15) "Dry bottom stormwater storage area" means a facility that is designed to be normally dry and contains water only when excess stormwater runoff occurs.

(16) "Easement" means authorization by a property owner for use by another party or parties of all or any portion of his/her land for a specified purpose.

A. "Easement for mutual benefit" means a storm sewer easement maintained by the property owner for flow of stormwater over owner's property to the benefit of uphill property owners.

(17) "Enclosed drainage system" means a network of artificial conduits and pipe constructed to convey the runoff of natural waters.

(18) "Encroachment limit" means the boundary of a maintenance way easement adjacent to a drainage channel within which no building or structure shall be erected or trees, bushes or other plantings planted which shall interfere with the maintenance of the drainage channel.

(19) "Excess stormwater" means that portion of stormwater runoff which exceeds the transportation capacity of storm sewers or natural drainage channels serving a specific watershed.

(20) "Factor of one" means a calculation to indicate that the stormwater runoff before a project development is to remain the same after development.

(21) "Floodplain" mean a land area adjoining a river, stream, watercourse, or lake which is likely to be flooded.

(22) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(23) "Freeboard" means a factor of safety expressed as the difference in elevation between the top of the detention basin dam and the design surface water flow elevation.

(24) "Grade" means the slope of land around a building.

(25) "Habitable dwelling unit" means a dwelling unit intended for suitable human habitation.

(26) "Natural drainage" means channels formed by the existing surface topography of the earth prior to changes made by unnatural causes.

(27) "100 year peak flow" means the peak rate of flow of water at a given point in a channel, watercourse or conduit resulting from the base flood.

(28) "Open drainage system" means a network of natural streams, constructed channels, ditches and detention-retention areas employed to convey and control the runoff of natural waters.

(29) "Plat" means a legally recorded plan of a parcel of land subdivided into lots with streets, alleys and other land lines drawn to scale.

(30) "Positive gravity outlet" means a term used to described the drainage of an area by means of natural gravity so that it lowers the free water surface to a point below the existing grade or invert of storm drains within the area.

(31) "Project" means any development involving the construction, reconstruction or improvement of structures and/or grounds.

(32) "Public right of way" means any public passage, street, boulevard, road or alley.

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

(34) "Public ditch or storm sewer" means a storm sewer or ditch which has been in use for the general public for over twenty-one years or is within a public street right of way or is encumbered by a recent easement for stormwater purpose.

(35) "Rational method" means an empirical formula for calculating peak rates of runoff resulting from rainfall.

(36) "Recognized agency" means an agency or governmental unit that has statistically and consistently examined local, climatic and geologic conditions and maintained records as they apply to stormwater runoff.

(37) "Safe storm drainage capacity" means the quantity of stormwater runoff that can be transported by a channel or conduit without having the water surface rise above the level of the earth's surface over the conduit or adjacent to the waterway.

(38) "Site" means a parcel of land under one ownership.

(39) "Slope" means the grade of the land around a building over which water will flow.

(40) "Stormwater runoff" means water that results from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.

(41) "Stormwater runoff release rate" means the rate at which stormwater runoff is released from dominant to servient land.

(42) "Stormwater storage area" means areas designated to store excess stormwater.

(43) "Structure" means any object constructed above or below ground.

(44) "Tributary area" means all of the area that contributes stormwater runoff to a given point.

(45) "The primary system" means the system composed of the regulatory floodplain as shown on the National Flood Insurance Program maps.

(46) "The secondary system" means the system composed of all watercourses and drainage structures, both public and private, that are not mapped as part of the primary system.

(47) "Uphill" means drainage from a higher area.

(48) "Wet bottom basin" means a detention basin intended to have a permanent pool.

(49) "Watercourse" means any surface stream, creek, brook, branch, depression, reservoir, lake, pond or drainageway in or into which stormwater runoff flows.

(50) "Yard" means the area around a building; front, side and rear.

923.06 COMPLIANCE REQUIRED; OCCUPANCY PERMITS.

(a) No occupancy permit required shall be issued until these Stormwater Management Regulations have been complied with.

(b) Occupancy permits issued under this section are conditioned upon a permit being obtained from the Building Inspector before any of the following additional work is performed which will or could obstruct the flow or passage of stormwater:

(1) Install drain tile within a ditch or swale or cover drain tile installed in a ditch or swale; or construct a bridge or culvert over or in a ditch or swale.

(2) Change the grade of land so as to affect the drainage or change the drainage pattern of any land or part thereof;

(3) Build, change, alter or enlarge or permit the building, changing, alteration or enlargement of any existing, proposed or future structure upon any parcel of land or part thereof;

(4) Change the existing or natural drainage of land so as to obstruct, impede, accelerate, channel or concentrate the flow of rain or surface waters onto or from the lands of another so as to cause damage thereto or create a nuisance thereon;

(5) Interfere with or obstruct the flow of surface water over easements both public and private or to impede the flow of surface water across public or private drainage easements or private property in a manner contrary to the drainage pattern;

(6) To construct landscaping, fences, shrubbery or trees which will change the drainage pattern;

(7) To bury and cover over any utility structures, manholes or other appurtenances or any utility system with fill dirt, landscaping berms,

paving, etc.

923.07 STORMWATER SYSTEM COMPOSITION AND DESIGN.

(a) The Stormwater Runoff Management System shall be composed of:

- (1) A primary system;
- (2) A secondary 100 year flood system; and
- (3) A secondary 10 year flood system.

(b) These regulations shall limit any activity which will adversely affect the hydraulic function of detention facilities, open channels, drainage swales or enclosed stormwater conveyance systems.

(c) Stormwater runoff retention from sites in excess of one acre shall be limited to a factor of one and shall conform to requirements established by the City Engineer. Extra retention may be required on sites abutting ditches or storm sewers not designed for a ten year flood.

(d) When the City Engineer determines that proposed development will cause or increase downstream flooding conditions during the 100 year storm, provisions shall be made to minimize such flooding conditions and shall be included in the design of storm drainage improvements. Such provisions may include downstream improvements and/or temporary controlled detention of stormwater runoff and its regulated discharge to the downstream storm drainage system.

(e) The design and construction of drainage systems shall be such that watercourse traversing the project and natural water emanating from within the project shall be carried through and off the project without injury to improvements, building sites or buildings existing or to be installed within or adjacent to the project. Drainage water entering the project shall be received and discharged at locations and as nearly as possible in the manner that existed prior to construction of the drainage facilities within the project. The design of drainage facilities within the project shall be such that they shall conform to the ultimate drainage requirements of the land uses within the project watershed.

(1) The primary system shall be constructed and maintained under Chapter 1338, Flood Damage Prevention Standards.

(2) The secondary 100 year flood system shall be designed to allow uphill stormwater to flow onto and through the project whenever the ten year flood system is filled to and overflowing its capacity. It shall be designed to prevent the flooding of the main floor of buildings existing or to be constructed within the project and to further prevent the flooding of the main floor of the building downhill and uphill from the project. It may utilize open ditches, existing drainageways, drainage swales, open channels, roadways, public rights of way, temporary and permanent detention basins and temporary detention of stormwater runoff in wet bottom basins, dry bottom basins, parking lots, rooftops, percolation storage or other means approved by the City Engineer.

(3) The secondary ten year flood system shall be designed to prevent the possible flooding against building walls of existing and future building construction on the site and to prevent the flooding against building walls of existing and future buildings on adjacent sites.

It shall be designed to drain standing stormwater from the site within six hours after the termination of any ten year storm. When swales are not steep enough to accomplish this, a drain tile and stormwater inlet shall be constructed in the low point of yards and drained through tile to a public storm sewer or ditch.

It shall utilize storm sewer, yard slope and drainage swales to contain uphill and on site stormwater within the site which shall be discharged to a public storm sewer or ditch and not allowed to discharge onto adjacent property not part of a public ditch or storm sewers.

Yards shall be graded and maintained to drain away from buildings within an eight foot perimeter of buildings to swales or catch basins channeled to prevent stormwater damage to adjacent properties. Minimum grade over sod or grounds shall be one fourth inch per foot. Minimum grade over concrete or pavement shall be one-eighth inch per foot.

(f) When a ditch or storm sewer drains across private property an easement shall be obtained and/or provided.

(g) Driveways may not intersect the pavement higher than the pavement edge. This is to prevent a snow plow from catching the edge of the driveway.

(h) Culverts under driveways shall be installed large enough and steep enough to prevent flooding of the pavement during any ten year flood and shall be constructed in anticipation of any downstream blockage removal and/or replacement. Culvert tile shall be corrugated metal pipe or equivalent and be a minimum size of twelve inches unless a storm sewer already exists along the street which is designed for ten year flooding, thereby allowing an eight inch culvert tile.

(i) The top of a culvert pipe shall be located at least five inches below the pavement edge to allow a swale for roadway to drain to in the event the culvert tile are extended across the lot. This may mean that the bottom of the tile is located below the bottom of the ditch or other adjacent tile. Tile shall be installed with a downhill grade of at least four inches in every 100 feet of length.

(j) Parking lots for commercial, industrial or multifamily buildings shall not drain onto any City street pavement.

923.08 EASEMENTS.

(a) Easements to the City for the maintenance of storm sewers shall be of width and alignment as stated in the subdivision ordinance and shall be indicated on a plat or on an easement deed and shall be accepted by Council.

(b) Easements for mutual benefit of owners shall be required over all ditches and swales located on sites which will accept or are designed to accept water during any ten year flood. Natural watercourses which traverse a project shall be preserved by an easement of sufficient width, including overbanks, which shall adequately pass the project design flow. The channel and overbank widths, together with a minimum twenty foot continuous maintenance way on one side, shall constitute the floodway encroachment limits.

(c) Easements for mutual benefit of owners shall be provided in a form ready for recording and shall include a provision to be maintained by the property owner for the benefit of the uphill property owners with provision that any disputes shall be decided by arbitration in accordance with the rules of the American Arbitration Association.

923.09 ADDITIONAL REQUIREMENTS.

(a) Residential Garage Floors. Residential garage floors shall drain to the outside under the garage door or to a storm sewer drain in the garage floor.

(b) Surface Drains. Surface drains shall be constructed along the foot of any of the natural ridges to control the flow of spring waters.

(c) Additional Footer Tile. Additional footer tile shall be installed at the low point of any footer located in ground indicated as a severe limitation for homesites.

(d) Roof Gutters. Roof gutters shall be required on all roofs above and within eight feet of any basement or crawl space. Roof water diverters or gutters are required on roofs over walkways and driveways. Downspouts are required on gutters and drained into storm sewers or onto pavement without drainage across unpaved yards or walkways to a storm sewer and shall not drain into sanitary sewers or footer tile.

(e) Drainage to Sanitary Sewer Prohibited. None of the following shall be drained to a sanitary sewer: storm water, basement floor drains without a trap primer, garage floor drains, footer tile, area wells, storm water or subsurface water sump pumps, air conditioner condenser water to a floor drain or to the sanitary sewer pipe without a trap primer.

(f) Footing Drain Discharge. Where footing drain discharge is deposited upon the surface of the ground, the place of deposit shall be in that yard area that drains directly to a street, road or ditch, or to the yard area which contains a drainage easement. Discharge of such water upon the surface of the ground shall be carried not less than eight feet from the foundation of walls by means of splash blocks which shall be installed at the

time of construction. Footing drain discharge shall not be permitted to a roadway unless an adequate road ditch exists to receive such discharge. Footing drain discharge shall not be directed to, over or through a road curb.

(g) Sump Pumps. Sump pumps shall not discharge onto a street pavement or within an area that could puddle and freeze on the pavement.

CHAPTER 925

Sewers Generally

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DEFINITIONS

925.01 DEFINITIONS.

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

- (1) "Act" means the Clean Water Act (33 U.S.C. 1251 et seq), as amended, Public Law 92-500, and any amendments thereto; as well as any guidelines, limitations and standards promulgated by the U.S. Environmental Protection Agency pursuant to the Act.
- (2) "BOD", denoting biochemical oxygen demand, means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure as outlined in the Environmental Protection Agency, "Guidelines Establishing Test Procedures for Analysis of Pollutants" (Ref. FR 10-16-73, Vol. 38, No. 199, Part 11), in five days at twenty degrees centigrade, expressed in parts per million by weight.
- (3) "Building drain" means that part of the horizontal piping of a building drainage system which extends from a point three feet outside of the building wall and which receives rain water, surface water, ground water, subsurface water, condensate, cooling water or other similar discharge and conveys it to a public storm drain.
- (4) "Building Sewer" means that part of the horizontal piping of a sanitary drainage system which extends from a point three feet outside of the building wall and which receives the discharge from sanitary conveniences, wastes and other drainage pipes inside the walls of the building and conveys it to a public sanitary sewer, private sewer, individual sewage disposal system or other point of disposal.
- (5) "Categorical Pretreatment Standards" mean the National Pretreatment Standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into the sewage disposal system by specific Industrial Users.
- (6) "Chemical Oxygen Demand" (COD) means the quantity of oxygen utilized in the chemical oxidation of organic matter under standard laboratory procedures expressed in milligrams per liter.
- (7) "City" means the City of Galion, Ohio.
- (8) "City Health Department" means the Health Department of the City of Galion.
- (9) "Combined-Sewer" means a sewer intended to receive both sewage and storm or surface water.
- (10) "Compatible Pollutant" includes biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the City's National Pollutant Discharge Elimination System (NPDES) Permit, providing the City's Wastewater Treatment Plant is designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree.
- (11) "Cooling Water" or "Industrial Cooling Water" means the unpolluted water discharge from any system of condensation, air-conditioning cooling, refrigeration or other similar use which meet the criteria established by the OEPA for effluents discharged to water courses at Galion, Ohio.
- (12) "Debt Service" means the payment requirements to retire the Sewage Disposal System debt through cash generated during the period of time that the debt is outstanding. Any incremental charge for the recovery of "Debt Service" may be included in the sewer service charge.
- (13) "Debt Service Fund" means a fund to which monies are deposited which are collected for the purpose of Debt Service as defined in subsection (12) above. Unless the collection of such monies complies with User Charge requirements, the monies in this fund shall not be used for any cost or expense of providing waste treatment services.
- (14) "Director" means the Mayor of the City of Galion or his authorized deputy, agent or representative.
- (15) "Floatable Oil" means oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.
- (16) "Garbage" means solid waste from the preparation, cooking and/or dispensing of food, and from the handling, storage and sale of produce.
- (17) "Incompatible pollutant" means any pollutant which is not a compatible pollutant as defined in subsection (10) hereof.
- (18) "Indirect discharge" means the discharge or the introduction of non-domestic pollutants from a source regulated under the Act into the sewerage disposal system.
- (19) "Individual or private sewage disposal system" means an independent sewage disposal system found to be adequate and approved by the City Health Department.
- (20) "Industrial wastes" means the liquid wastes resulting from commercial manufacturing or industrial operations or processes as distinct from sanitary sewage or wastes.
- (21) "Interceptor" means a device designed and installed so as to separate and/or retain deleterious, hazardous or undesirable matter from normal wastes, and permits normal wastewater to discharge into the disposal terminal by gravity.
- (22) "Interference" means a discharge which alone or in conjunction with a discharge or discharges from other sources, both:
 - A. Inhibits or disrupts the POTW, its treatment process, use or disposal.
 - B. Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation or of the prevention of sewage sludge use or disposal.)
- (23) "Natural outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface water.
- (24) "New source" means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such sources if such standards are thereafter promulgated in accordance with that section. Provided that:
 - A. The building, structure, facility or installation is constructed at a site at which no other source is located; or
 - B. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - C. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (25) "Normal strength sewage or wastes" as defined for the purpose of determining surcharge means sewage having an average daily suspended solids concentration of not more than 300 mg/l, an average daily BOD concentration of not more than 250 mg/l, and not containing any of the characteristics in excess of the limitations as prohibited and established by Section 925.31 and 925.32.
- (26) "NPDES Permit" means the National Pollutant Discharge Elimination System permit issued to the City of Galion's Wastewater Treatment Plant by the OEPA.

- (27) "OEPA" means the Ohio Environmental Protection Agency.
- (28) "Operation and maintenance costs" means all expense of collecting, pumping, treating and disposing of wastewater including equipment replacement costs.
- (29) "Pass through" means a discharge exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation.)
- (30) "Person" means any individual, firm, company, association, society, corporation or group.
- (31) "pH" means the logarithm of other reciprocal of the weight of hydrogen ions in grams per liter of solution.
- (32) "Pollutant" means dredged spoil, solid waste, incinerator residue, wastewater, garbage, wastewater sludge, munition, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.
- (33) "Plumbing Inspector" means the Inspector of the City.
- (34) "ppm" means parts per million by weight and/or milligrams per liter (mg/l).
- (35) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the sewage disposal system.
- (35) "Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sanitary sewers, with no particle greater than one-half inch in any dimension.
- (37) "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by the City.
- (38) "Replacement costs" means expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the wastewater treatment plant to maintain or regain the capacity and performance for which it was designed and constructed. Unless specifically excluded, the term operation and maintenance shall include replacement.
- (39) "Replacement fund" means a fund to which monies are deposited which are collected for the purpose of replacement as defined in subsection (8) above. The monies deposited in this fund and any interest earned thereon shall be used solely for the purpose of replacement.
- (40) "Sanitary sewage" means the waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, cellar floor drains, garage floor drains, bars, soda fountains, refrigerator drips, drinking fountains, storerooms and stable floor drains.
- (41) "Sanitary sewer" means a sewer which carries sewage and waste and to which storm, surface and ground waters are not intentionally admitted.
- (42) "Sanitary sewer fund" means a fund to which monies received from user charges are deposited and from which is paid all costs and expense incurred for operation and maintenance of the City of Galion's sewage disposal works.
- (43) "Sewage" synonymous with "Wastewater" means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.
- (44) "Sewage disposal system" means all facilities for collecting, pumping, treating and disposing of sewage.
- (45) "Sewer service charge" means the basic fee levied on all users of the City sewage disposal system whose wastes do not exceed in strength the concentration values established as representative of normal sewage. This charge to include the Users Charge as hereinafter defined and any other charge related to the construction and use of the City sewer system that may be permitted by law, including debt service.
- (46) "Sewer tapping" means the construction of a building sewer or a building drain and connection to a sanitary sewer or a storm drain forming part of the public sewer system.
- (47) "Shall" is mandatory; "may" is permissive.
- (48) "SIC Manual" means the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented.
- (49) "Significant Industrial User" means:
- All dischargers subject to categorical pretreatment standards under section 403.6 and 40 CFR chapter 1 sub chapter "N" and
 - All noncategorical dischargers that, in the opinion of the Control Authority, have a reasonable potential to adversely affect the POTW's operation, or that contribute a process wastestream which makes up five percent (5%) or more of the average dry weather flow of the POTW plant, or that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW.
 - Industrial users may be exempted from this classification with the consent of the Ohio EPA.
- (50) "Slug" means any pollutant including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- (51) "Specifications for materials" means standards of specification identified by the following abbreviations:
- ANSI: American standards approved by the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.
 - ASTM: Standards and tentative standards published by the American Society for Testing and Materials, P.O. Box 7510, Philadelphia, Pennsylvania 19101.
 - CS: Commercial standards representing recorded voluntary recommendations of the trade, issued by the United States Department of Commerce and obtainable from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20234.
- (52) "Storm drain" synonymous with "storm sewer" means a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source, but excludes sewage.
- (53) "Stormwater runoff" means that portion of the rainfall that is drained into the sewer.
- (54) "Superintendent" means the Director of Water/Sewer Operations, an operator licensed by the appropriate regulatory agency.
- (55) "Surcharge" means the fee in addition to the service charge which is levied on those persons whose waste are greater in strength than the concentration values established as representative of normal sewage.
- (56) "Suspended solids" means total suspended matter that either floats on the surface of, or is in suspension in, water, waste-water, or other liquids, and that is removable by laboratory filtering as prescribed in "Standards Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.
- (57) "Toxic pollutants" includes but not necessarily be limited to aldrin-dieldrin, benzidine, cadmium, cyanide, DDT-endrin, mercury, polychlorinated biphenyls (PCB's) and toxaphene. Pollutants included as "toxic" shall be those promulgated as such by the USEPA.
- (58) "Unpolluted water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- (59) "Upset" means an exceptional incident in which a User unintentionally and temporarily is in a state of non-compliance with the standards set forth in this chapter due to factors beyond the reasonable control of the User and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

(60) "USEPA" means the United State Environmental Protection Agency.

(61) "User charge" means the charge to each recipient of waste treatment services within the City's service area, representing a proportionate share of the costs of operation and maintenance including replacement of all waste treatment service provided.

(62) "User class" means the division of users within the City's service area, by the origin of the sewage discharged and by the similarity of the function of such users. Stated in four general classes, they are:

A. "Commercial User" a commercial business discharging wastewater; users not categorized as residential or industrial.

B. "Industrial User" a person who discharges to the City's sewage disposal system liquid wastes resulting from processes employed in industrial or manufacturing, or from the development of any natural resource.

C. "Other Public Authority User," means a special Class of user who usually contributes a primarily segregated domestic waste or waste from sanitary conveniences. This class usually includes hospitals, sanitariums, prisons, or charitable institutions, schools and all other governmental users (Federal, State and Local).

D. "Residential User," means single family or equivalent residences which discharge only wastes from sanitary conveniences.

E. "Significant industrial user" means all dischargers subject to Categorical Pretreatment Standards under section 403.6 and 40 CFR Chapter 1, sub chapter "N"

F. "Nonsignificant industrial user" means those industrial users who discharge into the sanitary sewer system a process waste that is not regulated under section 403.6 and 40 CFR Chapter 1 sub chapter "N".

G. "Dry industrial user" means those industrial users that discharge nothing more than normal sanitary convenience wastes.

(63) "USPH" means the United State Public Health Service.

(64) "Wastewater treatment plant" or "WWTP" means an arrangement of devices and structures for treating and disposing of sewage and sludge.

(65) "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

(Ord. 90-5835. Passed 8-14-90.)

925.02 SUPERVISION AND CONTROL OF DRAINAGE SYSTEM.

The Director shall have complete supervision and regulation of the entire sewerage and drainage system of the City. The Director shall make and enforce such rules and regulations as he may deem necessary for the enforcement of the provisions hereof, for the safe, efficient and economical management of the system, and to maintain compliance with local, State and Federal rules or regulations or amendments thereto adopted at any time or from time to time. Such rules and regulations, when not repugnant to existing ordinances, laws of the State or the rules and regulations of the USEPA shall have the same force and effect as ordinances of Council. Any conflict between City ordinances, laws of the State and/or USEPA rules and regulations shall be resolved in favor with USEPA rules and regulations. Nothing herein contained shall be so construed to exempt any other officer or department from the obligation of enforcing all existing laws in reference to this chapter.

(Ord. 90-5835. Passed 8-14-90.)

PRIVATE SEWAGE DISPOSAL

925.03 REQUIREMENTS; PROCEDURE.

(a) Where a public sanitary sewer is not available under the provisions of Section 925.07, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit to build, signed by the City Health Department. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by plans, specifications and other information as are deemed necessary by the City Health Department.

(c) A permit to use a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City Health Department. The Department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight hours of the receipt of notice by the Health Department.

(d) The type, capacities, location, layout and operation of a private sewage disposal system shall comply with all regulations of the Department of Public Health of the State and the City Board of Health. No permit shall be issued where the areas of the lot is less than 10,000 square feet per single family dwelling. No permit for any private sewage disposal system employing subsurface soil absorption facilities shall be issued until absorptive properties of the soil have been sampled, tested and determined to have the characteristics required for such disposal. No private sewage system shall be permitted to discharge to any public sewer or natural outlet.

(e) At such time as a public sanitary sewer becomes available to a property served by a private sewage disposal as provided in Section 925.07, a direct connection shall be made to the public sanitary sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

(g) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the City Health Department. (Ord. 90-5835. Passed 8-14-90.)

925.04 SEWAGE OR WASTE OUTLETS.

No person, firm or corporation shall establish an outlet for the discharge of sewage or industrial wastes directly or indirectly into the south branch of the Olentangy River or any watercourse tributary thereto within a distance of twenty miles from the corporation line of the City whereby sewage or industrial wastes may reach the river above the water supply intake of the City until the person, firm or corporation has obtained the approval of the Director of the proposed outlet and of whatever treatment works may be necessary to prevent the pollution of the public supply of the City.

(Ord. 90-5385. Passed 8-14-90.)

925.05 MISCELLANEOUS POLLUTANT MATERIALS PROHIBITED.

No person or persons, firm or corporation shall place or deposit or cause to be placed or deposited in the south branch of the Olentangy River or any watercourse tributary thereto or on or under the surface of the ground at any point from which contamination may reach the south branch of the Olentangy River or any watercourse tributary thereto within a distance of twenty miles from the corporation line of the City, and upstream from the water supply intake of the City, any human or animal excreta, offal, dead animal, garbage or refuse or offensive, putrid or polluting material of any kind.

(Ord. 90-5835. Passed 8-14-90.)

925.06 LOCATION AND USE OF PRIVY VAULTS.

No person or persons, firm or corporation shall establish or maintain a privy within twenty miles of the corporation line of the City and upstream from the water supply intake of the City unless the privy is provided with a vault constructed and maintained to prevent the material deposited therein from overflowing onto the surface of the ground. The owner, tenant or lessee of property on which such a vault is located shall have it

cleaned at frequent intervals to avoid overflow and shall cause the material removed to be buried at a point not less than 300 feet from the river or any watercourse tributary thereto.
(Ord. 90-5835. Passed 8-14-90.)

USE OF PUBLIC SEWERS REQUIRED

925.07 SANITARY SEWER CONNECTIONS REQUIRED WHERE AVAILABLE.

No person, either as owner, agent, renter, lessee, or employee, shall build, construct, maintain or use on any lot, land or premises, within the City, any toilet, closet or privy the excrement from which is deposited in a vault, excavation or receptacle, which vault, excavation or receptacle is not connected with and flushed into a sanitary sewer, whenever such lots, lands or premises are capable of direct connection with any sanitary sewer. The owner of any house, building or property used for human occupancy, employment, recreation or other purpose, situated within the City and abutting on any street, alley or right-of-way, in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sanitary sewer in accordance with the provisions of this chapter, within ninety days after the date of official notice to do so, provided such public sanitary sewer is within 200 feet of such house, building or property.
(Ord. 90-5835. Passed 8-14-90.)

925.08 SEPARATE CONNECTION REQUIRED; WAIVER; INSPECTIONS.

(a) Every new residence, house, dwelling or other structure, whether single-family or multiple purpose, and every existing house, dwelling or other structure moved to a new location must have a separate sanitary service line connected directly from the dwelling, residence, house or other structure into the City sanitary sewer system. However, a waiver or other variance of this requirement may be granted by the Director on approval of the City Engineer, if constructed and installed in a manner the Engineer prescribes.

(b) The Director shall cause the appropriate inspection to be made to implement this chapter, deny and request to make a sewer connection not in conformity herewith and close any existing tap if additional houses, dwellings, residences or other structures are hereafter permitted to be joined into the existing tap.

(c) This requirement shall be in addition to the other laws governing the matter of City sewers.
(Ord. 90-5835. Passed 8-14-90.)

BUILDING SEWERS AND CONNECTIONS

925.09 ADMINISTRATION AND ENFORCEMENT OF BUILDING SEWERS AND CONNECTIONS.

Administration and enforcement of Section 925.09 through Section 925.19 inclusive shall be the duty and responsibility of the Director.
(Ord. 90-5835. Passed 8-14-90.)

925.10 SEWER TAPPING, PLUMBING LICENSE.

No person shall perform sewer tapping work unless such person has first obtained from the City, a sewer tapping license or a plumbing license, if a method of obtaining such licenses has been provided for elsewhere by City ordinance.
(Ord. 90-5835. Passed 8-14-90.)

925.11 PERMIT REQUIRED.

No person shall perform sewer tapping work unless the person has first obtained a permit from the Chief Building Inspector. Work for which a permit has been obtained must be commenced within six months or the permit shall become null and void. A cessation of more than one month in work which has been started shall also void the permit. Provided however a new permit will not be issued when it has been determined by the Mayor and/or the Director of Water/Sewer Operations that there does not exist sufficient capacity in the Sewage Disposal System including collecting, pumping, treating and disposing of wastes as may be discharged by the applicant of such new permit.
(Ord. 90-5835. Passed 8-14-90.)

925.12 PERMIT APPLICATION; DEPOSIT FOR PAVEMENT DISTURBANCE.

(a) Applications for permits shall be filed in writing with the Chief Building Inspector on a form furnished for that purpose and shall be signed by the applicant. The application shall give the correct site of the work and describe in detail the work to be performed, with other information required by the Inspector. The Inspector may require that applications be accompanied by drawings and specifications which shall be in detail sufficient to enable the Department to determine that the proposed work will be in conformity with the provisions of this chapter. Drawings and specifications shall become part of the application.

(b) If the work will require opening through, undermining or removal of any pavement or surface in any public street or other public ground, no permit shall be issued unless there is on deposit an appropriate sum to guarantee the cost of repairing and relaying the pavement or surface, as may be provided for by ordinance. No portion of this deposit shall be refunded until the Inspector has issued a certificate of approval.
(Ord. 90-5835. Passed 8-14-90.)

925.13 ISSUANCE OF PERMIT.

The Inspector, upon determining that the proposed work complies with this chapter, and upon receipt of the appropriate fee, shall issue the permit.
(Ord. 90-5835. Passed 8-14-90.)

925.14 PERMIT FEES.

The fee for a sewer tapping permit to tap into the sanitary sewer system shall be two hundred fifty dollars (\$250.00) for each proposed connection serving a user within the corporate limits and five hundred dollars (\$500.00) for each proposed connection serving a user outside the corporate limits of the City. The fee for sewer tapping permits to tap into the storm sewer system shall be twenty-five dollars (\$25.00) for each proposed connection. In addition to these fees there is also a twenty-five dollar (\$25.00) inspection fee.
(Ord.95-6118. Passed 1-24-95.)

925.15 WORK NOTIFICATION REQUIRED OF PERMITTEE.

The holder of a sewer tapping permit shall notify the Director of Water/Sewer at least two days prior to starting work on a building sewer or building sanitary sewer, weekends and holidays excluded. The permit holder shall notify the Director of Water/Sewer at least two days prior to making the actual connection to the City's sanitary or storm sewer system and the connection shall be made during the regular working hours of personnel of the Water/Sewer Department.
(Ord. 90-5835. Passed 8-14-90.)

925.16 REQUIREMENTS OF WORK.

All sewer tapping work shall meet the following requirements:

(a) All work shall be done in accordance with generally accepted procedure;

(b) All materials and workmanship shall be such as to ensure that building sewers and building storm sewers will drain properly and will not

settle unduly and will support required loads without danger of crushing, and to ensure that excessive exfiltration and infiltration will be avoided;

- (c) No building sewer shall be connected to a City storm sewer and no building storm sewer shall be connected to a City sanitary sewer;
- (d) Extreme care shall be exercised to avoid damaging the sanitary or storm sewer, both during excavation and as the tap is being made. If the sewer is broken or damaged, it shall be repaired or replaced at the expense of the person holding the sewer tapping permit, to the satisfaction of the Director of Water/Sewer Operations;
- (e) Care shall be exercised to avoid the entrance of sewer wall fragments, dirt, rock, mud or any other Foreign substances into the sanitary or storm sewer during sewer tapping work. Any such substances which enters the sewer shall be completely removed by the permit holder.

(Ord. 90-5835. Passed 8-14-90.)

925.17 COMPLIANCE WITH PERMITS.

All work performed under a permit issued by the Chief Building Inspector shall conform with the approved application and plans, and approved amendments thereto.

(Ord. 90-5835. Passed 8-14-90.)

925.18 INSPECTIONS.

(a) Approval Required. No building sewer or building sanitary sewer shall be covered or placed in service until it has been approved by the Director of Water/Sewer and a signature indicating the approval has been issued.

(b) Final Inspection; Certificate of Approval. All work covered by this chapter shall be submitted for final inspection and approval. If the sewer tapping work is found to be complete and in conformity with all provisions of this chapter and if all street pavements or surfaces removed as part of the work have been acceptably repaired, a certificate of approval shall be issued by the Chief Building Inspector.

(c) Incompleteness or Nonconformity; Corrections; Stop Work Order. When inspection shows work submitted for inspection is incomplete or not in conformity with requirements of this chapter, the permit holder shall make the necessary corrections or additions within seventy-two hours and resubmit the work for inspection. Failure to correct rejected work shall be cause for issuance of a stop work order on the entire project or for suspension or revocation of permit.

(d) Inspection Fee. The fee for inspection as provided for in this section shall be twenty-five dollars (\$25.00).

(Ord. 90-5835. Passed 8-14-90.)

925.19 MAINTENANCE AND USE.

No person shall maintain, occupy or use any building, lot or premises, or part thereof, where there has been an installation, alteration or repair made in violation of any provision of this chapter.

(Ord. 90-5835. Passed 8-14-90.)

SEWER CONSTRUCTION AND DISCHARGE

925.20 COMPLIANCE REQUIRED.

The construction of all sanitary sewers within the City or connected with the sanitary sewer system of the City shall comply with the requirements hereinafter set forth.

(Ord. 90-5835. Passed 8-14-90.)

925.21 SEWER PIPE STANDARDS AND SPECIFICATIONS.

All sanitary sewers shall be constructed of sewer pipe meeting the following material specifications:

- (a) Extra Strength Vitrified Sewer Pipe as described in ASTM c-27857T.
- (b) Standard Strength Vitrified Sewer Pipe as described in ASTM c-261-57T.
- (c) Plain Concrete Tongue and Groove Sewer Pipe as described in ASTM C-14-2.
- (d) Reinforced Concrete Pipe as described in ASTM C-76-41 classes 2, 3 and 4.
- (e) Asbestos Cement Sewer Pipe as manufactured by Johns-Manville, Keesley-Mattison or an approved equal.
- (f) Polyvinyl Chloride (PVC) as described in ASTM D-3034 (SDR 35).

(Ord. 90-5835. Passed 8-14-90.)

925.22 JOINTS.

All sanitary sewer pipe shall be joined with what is considered a premium joint made with resilient plastic or rubber gaskets. The City Engineer shall approve or reject newly developed jointing processes; however, in no case shall the efficiency of any material or process be less than that of the Plastisol joint tradenamed "wedge lock" for vitrified sewer pipe or the type "H" rubber gasket tradename "Tylox" for concrete pipe.

(Ord. 90-5835. Passed 8-14-90.)

925.23 INFILTRATION RATE.

All new sanitary sewers shall be constructed in such a watertight manner that the amount of water other than sanitary sewage, and termed "infiltration", shall not exceed 200 gallons per inch of pipe diameter per mile of sewer during a twenty-four hour period. The City Engineer may perform such tests by the methods he feels advisable to determine the rate of infiltration.

(Ord. 90-5835. Passed 8-14-90.)

925.24 WYE JACKETS.

All wyes shall be backed up, supported and completely surrounded with a six-inch jacket of Portland cement concrete. The concrete shall be a mixture of gravel, sand and Portland cement in quantities that will develop a compressive strength of 3,000 pounds per square inch at the age of thirty days.

(Ord. 90-5835. Passed 8-14-90.)

925.25 RESIDENCE SERVICE LINES.

(a) All residence service lines shall be a minimum pipe diameter of six inches from the wye to the property line and four inches from the property line to a point no farther than three feet from the point where the line enters the structure. The pipe and joint materials shall be as described in Sections 925.21 and 925.22.

(b) The minimum grade of residence service lines shall be one-fourth inch per foot.

(Ord. 90-5835. Passed 8-14-90.)

925.26 LATERAL LINES.

Lateral sewers shall have a minimum pipe size of eight inches internal diameter and shall be laid on a grade which will provide a full low velocity of two feet per second.

(Ord. 90-5835. Passed 8-14-90.)

925.27 METHODS OF TAPPING.

Should it be determined that a tap must be made in a sanitary sewer to provide an outlet for a resident service line, the permit applicant shall arrange to have the sanitary sewer exposed and tapped by their contractor. The actual tapping of the sanitary sewer shall be performed in the presence of City personnel.

(Ord. 90-5835. Passed 8-14-90.)

925.28 STORM SEWER DISCHARGE.

All foundation, footer or other subsurface drains shall discharge into the storm sewer or through a suitable opening in the curb. Should it be impossible to provide a gravity flow for this water to a point of discharge, a sump pump, lift pump or other suitable mechanism must be provided for a proper disposal.

(Ord. 90-5835. Passed 8-14-90.)

925.29 INSTALLATION.

(a) The trench bottom of a building sewer shall be solidly compacted earth. Backfilling around pipe will be tamped granular aggregate and extended four inches above outside diameter of the pipe. The remaining depth to be backfilled with well-tamped excavated material.

(b) Building sewers will be separated from water service lines by a minimum of thirty-six inches vertically and horizontally.

(Ord. 90-5835. Passed 8-14-90.)

USE OF PUBLIC SEWERS CONTROLLED

925.30 GENERAL PROVISIONS; PURPOSE AND POLICY.

Sections 925.30 through 925.52 inclusive sets forth uniform requirements for discharges into the City Sewage Disposal System and enables the City to protect public health in conformity with all applicable State and Federal laws relating thereto. The objectives are:

(a) To prevent the introduction of pollutants into the City Sewage Disposal System which will interfere with the normal operation of the system or contaminate the resulting sludge;

(b) To prevent the introduction of pollutants into the City Sewage Disposal System which do not receive adequate treatment and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;

(c) To improve the opportunity to recycle and reclaim wastewater and sludge from the system.

(Ord. 90-5835. Passed 8-14-90.)

925.301 AVAILABILITY OF CITY SANITARY SEWER SERVICES TO PROPERTIES OUTSIDE CITY CORPORATION LIMITS.

(a) It is hereby declared to be the policy of the City that no person, property owner, corporation, entity, association, or organization including land subdividers or developers or agents thereof, shall be permitted to connect to or extend in any manner, any City sanitary sewer line unless the property benefitting from such connection or extension is first annexed into the City.

(b) Any property located outside of the City corporation limits that is presently being provided with City sanitary sewer service shall be exempt from such policy and shall be entitled to continue receiving such service upon the following terms and conditions:

- (1) The use of such sanitary sewer service at said premises shall be subject to all City ordinances and regulations relating thereto, including without limitation, all regulations pertaining to pretreatment.
- (2) Each existing tap shall serve only one principal structure on a lot or parcel of real property, and no taps into an existing tap or service line shall be permitted. Laterals may not be extended from one property to another.
- (3) The cost of maintaining, repairing and replacing any existing service line from the point of tapping into the City sanitary sewer line to the premises served by such line shall be at the sole cost of the property owner.
- (4) The rate for sanitary sewer service provided to customers outside the City corporation limits shall be the basic rate charged to customers located within the corporation limits, plus a surcharge of fifty percent (50%) for usage reflected in the July 2002 billing cycle and thereafter; provided however, the City has and reserves a right to change from time to time both the basic rate and surcharge to be assessed and collected from all sanitary sewer service customers located outside its City corporation limits.
- (5) The City does not represent or warrant that at all times there will be a sufficient capacity to meet the needs of sanitary sewer customers located outside its corporation limits.

(c) The only exception to the policy adopted in paragraph (a) above may be the availability of City sanitary sewer service to contract areas located outside the City corporation limits as may be approved by agreement between Galion City Council and the Board of Commissioners having jurisdiction of the territory where such sanitary sewer service may be provided. (Ord. 2002-21. Passed 3-26-02.)

925.31 GENERAL DISCHARGE PROHIBITIONS.

(a) With respect to any waters or wastes which are discharged or are proposed to be discharged which contain compatible or incompatible pollutants other than sanitary sewage and which may have a deleterious effect upon the sewage disposal system, processes, equipment, or receiving waters, including violation of applicable water quality standards, or which otherwise create a hazard to life or constitute a public nuisance, the Director shall:

- (1) Reject the discharge of such wastes or,
 - (2) Require pretreatment of quantities and rates of discharge to an acceptable condition for discharge to the public sewers and/or;
 - (3) Require payment to cover the added cost of handling, treating and disposing of the wastes in accordance with Section 925.57(a).
- (b) Provided however, no person, firm or corporation shall contribute, discharge or cause to be discharged, directly or indirectly any of the following described substances into the City Sewage Disposal System:

(1) Any of the following described water or wastes to any public sewer: Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test method specified in 40 CFR 261.21.

(2) Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interferences with the operation of the system.

(3) Any wastewater having a pH less than 5.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the system.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitations set forth in Categorical Pretreatment Standards.

(5) Any pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute work health and safety problems.

(6) Any substance which may cause the WWTP's effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

In no case, shall a substance discharged to the Sewage Disposal System cause non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State standards applicable to the sludge management method being used.

(7) Any substance which will cause the WWTP to violate its NPDES and/or other Disposal System Permits.

(8) Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

- (9) Any wastewater having a temperature which will inhibit biological activity in the WWTP resulting in interference; but in no case, wastewater with a temperature at the introduction into the Sewage Disposal System which exceeds 40° C. 104° F.
- (10) Any slug as defined in Section 925.01 (50).
- (11) Any unpolluted water including, but not limited to non-contact cooling water.
- (12) Any wastewater containing any radioisotopes of such half life or concentration as exceed limits established by the City in compliance with applicable State or Federal regulations.
- (13) Any wastewater which causes a hazard to human life or creates a public nuisance.
(Ord. 92-5942. Passed 3-24-92.)

925.32 LIMITATIONS ON WASTEWATER STRENGTH.

- (a) The National Categorical Pretreatment Standards as promulgated by the USEPA pursuant to the Act which are hereby adopted and incorporated herein by reference shall be met by all users of the City’s Sewage Disposal System. (Copies of Standards shall be available at the office of the Director of Water/Sewer). The only exception to this requirement is when the City, upon application for removal credits, receives a modification to the Categorical Pretreatment Standards as provided for under the Act.
- (b) State requirements and limitations on discharges to the Sewage Disposal System shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this or any other applicable ordinance.
- (c) The City reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the Sewage Disposal System where deemed necessary to comply with the objectives set forth in Section 925.30.
- (d) No user shall increase the use of potable or process water in any way, for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this chapter.
- (e) No user shall discharge wastewater containing concentrations of the following enumerated materials, exceeding the following values:

Material	Concentration (mg/l)
Arsenic	0.259
Cadmium	0.242
Chromium (Total)	2.77
Chromium (Hexavalent)	0.369
Copper	3.2
Cyanide	1.2, or BMP
Lead	0.7
Mercury	0.0006, or BMP
Molybdenum	1.5
Nickel	2.592
Selenium	0.398
Silver	0.43, or BMP
Zinc	2.61

- (f) The City may impose mass limitations on users which are using dilution to meet the Pretreatment Standards or Requirements of this chapter, or in other cases where the imposition of mass limitations is deemed appropriate by the City.
- (g) Discharges of petroleum oil, nonbiodegradable cutting oil or products of mineral oil are prohibited if discharged in amounts that can pass through or cause interference to the POTW.
- (h) As used herein, the term “BMP” means Best Management Practices encompassing schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollution, and may include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMP may be substituted for the listed concentration in an industrial user permit upon an application submitted by such user and approval by the superintendent. (Ord. 2004-44. Passed 6-8-04.)

925.33 ACCIDENTAL DISCHARGES.

- (a) users shall notify the Director of Water/Sewer immediately upon accidentally discharging wastes in violation of this chapter to enable countermeasures to be taken to minimize damage to the sewage disposal system, treatment processes and the receiving waters. This notification shall be followed, within fifteen days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence. Such notification will not relieve users of liability for any fines provided for in Section 925.99, or for any expense, loss or damage to the sewer system, treatment plant, or treatment process, or for any fines imposed on the City on account thereof.
- (b) In order that employees of users be informed of City requirements, users shall make available to their employees copies of this chapter together with such other wastewater information and notices which may be furnished by the City from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of this chapter. Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system shall be eliminated. Where such action is impractical or unreasonable the user shall appropriately label such entry points to warn against discharge of such wastes in violation of this chapter.
- (c) All industrial users whether categorical or non-categorical are required to notify the POTW immediately of any "Slug Loading" being discharged to the sewer system.
(Ord. 90-5835. Passed 8-14-90.)

925.34 INDUSTRIAL WASTE DISCHARGE PERMIT REQUIRED.

- (a) No person shall discharge industrial waste, either directly or indirectly into the City sanitary sewer system without first applying for and obtaining a written Industrial Waste Discharge Permit from the Director of Water/Sewer Operations. All Industrial Users discharging or proposing to connect to or discharge industrial wastes to the City sewage disposal system shall comply with all terms of this chapter within ninety days after the effective date of this chapter.
- (b) Industrial Users shall complete and file with the City, an Industrial Waste Discharge Permit Application.
Existing Industrial Users shall file such application within thirty days after the effective date of this chapter, and proposed new Industrial Users shall file the application at least ninety days prior to connecting to and/or discharging industrial wastes to the City sewage disposal system. The

application shall be made on forms provided by the City and no Industrial Waste Discharge Permit shall be issued unless and until the User has submitted to the City the following required information:

- (1) The name, address, and location of the User;
- (2) The User's Standard Industrial Classification (SIC) number or numbers according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (3) The wastewater constituents and characteristics of the User's wastes including but not limited to those mentioned in this chapter, as determined by bonafide chemical and biological analyses. Sampling and analysis shall be performed in accordance with procedures established by the U.S. EPA and contained in 40 CFR, Part 136, as amended;
- (4) The time and duration of discharges;
- (5) The average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the City due to cost or nonfeasibility.
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation;
- (7) The activities, facilities and plant processes on the premises including all materials which are or may be discharged to the sewers or works of the City.
- (8) The nature and concentration of the any pollutants or materials prohibited by this chapter in the discharge, together with a statement regarding whether or not compliance is being achieved with this chapter on a consistent basis and if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the User to comply with this chapter.
- (9) Where additional pretreatment and/or operations and maintenance activities will be required to comply with this chapter, the User shall provide a declaration of the shortest schedule by which the User will provide such additional pretreatment and/or implementation of additional operational and maintenance activities. (Reference Section 925.41.)
- (10) A listing of each product produced by type, amount, process or processes and rate of production;
- (11) The type and amount of raw materials utilized average and maximum per day;
- (12) All application forms shall be signed by a principal executive of the User, and a qualified engineer licensed to practice in the State of Ohio.

(c) The City will evaluate the complete application form and data furnished by the User. Within thirty days and after full evaluation, the City will notify the User of the City's acceptance by issuing an Industrial Waste Discharge Permit subject to terms, conditions and/or limitations provided for herein, or rejection thereof and the basis therefor. Failure to comply with the provisions of an approved compliance schedule or other terms and conditions as set forth in each Industrial Waste Discharge Permit shall be cause for revocation of the permit and will subject such User to enforcement actions and penalties as hereinafter provided.

(Ord. 90-5835. Passed 8-14-90.)

925.35 BASELINE MONITORING REPORT. (BMR)

(a) All Industrial Users proposing to connect to or to discharge sewage, industrial wastes and other wastes to the sewage disposal system shall comply with all terms of this chapter within ninety days after the effective date of this chapter. Industrial Users shall complete and file with the City, a disclosure declaration in the form prescribed by the City. Existing industrial Users shall file disclosure forms within thirty days after the effective date of this chapter, and proposed new Users shall file its disclosure forms at least ninety days prior to connecting to the sewage disposal system. If circumstances warrant an earlier submission may be required by the POTW. The disclosure to be made by the User shall be made on written forms provided by the City and shall cover:

- (1) Disclosure of name, address, and location of the User;
- (2) Disclosure of Standard Industrial Classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972 as amended;
- (3) Disclosure of wastewater constituents and characteristics including but not limited to those mentioned in this Ordinance, as determined by bonafide chemical and biological analyses. Sampling and analysis shall be performed in accordance with procedures established by the U.S. EPA and contained in 40 CFR, Part 136, as amended;
- (4) Disclosure of time and duration of discharges;
- (5) Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the City due to cost or nonfeasibility.
- (6) Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials which are or may be discharged to the sewers or works of the City.
- (8) Disclosure of the nature and concentration of any pollutants or materials prohibited by this chapter in the discharge, together with a statement regarding whether or not compliance is being achieved with this chapter on a consistent basis and if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the User to comply with this chapter.
- (9) Where additional pretreatment and/or operations and maintenance activities will be required to comply with this chapter, the User shall provide a declaration of the shortest schedule by which the User will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.
- (10) Disclosure of each product produced by type, amount, process or processes and rate of production;
- (11) Disclosure of the type and amount of raw materials utilized average and maximum per day;
- (12) All disclosure forms shall be signed by a principal executive of the User, and a qualified engineer licensed to practice in the State of Ohio.

(b) The City will evaluate the complete disclosure form and data furnished by the User. Within thirty days and after full evaluation, the City will notify the User of the City's acceptance or rejection thereof and the basis thereof.

(Ord.90-5835. Passed 8-14-90.)

925.36 PERMIT CONDITIONS, DURATION AND LIMITATIONS.

(a) Industrial Waste Discharge Permits shall specify no less than the following:

- (1) Fees and charges to be paid upon initial permit issuance;
- (2) Limits on the average and maximum wastewater constituents and characteristics regulated thereby;
- (3) Limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Special conditions as the City may require under special circumstances of a given discharge including sampling locations, frequency of

sampling, number, types, and standards for tests and reporting schedule;

(6) Compliance schedules;

(7) Requirements for submission of special technical reports or discharge reports if different from those prescribed by this chapter.

(b) All Industrial Waste Discharge Permits shall be issued for a six year period, subject to amendment or revocation as provided in this chapter. Under special circumstances, a permit may be issued for a limited period of time. Industrial Waste Discharge Permits shall be issued to a specific User for a specific operation and are not assignable to another User without the prior written approval of the City, or transferable to any other location.

(Ord. 90-5835. Passed 8-14-90.)

925.37 REPORTING REQUIREMENTS FOR INDUSTRIAL USERS.

(a) The POTW shall require the development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and the submission of all notices and self-monitoring reports from Industrial Users as are necessary to assess and assure compliance by industrial users with Pretreatment Standards and Requirements.

(b) Periodic Compliance Report:

(1) Any User subject to a Pretreatment Standard set forth in this chapter, after the compliance date of such Pretreatment Standard, or, in the case of a New User, after commencement of the Discharge to the City, shall submit to the City during the months of June and December, unless required more frequently by the City, a report indicating the nature and concentration, of prohibited or regulated substances in the effluent which are limited by the Pretreatment Standards hereof.

Flows shall be reported on the basis of actual measurement, provided however, where cost or feasibility considerations justify, the City may accept reports of average and maximum flows estimated by verifiable techniques. The City, for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors may authorize the submission of such reports on months other than those specified above.

(2) Reports of Users shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the City. The frequency of monitoring by the user shall be as prescribed in the applicable Pretreatment Standard of this Chapter. All analyses shall be performed in accordance with 40 CFR, Part 136 and amendments thereto.

(Comment:

Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator of the USEPA.

(3) Reports shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional facilities and/or pretreatment is necessary to gain compliance with applicable Pretreatment Standards or Requirements.

(4) Reports of any type must be signed by a "Responsible Corporate Officer" or an authorized representative of that individual. "Responsible Corporate Officer" includes presidents, vice presidents, secretary, treasurer or the executive officer of the corporation in charge of a principal business function.

(5) It is required that the results of all sampling by Industrial Users be reported even if the industry samples more frequently than the POTW. The Industrial Users that self monitor are required to notify the POTW within twenty-four hours if any results of sampling violate applicable pretreatment limits. The Industrial Users must also repeat the sampling and analysis for those parameters in violation and resubmit the results within thirty days of becoming aware of the violation.

(6) Within ninety days following the date for final compliance with applicable pretreatment standards or in the case of a new source following the commencement of the introduction of wastewater into the POTW any industrial user subject to pretreatment standards and requirements shall submit to the City a report containing identifying information on their operation, any permits that they presently have, a complete description of their operation, flow measurements, a complete report of all pollutants and certification from a corporate officer stating that the pretreatment standards are being met. For industrial users subject to equivalent mass or concentrations limits established by the City, this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

(Ord. 90-5835. Passed 8-14-90.)

925.38 MONITORING FACILITIES.

(a) The City may require any industrial user to provide and operate at the User's own expense, a monitoring facility to allow inspection, sampling, and flow measurement of each sewer discharge to the City. Each monitoring facility shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the User, the City may permit the facility to be constructed in the public street or sidewalk area providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis.

(b) The facility, sampling, and measuring equipment as may be required shall be maintained at all times in a safe and proper operating condition at the expense of the User. Construction shall be completed within 120 days of receipt of permit by the User.

(Ord. 90-5835. Passed 8-14-90.)

925.39 INSPECTION AND SAMPLING.

(a) The City may inspect the monitoring facilities of any User to determine compliance with the requirements of this chapter. The User shall allow the City or its representatives to enter upon the premises of the User at all reasonable hours, for the purposes of inspection, sampling, or records examination.

(b) The City shall have the right to set up on the User's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations, and to make copies of such records as deemed necessary.

(Ord. 90-5835. Passed 8-14-90.)

925.40 CONFIDENTIAL INFORMATION.

(a) Information and data furnished to the City with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the User.

(b) When requested by a User furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal

System permit and/or the Pretreatment Programs; provided however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement involving the User furnishing the report.

(c) Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the City as confidential, shall not be transmitted to any governmental agency or to the general public by the City until and unless a ten-day notification is given to the User.

(Ord. 90-5835. Passed 8-14-90.)

925.41 AUTHORITY TO ISSUE COMPLIANCE SCHEDULES.

(a) Where additional pretreatment and/or operations and maintenance activities will be required to comply with this chapter, the City may require as a binding and enforceable agreement a declaration of the shortest schedule by which the User will provide such additional pretreatment and/or implementation of additional operational and maintenance activities. Under no circumstances shall the completion date for additional pretreatment or O/M be any longer than that compliance schedule which is required by the applicable pretreatment standard.

(b) The schedule shall contain dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to comply with the requirements of this chapter including, but not limited to dates relating to hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and all other acts to achieve compliance with this chapter.

(c) Under no circumstances shall the City permit a time increment for any single step directed toward compliance which exceeds nine months.

(d) Not later than fourteen days following each completion date in the schedule and the final date for compliance, the User shall submit a progress report to the City, including no less than a statement as to whether or not it complied with the increment progress represented by that date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the City.

(Ord. 90-5835. Passed 8-14-90.)

925.42 EMERGENCY SUSPENSION OF SERVICE.

The City may for good cause shown suspend the wastewater treatment service to a User when it appears to the City that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of person or to the environment, interferes with the operation of the sewage disposal system, or violates any pretreatment limits imposed by this chapter. Any User notified of the suspension of the City's wastewater treatment service shall within a reasonable period of time, as determined by the City, cease all discharges. In the event of failure of the User to comply voluntarily with the suspension order within the specified time, the City may commence judicial proceedings to compel compliance with such order. The City shall reinstate the wastewater treatment service and terminate judicial proceedings upon proof by the User of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above.

(Ord. 90-5835. Passed 8-14-90.)

925.43 REVOCATION OF TREATMENT SERVICES.

The City may seek to terminate the wastewater treatment services to any User which fails to:

- (a) Factually report the wastewater constituents and characteristics of its discharge;
- (b) Report significant changes in wastewater constituents or characteristics;
- (c) Refuses reasonable access to the User's premises by a representative of the City for the purpose of inspection or monitoring; or
- (d) Violates the conditions of its chapter, or any final judicial order entered with respect thereto.

(Ord. 90-5835. Passed 8-14-90.)

925.44 NOTIFICATION OF VIOLATION-ADMINISTRATIVE ADJUSTMENT.

Whenever the City finds that any User has engaged in conduct which justifies termination of a wastewater treatment services, pursuant to Section 925.42 hereof, the City may serve or cause to be served upon such User, a written notice either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within thirty days of the date of receipt of the notice, the User shall respond personally or in writing to the City, advising of its position with respect to the allegations.

Thereafter the parties shall meet to ascertain the veracity of the allegations and where necessary, establish a plan for the satisfactory correction thereof.

(Ord. 90-5835. Passed 8-14-90.)

925.45 SHOW CAUSE HEARING.

Where the violation of Section 925.43 hereof is not corrected by timely compliance by means of Administrative Adjustment, the City may order any User which causes or allows conduct prohibited by Section 925.43 hereof, to show cause before the City or its duly authorized representative, why the proposed service termination action should not be taken. A written notice shall be served on the User either personally or by, certified or registered mail, return receipt requested, specifying the time and place of a hearing to be held by the City or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the User to show cause before the City or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of a User. The proceedings at the hearing shall be considered by the City which shall then enter appropriate orders with respect to the alleged improper activities of the User. Appeal of such orders may be taken by the User in accordance with applicable local or state law.

(Ord. 90-5835. Passed 8-14-90.)

925.46 JUDICIAL PROCEEDINGS.

Following the entry of any order by the City with respect to the conduct of a User contrary to the provisions of Section 925.43 hereof, the Attorney for the City may, following the authorization of such action by the City, commence an action for appropriate legal and/or equitable relief in the appropriate local court.

(Ord. 90-5835. Passed 8-14-90.)

925.47 ENFORCEMENT ACTIONS; ANNUAL PUBLICATION.

A list of all significant Users which were the subject of enforcement proceedings pursuant to this chapter during the twelve previous months, shall be annually published by the City in the Galion Inquirer, summarizing the enforcement actions take against the Users during the same twelve months whose violations remained uncorrected forty-five or more days after notification of non-compliance; or which have exhibited a pattern of non-compliance over that twelve month period, or which involve failure to accurately report non-compliance.

(Ord. 90-5835. Passed 8-14-90.)

925.48 RIGHT OF APPEAL.

Any User or any interested party shall have the right to request in writing an interpretation or ruling by the City on any matter covered by this chapter and shall be entitled to a prompt written reply. In the event that such inquiry is by a User and deals with matters of performance

compliance with this chapter for which enforcement activity relating to an alleged violation is the subject, receipt of a User's request, shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeals of any final judicial order entered pursuant to this chapter may be taken in accordance with local and State law.

(Ord. 90-5835. Passed 8-14-90.)

925.49 OPERATING UPSETS.

Any User which experiences an upset in operations which places the User in a temporary state of non-compliance with this chapter shall inform the City thereof within twenty-four hours of first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the User with the City within five days. The report shall specify:

(a) Description of the upset, the cause thereof and the upset's impact on a User's compliance status.

(b) Duration of non-compliance, including exact dates and times of non-compliance, and if the non-compliance continues, the time by which compliance is reasonably expected to occur.

(c) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of non-compliance.

(d) A documented and verified bonafide operating upset shall be an affirmative defense to any enforcement action brought by the City against a User for any non-compliance with the chapter occurred during the period of the upset.

(Ord. 90-5835. Passed 8-14-90.)

925.50 RECORDS RETENTION.

(a) All Users subject to this chapter shall retain and preserve for not less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses by or in behalf of a User in connection with its discharge.

(b) All records which pertain to matters which are the subject of Administrative Adjustment or any other enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the User until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(Ord. 90-5835. Passed 8-14-90.)

925.51 REMOVAL CREDITS.

Where applicable, the City may elect to initiate a program of removal credits as part of this chapter to reflect the WWTP's ability to remove pollutants in accordance with 40 CFR Part 403.7. The City may elect to adjust Categorical Pretreatment Standards to reflect the presence of pollutants in the user's intake water, in accordance with 40 CFR Part 403.15.

925.52 NET/GROSS CALCULATIONS.

The City may elect to adjust Categorical Pretreatment Standards to reflect the presence of pollutants in the User's intake water, in accordance with 40 CFR Part 403.15.

(Ord. 90-5835. Passed 8-14-90.)

USER CHARGE AND SEWER FEES

925.53 NECESSITY TO LEVY USER CHARGES.

(a) It is hereby determined and declared to be necessary to the protection of the public safety, health, welfare and convenience of the City to establish and collect user charges from every person whose lots, lands and premises are served by a connection, either directly or indirectly with the City's sanitary sewage disposal system.

(b) It is further determined and declared to be necessary that the establishment and collection of such User charges must be in compliance with the USEPA rules and regulations as published in the Federal Register, September 27, 1978, Volume 43, Number 188.

(Ord. 90-5835. Passed 8-14-90.)

925.54 DEBT RETIREMENT CHARGE.

The City may, in addition to the User charge provided for in Section 925.53, establish and collect from Users of the City Sewage Disposal System a charge for the purpose of paying any debt retirement incurred on behalf of the Sewage Disposal System.

(Ord. 90-5835. Passed 8-14-90.)

925.55 SEWER SERVICE CHARGE.

The basic sewer service charge shall include the following two components:

(a) A User charge as provided for in Section 925.53, established and administered in accordance with USEPA rules and regulations and sufficient to produce revenues necessary for the proper operation, maintenance and replacement of the City Sewage Disposal System.

(b) If required, a debt retirement charge as provided for in Section 925.54.

(Ord. 90-5835. Passed 8-14-90.)

925.56 NOTIFICATION.

The City shall at least annually notify each User of the sewage disposal system in conjunction with a regular bill, of the rate and that portion of the Sewer Service charges which are attributable to wastewater treatment services.

(Ord. 90-5835. Passed 8-14-90.)

925.57 ADDITIONAL CHARGES.

(a) Extra Strength Surcharge, where flows and loads are discharged in excess of normal strength limitations as defined in Section 925.01(25) a surcharge over and above the charges provided for in Section 925.55 shall be levied on all flow and loadings which exceed normal strength limitations, in accordance with USEPA rules and regulations.

(b) Monitoring and Surveillance Charges. Where flows and loadings are discharged in excess of normal strength limitations as defined in Section 925.01(25) and by reason of such flows and loadings the City must monitor discharges by sampling, analyzing, or otherwise administering the provisions of this chapter, including pretreatment program, appropriate charges shall be developed and administered to adequately recover the cost of performing such service from Users discharging such flows and loadings.

(Ord. 90-5835. Passed 8-14-90.)

925.58 USAGE MEASUREMENT METHODS.

(a) For any lot, parcel of land, building or premises having or being served by any connection to the City's sanitary sewerage system, intercepting sewers and sewage treatment or disposal plant or part thereof, or otherwise discharging sanitary sewage, industrial wastes, water or other liquid, either directly or indirectly into the City's sanitary sewerage system, the charge or rental shall be based upon the quantity of water used as measured by the City water meter there is use, and the quantity of water used and waste discharged as determined by subsections (b) and (c), and the whole reduced by any deductions as determined by subsection (d).

(b) In the event a lot, parcel of land, building or premises, discharging sanitary sewage, industrial waste, water or other liquids into the City's

sanitary sewerage system, either directly or indirectly, uses water provided in whole or in part from sources of water supply other than provided by the City and discharges it into the City's sanitary sewerage system and the water used is not measured by a City water meter, then, in each case the amount of water so used and discharged into the City's sanitary sewerage system shall be otherwise measured or determined by the Director in order to determine the sewer service charge or rental provided in this chapter, or the owner or other interested party at his expense may install and maintain a meter acceptable to the Director.

(c) In the event a lot, parcel of land, building or premises, discharges sanitary sewage, industrial wastes, water or other liquids into the City's sanitary sewerage system, either directly or indirectly, and the Director finds that it is not practical to attempt to measure the sewage, water, liquid or wastes by meter, he shall determine the volume of sewage, water, liquid or waste as hereinafter provided, or in a manner and by whatever methods he finds practicable in the light of the conditions and attendant circumstances of the case, and when determined shall submit the same to Council for its approval, in order to determine sewer service, charge or rental, according to the corresponding rates provided for in this chapter.

(d) In the event that any part of the water provided by the City and measured by the City water meter is used for purposes where it is not ultimately returned to the City's sanitary sewerage system and the unreturned water is measured by a meter, acceptable to the Director, then, in each case the amount of City water so used and measured shall be deducted from that measured by the City water meter there in use.
(Ord. 90-5835. Passed 8-14-90.)

925.59 DEPOSIT AND USE OF FUNDS.

(a) Replacement Fund. The sum of money designated annually for replacement costs as established by USEPA rules and regulations shall be deducted from revenues resulting from User charges as provided for in Section 925.53 and deposited in a "Replacement Fund," to be used or accumulated for obtaining repair parts, replacing equipment, accessories, or appurtenances during the useful life of the Sewage Disposal System which are necessary to maintain or regain the capacity and performance for which such equipment and plant were designed and constructed.

(b) Sanitary Sewer Fund. The sum of money received from revenues resulting from User charges as provided for in Section 925.53 less replacement requirements set forth in (1) above, shall be deposited in a "Sanitary Sewer Fund", to be used for operation and maintenance of the City Sewage Disposal System.

(c) Debt Service Fund. The sum of money received from revenues resulting from debt retirement charges as provided for in Section 925.54 shall be deposited in a "Debt Service Fund" to be used to pay outstanding indebtedness incurred on behalf of the Sewage Disposal System.

Unless the debt retirement charge fully complies with USEPA User charge requirements, moneys in this fund shall not be used for operation, maintenance or replacement.

In no event shall any of the funds be used for any other purpose as set forth or that would be contrary to the purposes permitted under Ohio R.C. 729.52.

(Ord. 90-5835. Passed 8-14-90.)

925.60 ADMINISTRATION OF USER CHARGE SYSTEM.

The City shall review or cause to be reviewed not less often than every two years the wastewater contribution of users and user classes, the total costs of operation and maintenance of the Sewage Disposal system and the approved user charge system. If necessary, the City shall revise the charges to accomplish the following:

(a) Maintain the proportionate distribution of operation, maintenance and replacement costs among users and user classes as required herein;

(b) Generate sufficient revenue to pay the total operation, maintenance and replacement costs necessary to the proper operation and maintenance (including replacement) of the sewage disposal system.

(c) Maintain adequate additional charges as set forth in Section 925.57 to properly compensate the City for costs incurred to provide added service.

(Ord. 90-5835. Passed 8-14-90.)

925.61 BILL DUE DATE.

The sewer service charge or rental provided in this chapter shall be due and payable at the same time as water bills are due and payable.

(Ord. 90-5835. Passed 8-14-90.)

925.62 OVERDUE BILL PENALTY.

A penalty of five percent (5%) shall be added if the sewer rental charge is not paid on or before the fifteenth day of the month when due.

(Ord. 90-5835. Passed 8-14-90.)

925.63 NEW CONNECTIONS: CHARGES.

Any lot, land, building or premises from which connection is made with the City sanitary sewerage system or which begins to discharge sewage, any industrial waste, water or other liquids into the City sanitary sewerage system, either directly or indirectly, shall be charged therefor pursuant to this chapter. The charge is to be a per diem prorated amount based upon the minimum rate per quarter year from the time the sewer connection is made, or discharged into the City sewerage system, either directly or indirectly is begun, until the next following per quarter year period; however, should the measured service exceed the minimum charge, the corresponding measured rate or rates shall be charged.

(Ord. 90-5835. Passed 8-14-90.)

925.64 CHARGES TO BE A LIEN.

Each sewer charge or rental levied by or pursuant to this chapter is hereby made a lien upon the corresponding lot, land or premises served by a connection to sanitary sewerage system of the City. If the same is not paid within thirty days after it becomes due and payable it shall be certified to the County Auditor, placed on the tax duplicate of the County with the interest and penalties allowed by law, and collected as other taxes are collected.

(Ord. 90-5835. Passed 8-14-90.)

925.65 COLLECTION BY THE TREASURER; AUTHORITY.

(a) The sewer charges or rentals levied pursuant to this chapter shall be collected by the Treasurer.

(b) The Director shall make and enforce the by-laws deemed necessary for the safe, economical and efficient management and protection of the City sewerage system and sewage treatment or disposal plant, for the construction and use of house sewers and connections to the sewerage system and for the regulations, collection, rebating and refunding of these charges or rentals.

(Ord. 90-5835. Passed 8-14-90.)

925.66 DISPOSAL PLANT PERMIT; HOURS AND FEE.

No Septic Tank Hauler will be permitted to dispose of Septic Wastes at the City of Galion's Wastewater Treatment Plant until all of the following conditions have been met:

(a) A completed Waste Hauler Manifest Form must be approved and signed by Treatment Plant personnel before discharging.

(b) A minimum fee of twenty dollars (\$20.00) will be charged for each load discharged. Load amounts that exceed 2,000 gallons will be charged an additional twenty dollars (\$20.00) per 1000 gallons. Loads from restaurant grease traps will be charged an additional

ten dollars (\$10.00). (Restaurant grease will only be accepted from the Gallon/Crestline area and will only be accepted with prior notification to the plant. Grease is discharged directly to the digester. Acceptance of grease can be canceled at any time by the Director due to a plant operational problem or a change in process. Exceptions can be granted on a case by case basis by the Director and must be in writing.) All dumping fees will be paid before discharging. Load tickets will be purchased at the Treasurer's office during their normal business hours. IOUs will not be accepted!

- (c) Completion of the Waste Hauler Manifest Form and acceptance of the "dumping" fee does not constitute acceptance of the septage load. If the Plant Operator has reason to suspect the content or the safety of the load in respect to treatment compatibility and/or safety to the plant, equipment, and/or operator, the Plant Operator can order the Septage Hauler to cease his discharge. The Operator may, without prior notification to the septage hauler, refuse to receive loads during extremely high flows which cause bypass at the screen Building. The Operator may also refuse to accept a load, without prior notification to the septage hauler, if accepting the load will cause upset to the treatment plant due to a mechanical problem and/or a treatment problem in the plant.
- (d) All Septage Haulers will be inspected and licensed each year by the City of Galion Health Department or other entity selected by the Director. Septage haulers not inspected and licensed by the City of Galion will not be permitted to discharge at the Galion Wastewater Treatment Plant. The Health Department will determine any fees charged for inspection, the content of the License Application Form, and the content of the inspection. Licenses will be issued to specific trucks with a list of authorized and qualified drivers attached.
- (e) Drivers of Licensed Haulers will read and sign the Domestic Waste Certification Statement before they are added to the Authorized Driver List for that Hauler. Loads will not be accepted unless the driver has signed the Domestic Waste Certification Statement.
- (f) The City of Galion accepts Residential (Domestic) Waste only. Waste from some commercial establishments may be accepted with prior approval of the Director of Sewer/Water. A current list will be maintained at the Galion Wastewater Treatment Plant. These waste streams will be accepted only if they are "restroom only" wastes. No process wastes will be accepted by truck. Any Septage waste may be subject to testing at the expense of the hauler.
- (g) Under certain conditions, sludge from package sewage treatment plants will be accepted. The operators of these systems will have a written agreement with the City of Galion with conditions set forth in the agreement governing the acceptance of these wastes. In addition to the trucking charge stated above, a processing charge will apply. This charge will be based on the dry solid content of the sludge and the current cost of processing Galion's sludge. This fee will be set by the Director.
- (h) Septage hauling hours are from 7:00 a.m. to 10:00 p.m. any day.
(Ord. 95-6118. Passed 1-24-95.)

GENERAL PROVISIONS - PENALTIES.

925.67 RIGHT TO CONTRACT.

The City reserves the right to enter into contracts to provide sewage treatment services with other entities and/or other users regardless of the nature of wastes to be discharged. Provided, however that such contracts shall be in compliance with the provisions of this chapter and the rules and regulations of other governmental agencies with authority.

(Ord. 90-5835. Passed 8-14-90.)

925.68 APPEALS.

The provisions of Section 159.19 in Part One-Administrative Code of these Codified Ordinances, regarding appeals, and of Section 159.20 regarding a Board of Appeals, shall be applicable to this chapter.

(Ord. 90-5835. Passed 8-14-90.)

925.69 SEPARABILITY.

If any section, clause, phrase, word, provision or portion of this chapter shall be held to be unconstitutional or invalid by any court of competent jurisdiction, the holding or decision shall not affect the validity of this chapter as a whole, or any part thereof other than the section, clause, word, provision or portion so held to be invalid.

(Ord. 90-5835. Passed 8-14-90.)

925.70 VALIDITY OF OTHER LAWS.

In any case where a provision of this chapter is different from the requirements of other lawfully adopted regulations, codes or ordinances existing on the effective date of this chapter, the more restrictive requirement or higher standard shall prevail.

(Ord. 90-5835. Passed 8-14-90.)

925.71 PROHIBITIONS.

No person shall violate any section or provision of this chapter or any other made in pursuance thereof, nor shall any person obstruct or interfere with the execution of any order or willfully or illegally fail to obey such order.

(Ord. 90-5835. Passed 8-14-90.)

925.99 PENALTIES.

(a) Recovery of Costs Incurred by the City. Any User violating any of the provisions of this chapter, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the City's wastewater disposal system shall be liable to the City for any expense, loss, or damage caused by such violation or discharge.

The City shall bill the User for the costs incurred by the City for any cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter enforceable under the provisions of Section 925.41.

(b) Falsifying Information. Any person who knowingly makes any false statement, representation or certification in any application record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or authorized under this chapter, shall, upon conviction be punished by the imposition of a civil penalty of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six months, or both.

(c) Civil Penalties. Any User who is found to have violated an Order of the City or who has failed to comply with any provision of this chapter, the rules and regulations of the City, or the order of any court of competent jurisdiction relating thereto, may be subjected to the imposition of a civil penalty.

(d) Criminal Penalties. Except as otherwise provided in this chapter, any person, firm or corporation violating any provision of this chapter shall be fined not less than one thousand dollars (\$1,000) per day per violation. After the second conviction, the City shall discontinue the service of the sewerage and disposal system to the violator.

(Ord. 2003-85. Passed 9-23-03.)

CHAPTER 929

Electricity

EDITOR'S NOTE: The rate charged all customers of all classes for electricity provided by the City may be established from time to time by Council. Such rates may be increased or decreased, upon proper Council action, as the cost of fuel to the City increases or decreases.

929.01 Mutual aid contracts.

929.02 Inter-connection standards for installation and parallel operation of customer-owned renewable electric generation facilities.

CROSS REFERENCES

Power to establish electric light and power rates - see Ohio R.C. 715.03, 715.06

Power to furnish light, power and heat - see Ohio R.C. 715.06, 717.01

Power to erect gas and electric works - see Ohio R.C. 743.34

929.01 MUTUAL AID CONTRACTS.

(a) The Mayor is hereby authorized and directed to enter into mutual aid contracts with various municipal electric systems in the State for emergency repair service and for emergency equipment, personnel and supplies in case of emergencies, and to approve invoices for same.

(b) Such mutual aid agreements shall contain, inter alia, terms which provide as follows:

(1) That in the event of an electrical emergency each party may request, in writing, aid from the other in the form of additional manpower and/or equipment;

(2) That each such request for aid shall specify, to the extent practicable, the assistance required and an estimate of the length of time such assistance may be needed;

(3) That each responding community need only respond to the extent consistent with the proper operation of its own electrical system;

(4) That the community rendering aid should be reimbursed by the community requesting such aid as follows:

A. A charge for labor and equipment will be two times the actual cost for the total number of man-hours expended rendering aid, including travel time, by employees of the aiding community.

B. A materials and supplies charge equal to the actual cost of materials and supplies expended, rendering such aid, including expenses incurred in traveling to and from the site of such aid.

C. The actual cost of that loss or damage to the equipment of the aiding community, not recovered from insurance.

(5) Payment for such aid, determined in accordance with subsection (b)(4) hereof, shall be rendered upon presentation of an invoice detailing the same, or within thirty days.

(6) Personnel of the aiding community shall be considered acting within the scope of their employment, to the same extent as if they were performing their regular duties, while engaged in such aid.

(7) Under no circumstances shall the responding party or its employees so responding, be liable to the requesting party, its inhabitants, or others, for any damages arising in any way as a result of the rendering of such aid or the failure to respond to a call for such aid.

(8) Under no circumstances shall the party requesting such aid be liable to the party responding, its inhabitants, or others, for any damages arising in any way from the response to such a request for aid or the rendering thereof, except as outlined in subsection (b)(4)C. hereof.

(9) That each contract shall be in effect for a one-year period, with a provision for automatic renewal unless cancelled by a thirty-day notice. (Ord. 84-5410. Passed 12-4-84.)

929.02 INTER-CONNECTION STANDARDS FOR INSTALLATION AND PARALLEL OPERATION OF CUSTOMER-OWNED RENEWABLE ELECTRIC GENERATION FACILITIES.

The Interconnection Standards for Installation and Parallel Operation of Customer-Owned Renewable Electric Generation Facilities 25 kW or Less as prepared by Sawvel and Associates, Inc., be, and the same are hereby, adopted and shall be in effect during the operation of the Galion Electric Distribution System, all substantially in accordance with a copy of said Interconnection Standards as now on file in the Office of the Mayor .

(Ord. 2012-54. Passed 8-14-12.)

CHAPTER 931

Security Deposit for Utility Service

931.01 Deposit requirements.

931.01 DEPOSIT REQUIREMENTS.

(a) The City shall require a deposit as security for the payment of water, sewer, and electric utility bills from every customer prior to the initiation of the utility service, unless the customer has a prior record of receiving utility service from the City or other utility company that reflects timely payment of utility charges. Payment of utility charges shall be considered timely if the total amount of indebtedness due the City or other utility company is fully discharged within thirty days of billing.

(b) The deposit amount shall be based upon an average monthly utility billing cost during the preceding twelve months at the customer's location. The deposit will be equally applied to the water, sewer, and electric services utilized by the customer (e.g., a one hundred fifty dollar (\$150.00) deposit will apply equally to each service, fifty dollars (\$50.00) water; fifty dollars (\$50.00) sewer; and fifty dollars (\$50.00) electric.

(c) The City reserves the right to require an additional deposit if customer's past record of payment on accounts and/or utility usage indicates that such deposit is required to assure payment from that customer. Such deposit includes, but is not limited to: a history of past delinquency with the City, poor credit rating as evidenced by a credit report, a history of bankruptcy, disconnection for nonpayment of bill, checks returned for insufficient funds, and/or increased utility requirements.

(d) No interest on deposits shall be accrued or paid.

(e) At the end of one year of continuous utility service, the deposit may be refunded to the customer upon written request if the customer has established and maintained a record of timely payment of all utility charges as defined herein.

(f) A deposit may be applied to the customer's current utility service bill (water, sewer, and electric) or any deposit or portion thereof not needed to pay customer's utility bill indebtedness, will be refunded in the form of a check issued within thirty days of the customer's written request for a refund or when service is discontinued.

(g) Utility service shall not be granted until such time that a deposit is made, unless waived by the City. (Ord. 2006-50. Passed 7-11-06.)

CHAPTER 933

Stormwater Utility

EDITOR'S NOTE: Pursuant to Ordinance 2008-81, passed January 13, 2009, Council adopted the Stormwater Credit Policy for the City of Galion Municipal Utilities which is attached thereto as Exhibit A and made a part thereof. To the extent any ordinance or provision of the Galion Codified Ordinances conflict with the Stormwater Credit Policy contained in Exhibit A thereto, said ordinances or provisions shall be, and the same are hereby, repealed and superseded to the extent of any conflict with said Stormwater Credit Policy.

- 933.01 Creation of stormwater utility.**
- 933.02 Findings, determinations and power.**
- 933.03 Definitions.**
- 933.04 Stormwater user fee established.**
- 933.05 Stormwater user fee collection.**
- 933.06 Stormwater user fee determination.**
- 933.07 Stormwater utility enterprise fund.**
- 933.08 Stormwater appeals.**

CROSS REFERENCES

Stormwater Management - see S.U. & P.S. Ch. 923

933.01 CREATION OF STORMWATER UTILITY.

It is hereby declared necessary for the protection of the public health, safety, welfare and convenience of the City and its inhabitants to establish a storm drainage utility and to establish just and equitable rates or charges to be paid to the City for the use of such services which shall be used for the payment of the cost of the management, maintenance, operation, repair, construction, reconstruction, enlargement, replacement and related costs of the storm drainage system.

(Ord. 2000-73. Passed 10-24-00.)

933.02 FINDINGS, DETERMINATIONS AND POWER.

It is hereby found, determined, and declared that those elements of the system which provide for the collection, treatment and disposal of stormwater and regulation of ground water are of benefit and provide services to all property within the incorporated City limits, including property not presently served by the storm elements of the system. The beneficiaries of the system include all real properties within the City of Galion which benefit by the provision, operation and improvement of the system. Such benefits may include, but are not limited to, the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater, the reduction of hazard to property and life resulting from stormwater runoff, improvement in general health and welfare through reduction of undesirable stormwater conditions, and improvement to the water quality in the storm and surface water system and its receiving waters.

The Stormwater Utility, under the direction of the Director of Water/Sewer Operations shall, and does, have the power to:

- (a) Prepare regulations as needed to implement this Chapter and forward the same to City Council for consideration and adoption, and adopt such procedures as are required to implement said regulations or carry out other responsibilities of the Utility;
- (b) Administer the acquisition, design, construction, maintenance and operation of the Utility System, including capital improvements.
- (c) Administer and enforce this Chapter and all regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility system including, but not limited to, the quantity, quality and/or velocity of the stormwater conveyed thereby.
- (d) Inspect private systems as necessary to determine the compliance of such systems with this Chapter and any regulations adopted pursuant to this Chapter.
- (e) Advise City Council, the Mayor and City departments on matters relating to the Utility.
- (f) Prepare and revise a comprehensive drainage plan for adoption by City Council periodically.
- (g) Review plans, approve or deny, inspect and accept extensions to the System.
- (h) Establish and enforce regulations to protect and maintain water quality within the System in compliance with water quality standards established by state, regional and/or federal agencies as now adopted or hereafter amended.
- (i) Analyze the cost of services and benefits provided, and the system and structure of fees, charges, fines and other revenues of the utility annually.

(Ord. 2000-73. Passed 10-24-00.)

933.03 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (a) "Billing period" means the period identified from the first day of the month to the last day of the month. All bills rendered during a month are for the period beginning on the first day of the same month and are valid for that entire month unless otherwise identified. When City water service is discontinued during a month, the drainage fee due for that account shall be the pro rata portion of the month for which water services were active. When a developed property that does not receive City water service changes ownership during a billing period, the account existing on the first day of the billing period shall be liable for the pro rata portion of the drainage fee for that billing period from the first day of the billing period until the day the property transaction is recorded with the Crawford County Recorder.
- (b) "Bonds" means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the Costs of Construction.
- (c) "Calendar year" means a twelve month period commencing on the first day of January of any year.
- (d) "Costs of Construction" means costs reasonably incurred in connection with providing capital improvements to the System or any portion thereof, including, but not limited to, the costs of (1) Acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor, (2) Physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith, (3) Architectural, engineering, legal and other professional services, (4) Insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation, (5) Any taxes or other charges which become due during construction, (6) Expenses incurred by the City or on its behalf with its approval in seeking to enforce any remedy against any contractor or sub-contractor in respect of any default under a contract relating to construction, (7) Principal of and interest of any Bonds, and (8) Miscellaneous expenses incidental thereto.
- (e) "Debt service" means, with respect to any particular Calendar Year and any particular series of Bonds, an amount equal to the sum of (i) all interest payable on such Bonds during such Calendar Year, plus (ii) any principal installments of such Bonds during such Calendar Year.

- (f) "Development property" means real property other than Undisturbed Property and Vacant Improved Property.
 - (g) "Director" means the Director of Water/Sewer Operations, or his designee.
 - (h) "Dwelling unit" means a singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.
 - (i) "Equivalent Residential Use" or ERU means the average Impervious Area of all Residential Developed Property per Dwelling Unit located within the City and as established by City Council.
 - (j) "ERU Rate" means a Drainage Fee charged on each ERU as established by City Council.
 - (k) "Exempt property" means public rights of way, public streets, public alleys and public sidewalks.
 - (l) "Extension and replacement" means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the System, or land acquisitions for the System and any related costs thereto, or paying extraordinary maintenance and repair, including the Costs of Construction, or any other expenses which are not costs of Operation and Maintenance or Debt Service.
 - (m) "Impervious Area" means the number of square feet of hard surfaced areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as Undisturbed Property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as Undisturbed Property, including, but not limited to, roofs, roof extensions, patios, porches, driveways, sidewalks, pavement and athletic courts.
 - (n) "Nonresidential Developed Property" means developed property that is not utilized for dwelling units within the City.
 - (o) "Operating budget" means the annual operating budget adopted by the City for the succeeding Calendar Year.
 - (p) "Operations and maintenance" means the current expenses, paid or accrued, of operation, maintenance and current repair of the System, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.
 - (q) "Revenues" mean all rates, fees, assessments, rentals or other charges or other income received by the Stormwater User Fee Fund, in connection with the management and operation of the System, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the City, all as calculated in accordance with sound accounting practice.
 - (r) "Stormwater Management System" or "System" means the existing stormwater management of the City and all improvements thereto which by this Chapter are constituted as the property and responsibility of the City, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over- drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.
 - (s) "Stormwater user fee" means a fee authorized by Ordinance(s) established to pay Operations and Maintenance, Extension and Replacement and Debt Service.
 - (t) "Stormwater User Fee Fund" means the enterprise fund created by this Chapter to operate, maintain and improve the System and for such other purposes as stated in this Chapter.
 - (u) "Undisturbed Property" means real property which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.
 - (v) "User Fee District" means the area or property within the corporate limits of the City of Galion.
 - (w) "Vacant improved property" means vacant property which is, or could reasonably be, served by any subdivision improvements that allow egress.
- (Ord. 2000-73. Passed 10-24-00.)

933.04 STORMWATER USER FEE ESTABLISHED.

Subject to the provisions of this Chapter, each and every Residential Developed Property, Nonresidential Developed Property and Vacant Improved Property, other than Exempt Property, within the corporate limits of the City, and the owners and non-owner users thereof, have imposed upon them a Stormwater User Fee. In the event the owner and non-owner users of a particular Property are not the same, the liability for each the owner and non-owner user for the User Fee attributable to that Property shall be joint and several. The Stormwater User Fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of this Chapter and the ERU and ERU Rate which shall be established and changed from time to time by City Council.

(Ord. 2000-73. Passed 10-24-00.)

933.05 STORMWATER USER FEE COLLECTION.

The Stormwater User Fee for metered property shall be billed and collected monthly with monthly City's services utility bill for those properties within the corporate limits of the City utilizing the city utilities and shall be billed and collected separately as Stormwater User Fees for those properties not utilizing other city utilities. All such bills for Stormwater User Fees shall be rendered monthly by the Utilities Department. The Stormwater User Fee for those properties utilizing city utilities is part of a consolidated statement for utility customers which is generally paid by a single payment. In the event that a partial payment is received, the payment shall be applied pro-rata to each account billed on the consolidated statement in the proportion that an individual account bears to the total consolidated statement of all current charges for all accounts. The Stormwater User Fee for unmetered property shall be billed at regular intervals. All bills for Stormwater User Fees shall become due and payable in accordance with the rules and regulations of the Utilities Department pertaining to the collection of the Stormwater User Fees.

(Ord. 2000-73. Passed 10-24-00.)

933.06 STORMWATER USER FEE DETERMINATION.

There is hereby established the following uniform schedule of rates for the services and use of facilities of the Stormwater Management System by the owner, tenant, or occupant of the premises using the services and facilities of said System:

- (a) The City Council, upon recommendation of the Mayor, shall, by ordinance, establish reasonable rates for Stormwater Management Systems for each single family residence: each single family residence shall be billed at a flat fee established by the City Council for an Equivalent Residential Unit. An Equivalent Residential Unit is hereby defined as the statistical average horizontal impervious area of all residential units in the City of Galion.
- (b) Parcels which are undeveloped shall be assessed a stormwater user fee. The bill shall be determined by dividing the total land area of the property, in square feet, by the area of an Equivalent Residential Unit times a correction factor. The correction factor shall be based on the relative volume of runoff from an undeveloped property and that of a typical single family residence, under typical hydrologic conditions.
- (c) For all residential and nonresidential properties, that is enterprise, business establishment, building, or other occupancy not covered by

subsections (a) and (b) of this section, the rate shall be computed based on the total impervious area of the property divided by the average impervious area of an Equivalent Residential Unit times the rate established for an equivalent residential unit. The billing amount shall be updated by the City Engineer based on any additions to the impervious areas as approved through the building permit process.

(Ord. 2000-73. Passed 10-24-00.)

933.07 STORMWATER UTILITY ENTERPRISE FUND.

The revenues received pursuant to this Chapter 933 shall be deposited with the Treasurer and shall be kept in a separate and distinct fund known as the Stormwater Utility Enterprise Fund. The Stormwater Utility Enterprise Fund shall be used for the payment of the cost of the management, maintenance, operation and repair of the stormwater utility system. Any surplus in the Stormwater Utility Enterprise Fund may be used for the enlargement or replacement of the stormwater utility system, for the construction and reconstruction of said system, for the payment of interest on any indebtedness incurred for the construction thereof, and for the creation of a sinking fund for the payment of such indebtedness, but shall not be used for any other purpose.

(Ord. 2000-73. Passed 10-24-00.)

933.08 STORMWATER APPEALS.

(a) The Safety-Service Director is authorized to hear appeals regarding disputes and complaints brought by property owners concerning the implementation of this chapter, including the authority to make adjustments as appropriate to provide relief from a strict application of the provisions of this chapter due to unique circumstances in the following areas:

- (1) Calculation of the total number of building units assigned to a property that are claimed to be inaccurate due to alleged inaccuracies in data utilized by the billing staff.
- (2) Adjustment to or credit against billing units assigned to a property which wholly or partially drains directly outside the City limits.
- (3) Adjustments arising from a break in billing units due to change in property ownership, account responsibility or similar matters.

(b) Any appeal must be filed in writing, must describe the specific error alleged, and contain the resolution of said dispute which the appealing party feels is correct. The Safety-Service Director may request additional information from either the appealing party or the City. The decision of the Safety-Service Director in such areas shall be final.

(Ord. 2016-75. Passed 10-11-16.)

CHAPTER 935

Stormwater Discharge Regulations

935.01 **Title.**

935.02 **Applicability.**

935.03 **Purpose/intent.**

935.04 **Definitions.**

935.05 **Responsibility for administration.**

935.06 **Severability.**

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935.10 **Industrial or construction activity discharges.**

935.11 **Monitoring of discharges.**

935.12 **Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.**

935.13 **Watercourse protection.**

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935.18 **Cost of abatement of the violation.**

935.19 **Injunctive relief.**

935.20 **Compensatory action.**

935.21 **Violations deemed a public nuisance.**

935.22 **Criminal prosecution.**

935.23 **Remedies not exclusive.**

CROSS REFERENCES

Stormwater Utility - see S.U. & P.S. Ch. 933

935.01 **TITLE.**

These regulations shall hereafter be known, cited and referred to as the "Stormwater Discharge Regulations" of the City of Galion

(Ord. 2008-71. Passed 11-18-08.)

935.02 **APPLICABILITY.**

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly excepted or exempted by the authorized enforcement agency. (Ord. 2008-71. Passed 11-18-08.)

935.03 **PURPOSE/INTENT.**

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the City through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are:

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- (b) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system; and
- (c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

(Ord. 2008-71. Passed 11-18-08.)

935.04 **DEFINITIONS.**

For the purposes of this chapter, certain words and terms as used herein are defined as follows:

- (a) "Authorized Enforcement Agency" means the Mayor and/or the Superintendent of the Stormwater Division and such other employees thereof designated by them to enforce this chapter.
- (b) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (c) "Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), and any subsequent amendments thereto.
- (d) "Construction Activity" means activities subject to NPDES Construction Permits. As of March 2003, NPDES Storm Water Phase II permits have been required for construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (e) "Hazardous Materials" means any material, including any substance, waste, or combination thereof which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (f) "Illegal Discharge" means any direct or indirect non-storm water discharge to the storm drain system, except as exempted or excepted in Section 935.08.
- (g) "Illicit Connection" means an illicit connection as defined as either of the following:
Any drain or conveyance, whether on the surface or subsurface, which allows an illegal Discharge to enter the storm drain system, including but not limited to, any conveyances which allow any non- storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the authorized enforcement agency; or Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the authorized enforcement agency.
- (h) "Industrial Activity" means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- (i) "MS4" means the Municipal Separate Storm Sewer System.
- (j) "National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit" means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC §1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (k) "Non-Storm Water Discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.
- (l) "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- (m) "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- (n) "Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (o) "Storm Drainage System" means publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (p) "Stormwater" means any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (q) "Stormwater Pollution Prevention Plan" means a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
- (r) "Wastewater" means any water or other liquid, other than uncontaminated storm water, discharged from a facility. (Ord. 2008-71. Passed 11-18-08.)

935.05 RESPONSIBILITY FOR ADMINISTRATION.

The Stormwater Division of the City shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Mayor and/or the Superintendent of the Storm Water Division to persons or entities acting in the beneficial interest of or in the employ of the City. (Ord. 2008-71. Passed 11-18-08.)

935.06 SEVERABILITY.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter. (Ord. 2008-71. Passed 11-18-08.)

935.07 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants. (Ord. 2008-71. Passed 11-18-08.)

935.08 DISCHARGE PROHIBITIONS.

(a) Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

(b) Exceptions. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (2) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (3) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order

issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(c) Exemptions. The following discharges are exempt from discharge prohibitions established by this chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.

(d) Prohibition of Illicit Connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (2) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue. (Ord. 2008-71. Passed 11-18-08.)

935.09 SUSPENSION OF MS4 ACCESS.

(a) Suspension Due to Illegal Discharges and/or Illicit Connections in Emergency Situations. The Division of Stormwater of the City may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

(b) Suspension Due to the Detection of Illegal Discharge and/or Illicit Connection. Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illegal Discharge and/or an Illicit Connection. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency. (Ord. 2008-71. Passed 11-18-08.)

935.10 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Stormwater Division of the City prior to the allowing of discharges to the MS4. (Ord. 2008-71. Passed 11-18-08.)

935.11 MONITORING OF DISCHARGES.

(a) Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(b) Access to Facilities.

- (1) The City of Galion Stormwater Division shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- (2) Facility operators shall allow the Storm Water Division of the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (3) The Stormwater Division of the City shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The Stormwater Division of the City has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Stormwater Division of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Stormwater Division of the City access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.
- (7) If the Stormwater Division of the City has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 2008-71. Passed 11-18-08.)

935.12 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The Stormwater Division of the City will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit. (Ord. 2008-71. Passed 11-18-08.)

935.13 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. 2008-71. Passed 11-18-08.)

935.14 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in Illegal Discharges or pollutants discharging into storm water, the storm drain system, or waters of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Stormwater Division of the City within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. 2008-71. Passed 11-18-08.)

935.15 ENFORCEMENT.

Whenever the Stormwater Division of the City finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the authorized enforcement agency may order compliance by written Notice of Violation to the responsible person. Such Notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of a fine to cover administrative and remediation costs; and .
- (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the Notice shall set forth a deadline within which such remediation or restoration must be completed. Said Notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Ord. 2008-71. Passed 11-18-08.)

935.16 APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within seven (7) days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

(Ord. 2008-71. Passed 11-18-08.)

935.17 ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within seven (7) days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 2008-71. Passed 11-18-08.)

935.18 COST OF ABATEMENT OF THE VIOLATION.

(a) Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days. If the amount due is not paid in a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(b) Any person violating any of the provisions of this chapter shall become liable to the City by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of six percent (6%) per annum shall be assessed on the balance beginning on the 1st day following discovery of the violation.

(Ord. 2008-71. Passed 11-18-08.)

935.19 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. 2008-71. Passed 11-18-08.)

935.20 COMPENSATORY ACTION.

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(Ord. 2008-71. Passed 11-18-08.)

935.21 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses. (Ord. 2008-71. Passed 11-18-08.)

935.22 CRIMINAL PROSECUTION.

Any person that has violated or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of one hundred dollars (\$100.00) per violation per day and/or imprisonment for a period of time not to exceed thirty (30) days. (Ord. 2008-71. Passed 11-18-08.)

935.23 REMEDIES NOT EXCLUSIVE.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies. (Ord. 2008-71. Passed 11-18-08.)

TITLE FIVE - Other Public Services

- Chap. 941. Parks.
- Chap. 943. Municipal Swimming Pool.
- Chap. 945. Reservoir Regulations.
- Chap. 947. Game Sanctuary.
- Chap. 949. Emergency Medical Services.

CHAPTER 941

Parks

- 941.01 Closing hours.**
- 941.02 Late closing approval required for special events.**
- 941.03 Speed limit.**
- 941.99 Penalty.**

CROSS REFERENCES

- Power to regulate trees and shrubbery - see Ohio R.C. 715.20
- Land appropriation for parks - see Ohio R.C. 715.21, 719.01
- Assessments for tree planting or maintenance - see Ohio R.C. 727.011
- Playgrounds - see Ohio R.C. 755.12 et seq.
- Power to regulate vehicle speed in parks - see Ohio R.C. 4511.07(E)

941.01 CLOSING HOURS.

(EDITOR'S NOTE: All City parks shall be closed from 11:00 p.m. until 4:00 a.m. daily as set forth in Section 541.09 of the General Offenses Code.)

941.02 LATE CLOSING APPROVAL REQUIRED FOR SPECIAL EVENTS.

Any special event being held wherein it is necessary to keep the parks open after the specified closing time is to be approved by the Mayor.

941.03 SPEED LIMIT.

No person shall operate a motor vehicle at a speed in excess of twenty miles per hour in and about any city park. (Ord. 89-5754. Passed 6-6-89.)

941.99 PENALTY.

(a) Whoever violates Section 941.02 is guilty of a minor misdemeanor on the first offense; on a second offense within one year after the first offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, such person is guilty of a misdemeanor of the third degree.

(b) Whoever violates any other provision of this chapter shall be fined not more than one hundred dollars (\$100.00). (Ord. 89-5754. Passed 6-6-89.)

CHAPTER 943

Municipal Swimming Pool

943.01 Rates.

CROSS REFERENCES

- Bonds for recreational facilities - see Ohio R.C. 133.032, 755.17
- Power to construct recreation centers - see Ohio R.C. 717.01
- Disorderly conduct - see GEN. OFF. Ch. 509

943.01 RATES.

The following rates shall be charged the customers of the City of Galion's Municipal Swimming Pool(s):

<u>Category</u>	<u>Daily</u>	<u>Annual (Resident)</u>	<u>Annual (Non-Resident)</u>
Under 6	\$1.00	\$42.50	\$85.00
Student (6-17)	\$3.00	\$50.00	\$100.00
Adult (18-54)	\$4.00	\$70.00	\$140.00
Senior (55+)	\$3.00	\$70.00	\$140.00
Adult (any age, non-swimming and supervising one or more minor children)	\$1.00	n/a	n/a
Family*		\$110.00	\$175.00
Each additional child		\$5.00	\$10.00

* "Family" refers to mother, father and up to three (3) children. (Ord. 2014-49. Passed 5-13-14.)

CHAPTER 945

Reservoir Regulations

945.01 Reservoirs.

945.02 Exceptions.

945.99 Penalty.

CROSS REFERENCES

Correction of unsafe conditions - see Ohio R.C. 1521.062
Maintenance - see Ohio R.C. 1523.06, 1523.08, 1523.19
Fishing licenses and fees - see Ohio R.C. 1533.32 et seq.
Pollution - see Ohio R.C. 1533.58, 3767.18
Harmful substance thrown into recreational waters - see Ohio R.C. 3767.31
Reservoir lands declared game sanctuary - see S.U. & P.S. 947.01
Fishing in reservoirs - see S.U. & P.S. 947.04

945.01 RESERVOIRS.

The following regulations shall apply to all reservoirs, and to the lands surrounding these reservoirs owned by the City.

No person shall:

- (a) Injure, remove, deface, damage or destroy any tree, plant, lawn embankment, decoration, poster, sign, building or fence on the premises.
- (b) Disturb, remove, damage, destroy, molest or possess any equipment or property of the City or of the State Division of Wildlife or of any other person, firm, corporation, governmental agency or political subdivision.
- (c) Commit any act by use or operation of any motor vehicle on any of the premises, which act if committed on a public highway or street in the State would be prohibited and unlawful.
- (d) Operate a motor vehicle or permit a motor vehicle to be driven on the lands, except on designated roads and driveways provided for such purposes without first obtaining written permission from the Mayor.
- (e) Dump rubbish, garbage, refuse or debris of any kind upon the lands, except in places and within receptacles provided by the City. No person shall deposit in these places or within these receptacles any rubbish, garbage, refuse or debris accruing from any place or area other than on the aforementioned lands.
- (f) Remove ice, sand, gravel, stone, wood, fruits or other substances from the lands without first obtaining written permission from the Mayor; provided, however, that this provision shall not prevent berry picking, mushroom picking or nut picking.
- (g) On the lands, sell, offer for sale or have in his or its possession with intent to sell or expose for sale, any article of food, frozen dessert, ice cream, imitation ice cream, frozen custard, milk, sherbets, candy, cake, coffee, soda pop, confectionery, jewelry, wearing apparel, motor vehicle, bicycle, watercraft, marine equipment, bait or any other tangible property, without first obtaining the written permission of the Mayor.
- (h) Erect or post on the lands any placard, sign, notice, poster or billboard without the written permission of the Mayor.
- (i) Swim, bathe or wade in the waters of the reservoirs.
- (j) Skate or sled upon or over the ice upon the reservoirs.
- (k) Place, use, operate or permit to be used or operated any boat, raft, canoe, inner tube, float or other similar device in, on or under the waters of the reservoirs except that boats may be placed on and in the water of all reservoirs if operated in accordance with the following regulations:
 - (1) Rowboats, sailboats and canoes shall be permitted on all reservoirs between the hours of 5:00 a.m. and 11:00 p.m. only.
 - (2) Sailboats and rowboats shall be limited to fourteen feet in length.
 - (3) Boats shall be of the type authorized under the laws of the State and must be duly licensed pursuant to the laws of the State.
 - (4) Boats shall be operated pursuant to the Operation and Safety Laws and rules provided by the State.
 - (5) Boats must carry lights as provided by the laws of the State.
 - (6) No private sailboat, rowboat, canoe, or any other boat with a gasoline-powered motor shall be on any reservoir.
 - (7) Boats must be launched and removed from the reservoirs at the places provided for such purposes by the City or the State, and boat ramps must remain clear.
 - (8) Boats must be removed from the reservoirs and City-owned lands by 11:00 p.m. each day and not be returned before 4:00 a.m. of the next day.
 - (9) The Mayor is authorized to stop or have stopped the use of all boats on the reservoirs upon the posting of notice thereof if, in his opinion, conditions of safety or sanitation of the reservoirs require the action. Any person using or operating a boat on the reservoirs agrees by usage and/or operation to be subject to the orders and directions of the Mayor.
 - (10) No person shall place himself in, on or under the waters of the reservoirs. Fishing shall be permitted only from the banks of the reservoirs and from boats in all reservoirs operated in accordance with this subsection (k).
- (l) Nothing in this section shall be construed to prevent ice fishing, fishing through the ice of the reservoirs being hereby expressly permitted.
- (m) Erect, install, place or suffer to remain any ice fishing shanty on the ice of the reservoirs or elsewhere on the premises of the reservoirs, other than collapsible shanties which may be used provided they are removed from the premises of the reservoirs prior to closing time each day.

(Ord. 2018-58. Passed 10-9-18.)

945.02 EXCEPTIONS.

The provision of Section 945.01 shall not apply to persons regularly employed by the City, by the State Division of Wildlife or by any other governmental agency or political subdivision while those persons are in the normal and lawful pursuit of their assigned duties.

(Ord. 67-4016. Passed 7-18-67; Ord. 67-4027. Passed 9-19-67; Ord. 69-4158. Passed 7-1-69.)

945.99 PENALTY.

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

CHAPTER 947

Game Sanctuary

947.01 Reservoir lands declared sanctuaries.

947.02 Purpose.

947.03 Hunting and firearms prohibited. (Repealed)

947.04 Fishing regulations; sanitation.

947.05 Dog regulations.

947.06 Contributions and assistance of private groups; rabbit control.

947.99 Penalty.

CROSS REFERENCES

Fishing licenses and fees - see Ohio R.C. 1533.32 et seq.

Dogs running at large - see GEN. OFF. 505.01

Hunting prohibited - see GEN. OFF. 505.11

Reservoirs - see S.U. & P.S. Ch. 945

947.01 RESERVOIR LANDS DECLARED SANCTUARIES.

The land which is owned by the City, adjacent to and surrounding the City's reservoirs, is hereby declared to be a game sanctuary for wildlife. (Ord. 2880. Passed 4-18-50.)

947.02 PURPOSE.

The purpose of the sanctuary is to promote wildlife and fish, to plant trees and shrubs and do all other necessary things to care for and increase wildlife and fishing.

(Ord. 2880. Passed 4-18-50.)

947.03 HUNTING AND FIREARMS PROHIBITED. (REPEALED)

(EDITOR'S NOTE: Former Section 947.03 was repealed by Ordinance 2019-76, passed November 26, 2019.)

947.04 FISHING REGULATIONS; SANITATION.

Fishing in the reservoirs shall be controlled by the laws of the State and the laws and regulations of the departments of the State controlling fishing and sanitary conditions shall be observed at all times.

(Ord. 3324. Passed 2-19-57.)

947.05 DOG REGULATIONS.

Dogs shall not be allowed to run or be trained on the land during the months of April, May, June, July and from August 1 to 15. At all other times dogs may be trained and allowed to run on the lands so long as permission of the caretaker has been received.

947.06 CONTRIBUTIONS AND ASSISTANCE OF PRIVATE GROUPS; RABBIT CONTROL.

Permission is granted to the Crawford City Conservation, Inc., and the Crawford City Coon Hunters and Sportsman Association to aid the City in promoting the territory as a game sanctuary. When an abundance of rabbits appears in the sanctuary, they shall be trapped by the organizations and thence be released only in the rural area of the City as may best serve the wildlife and game distribution in and about the rural area.

(Ord. 3324. Passed 2-19-57.)

947.99 PENALTY.

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

CHAPTER 949

Emergency Medical Services

949.01 Definitions.

949.02 Fees.

949.01 DEFINITIONS.

(a) "Basic Life Support" (BLS) services means any pre-hospital medical intervention requiring an emergency response by personnel certified at the levels of EMT- Basic or EMT-Paramedic employed by the City of Galion or another political subdivision responding to a call for emergency medical services in the City of Galion. An emergency response is one that, at the time local 911 is called, a response unit is dispatched immediately. Medical interventions include, but are not limited to, cardiopulmonary resuscitation (CPR), oxygen administration, bleeding control, treatment of shock, splinting of fractures, childbirth, and patient assessment, including taking and recording patient vital signs, etc.

(b) "Advanced Life Support Level 1" (ALS1) services means the provision of the following medical services requiring the immediate response of an ALS crew and vehicle, and including the provision of ambulance transport service that provides equipment and staff needed to provide complex specialized life-sustaining procedures to patients under the direction of a physician who provides medical control. Such complex specialized life-sustaining services may include, but not be limited to, administering IV therapy, establishing and maintaining a patient's airway, relieving pneumothorax conditions, cardiac monitoring, etc. ALS service includes the provision of an ALS assessment or at least one ALS intervention. An ALS assessment is an assessment performed by an ALS crew as part of an emergency response that is necessary because the patient's reported condition at the time of dispatch is such that only an ALS crew is qualified to perform the assessment.

(c) "Advanced Life Support Level 2" (ALS2) service means transportation by ground ambulance vehicle and the provision of medically necessary supplies and services including (1) at least three separate administrations of one or more medications by intravenous administration (excluding crystalloid fluids) or (2) ground ambulance transportation and the provision of at least one of the following procedures: manual defibrillations/cardioversion; endotracheal intubation; central venous line; cardiac pacing; chest decompression; surgical airway; or intraosseous line. The monitoring of the listed intervention that were placed prior to the transport also qualifies as an ALS2 procedures.

(d) "Transport" means to carry out or convey a person by publicly owned or operated motor vehicle being used in response to a call for emergency medical service from one location to another.

(e) "Resident" means any persons who maintains his or her permanent residence within the corporate limits of the City of Galion or within the boundaries of any political subdivision which has contracted for emergency medical services from the City of Galion.

(f) "Non-Resident" means any person who does not maintain his or her permanent residence within the corporate limits of the City of Galion or within the boundaries of any political subdivision which has contracted for emergency medical services from the City of Galion.

(g) All of the foregoing definitions shall be subject to automatic adjustment by reason of changes in applicable Medicare regulations and definitions and/or other authorities, including but not limited to the Department of Health and Human Services, Centers for Medicare and Medicaid Services CMS Manual System Publication 100-02 Medicare Benefits Policy Chapter 10, Section 30.1.1 - Ground Ambulance Services, and R.C. 4765.37 and 4765.39 and any applicable provisions of the Ohio Administrative Code, which are incorporated herein by reference.

(Ord. 2012-30. Passed 5-8-12.)

949.02 FEES.

Each person, whether a resident or a non-resident, calling for and/or receiving emergency medical services (EMS) with transport shall pay a user fee therefore as follows:

(a) For BLS services, the fee shall be six hundred dollars (\$600.00), plus fourteen dollars (\$14.00) per loaded mile.

- (b) For ALS1 services, the fee shall be seven hundred fifty dollars (\$750.00), plus fourteen dollars (\$14.00) per loaded mile.
 - (c) For ALS2 services, the fee shall be Eight hundred fifty dollars (\$850.00), plus fourteen dollars (\$14.00) per loaded mile.
 - (d) No fee will be charged for any of the above services in the event they are undertaken without transport.
 - (e) The City shall forgive for all residents any outstanding balance resulting from the above fees after available reimbursement from insurance and other third party payers is made on their behalf to the City. This billing practice is approved by the Department of Health and Human Services as stated in OIG Advisory Opinion 04-14. In the event an insurance or third party payment is paid directly to the responsible party rather than to the City of Galion, such person shall forward said payment to the City of Galion or otherwise be responsible for making said payment to the City of Galion.
 - (f) The Treasurer may waive the aforesaid fee or any portion thereof with regard to persons not included in subsection (e) above where such officer determines, based upon supporting documentation that the non-resident person receiving the services is indigent or otherwise unable to pay for such services, and there is no other source for the payment thereof. In such instances, the individual requesting the waiver shall have the burden of providing any documentation required, including but not limited to verification of income. The City's designated billing agent shall notify each party billed of the terms of this subsection in conjunction with the billing for the fee.
- (Ord. 2012-30. Passed 5-8-12.)

CODIFIED ORDINANCES OF GALION

PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - General Provisions

- Chap. 1101. Purpose and Authorization.
- Chap. 1103. Definitions.

TITLE THREE - Administration and Enforcement

- Chap. 1107. Administrative Bodies and Their Duties.
- Chap. 1109. Zoning Certificate Procedures.
- Chap. 1111. Subdivision Procedures.
- Chap. 1113. Amendments.
- Chap. 1115. Appeals and Variances.
- Chap. 1117. Conditional Uses.
- Chap. 1119. Fees and Violations.
- Chap. 1121. Nonconformities.
- Chap. 1123. *Reserved for Future Use*

TITLE FIVE -Zoning Districts

- Chap. 1127. Standard Zoning District Regulations.
- Chap. 1129. Zoning Districts and Zoning District Map.
- Chap. 1131. (RE) Rural Estate District.
- Chap. 1133. (R-1A, R-1B) Single-Family Residential Districts.
- Chap. 1135. (R-1C) Historic Neighborhood Single-Family Residential District.
- Chap. 1137. 1137. (R1-D) Single Family Residential District.
- Chap. 1139. (MH-R) Manufactured Home Residential District.
- Chap. 1141. (RM) Residential Multiple Family District.
- Chap. 1143. *Reserved for Future Use*
- Chap. 1145. (RO) Residential Office.
- Chap. 1147. (LC) Limited Commercial.
- Chap. 1148. (HS) Health Service District.
- Chap. 1149. (GC) General Commercial District.
- Chap. 1151. (U) Uptowne District.
- Chap. 1153. (HC) Highway Commerce District.
- Chap. 1155. (ES) Educational Services District.
- Chap. 1157. (GI) General Industrial District.
- Chap. 1159. (IP) Industrial Park District.
- Chap. 1161. *Reserved for Future Use*
- Chap. 1163. (PUD) Planned Unit Development.
- Chap. 1165. (FP) Flood Plain District (Overlay).
- Chap. 1167. (RCO) Riparian Corridor Overlay District.
- Chap. 1169. *Reserved for Future Use*

TITLE SEVEN - Additional Zoning Requirements

- Chap. 1173. General Development Standards.
- Chap. 1175. Additional Residential District Standards.
- Chap. 1177. Landscape Screens and Buffers.
- Chap. 1179. Off-Street Parking and Loading Requirements.
- Chap. 1181. Signs.
- Chap. 1183. Adult Entertainment Facilities.
- Chap. 1185. *Reserved for Future Use*

TITLE NINE - Subdivision Development Requirements

- Chap. 1191. Obligations of Developer and City.
- Chap. 1193. Minimum Design Standards and Requirements.
- Chap. 1195. Site Improvements.
- Chap. 1197. Nonresidential Subdivisions.
- Chap. 1199. *Reserved for Future Use*

Appendices

- Appendix A Street and Roadway Classification System.

TITLE ONE - General Provisions

Chap. 1101 . Purpose and Authorization.
Chap. 1103 . Definitions.

CHAPTER 1101

Purpose and Authorization

- 1101.01 **Title.**
- 1101.02 **Purpose.**
- 1101.03 **Interpretation.**
- 1101.04 **Applicability.**
- 1101.05 **Separability.**

1101.01 TITLE.

This Ordinance shall be known and may be cited as the PLANNING AND ZONING CODE OF THE CITY OF GALION, OHIO. This Ordinance is enacted under the authority of the Constitution of the State of Ohio. Unless otherwise provided herein or by the law or implication thereof, the same rules of construction, definition, and application shall govern the interpretation of this Ordinance as those governing the interpretation of the Ohio Revised Code.

(Ord. 2009-85. Passed 12-8-09.)

1101.02 PURPOSE.

This Ordinance is enacted for the general purpose of promoting and protecting the public health, safety, comfort, prosperity and general welfare of the residents of Galion by regulating and limiting the subdivision and use of land areas, and the erection and/or alteration of buildings. In addition, it is the intent of these regulations to:

- (a) Protect the property rights of all individuals by assuring the compatibility of uses and practices within districts;
- (b) Facilitate the adequate, economic and efficient provision of public utilities and public services;
- (c) Provide for safe and convenient traffic circulation, and lessen congestion on public streets, roads and highways;
- (d) Protect the character of existing areas and provide for the orderly development of lands hereafter within the City;
- (e) Provide for sufficient land for future provision of open spaces for schools, recreation and other public purposes;
- (f) Obtain accurate surveying of land;
- (g) Provide for the administration and enforcement of this Ordinance, including the provision of penalties for its violation and any other purpose provided in this Ordinance, the Ohio Revised Code, or under common law rulings.

(Ord. 2009-85. Passed 12-8-09.)

1101.03 INTERPRETATION.

The provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of public health, safety, and the general welfare. It is not intended that this Ordinance shall abrogate, annul or interfere with any easements, covenants, or other agreements between parties, unless they violate this Ordinance. When the provisions of this Ordinance conflict with any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive, or that imposing the higher standards, shall apply.

(Ord. 2009-85. Passed 12-8-09.)

1101.04 APPLICABILITY.

The regulations set forth in this Ordinance shall be applicable to all buildings, structures, uses and lands owned or controlled by any individual, entity, organization, political subdivision, district, taxing unit or bond-issuing authority located within the corporate limits of the City of Galion, and any additional lands over which the City may have future zoning or subdivision jurisdiction..

(Ord. 2009-85. Passed 12-8-09.)

1101.05 SEPARABILITY.

The invalidation of any clause, sentence, paragraph, or section of this Ordinance by a court of competent jurisdiction shall not affect the validity of the remainder of this Ordinance either in whole or in part.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1103

Definitions

- 1103.01 **Interpretation.**
- 1103.02 **Definitions.**

CROSS REFERENCES

Planned Unit Development defined - see P.& Z. 1163.02

Sign definitions - see P.& Z. 1181.02

Adult entertainment facility definitions - see P.& Z. 1183.02

1103.01 INTERPRETATION.

For the purpose of this Code, certain terms and words are to be defined as found in this Chapter. Words and terms not specifically defined carry their customarily understood meanings. The word "shall" is mandatory; the word "may" is permissive. Terms such as "he", "she", "him" and "her" shall be interpreted as "he/she" and "him/her" and otherwise considered gender neutral.

(Ord. 2009-85. Passed 12-8-09.)

1103.02 DEFINITIONS.

"**Accessory building**" or "**accessory structure**" means a building or structure occupied by an accessory use.

"**Accessory use**" means a use subordinate, secondary, incidental to, and customary in connection with the principal building or use and located on the same lot as the principal building or use.

"**Administrative and business offices**" mean offices which carry on no retail trade with the public and maintain no stock of goods for sale to customers.

"**Agriculture**" means the same as stated in Chapter 1.61 of the Ohio Revised Code, as may be amended, to include farming; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including but not limited to the care and raising of livestock, equine and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with, but are

secondary to, such husbandry or production.

"**Alley**" means a public right-of-way ten (10) to twenty (20) feet wide which provides only secondary means of access to abutting property.

"**Average Daily Traffic**" or "**ADT**" means the average number of motor vehicles per day that pass over a given point in a street or thoroughfare during a particular twenty-four (24) hour period.

"**Basement**" means a story whose floor level is two (2) feet or more below grade level, but having less than half its clear height above grade level.

"**Block**" means the properties abutting one side of a street, and lying between two (2) consecutive intersecting streets.

"**Board**" means the Board of Zoning Appeals for the City of Galion as established in Chapter III of this Ordinance.

"**Bond**" means cash deposit, surety bond, collateral, or other instrument of credit satisfactory to the City of Galion for performance of the obligations of this Ordinance.

"**Building**" means a structure permanently affixed to the land with one (1) or more floors and a roof supported by columns or walls, used or intended to be used for shelter or enclosure of persons, animals and/or property.

(a) "**Height of building**" means the vertical distance from the average grade surrounding the building to the highest point of the roof.

(b) "**Building line**" or "**building setback**" means the yard setback line established by this Ordinance, generally parallel with and measured perpendicularly from the property line, defining the limits of a yard in which no building or structure may be located, except as otherwise allowed by this Ordinance.

"**Business Day**" means a day of the week excluding Saturday, Sunday, or a legal holiday.

"**Business services**" means an activity which renders services primarily to other commercial, institutional, or industrial enterprises, or which services and repairs appliances and machines used in other businesses.

"**Calendar day**" means any day of the week including Saturday, Sunday, or a legal holiday

"**Cemetery**" means land used or intended to be used for the burial of human dead. A "pet cemetery" means a parcel of land that is principally used for the burial of more than five (5) domesticated animals considered as pets.

"**Certificate of Zoning Compliance**" means a certificate issued by the Code Inspector, pursuant to Section 1109.07 of this Ordinance, confirming that the zoning requirements of this Ordinance have been met.

"**City**" means the City of Galion, Ohio.

"**City Standard Plans and Specifications**" means the most recent edition of the engineering drawings and standards as approved by the City Council and City Engineer for the City of Galion, along with such written amendments and modifications to same as may be periodically made.

"**Clinic, Human**" means an establishment where patients who are not lodged overnight are admitted for examination and/or treatment by a physician or group of physicians.

"**Code Inspector**" means the employee of the City who is charged with enforcing the provisions of this Planning and Zoning Ordinance and/or his/her designated agent.

"**Co-location**" means the use of a wireless communications facility by more than one wireless telecommunication provider.

"**Commission**" means the Planning Commission of the City of Galion, Ohio as established in Chapter III of this Ordinance.

"**Communication facility**" means a facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with a land-based telephone line.

"**Comprehensive plan**" means a comprehensive plan as may be prepared by and for the City of Galion, as adopted by City Council.

"**Concept plan**" means a sketch or drawing prepared by the Owner/ Developer prior to the preliminary plan, which shows the general outline and layout of a proposed subdivision.

"**Conditional use**" means an uncommon or infrequent use which may be permitted in specific zoning districts subject to compliance with certain standards and/or conditions, and the granting of a conditional use permit as specified in Chapter 1117 of this Ordinance.

"**Cul-de-sac**" (see "Street")

"**Drive-through facility**" means traffic lanes, drive-up windows and/or other physical accretions located on a business site which enable that business to provide goods or services to customers without such customers leaving his/her motor vehicle.

"**Driveway**" means a private area or vehicle accommodation lane providing access from a street to a detached single family dwelling on the same lot or to one (1) or more multi-family, commercial or industrial buildings.

"**Dwelling**" or "**residence**" means any building or portion thereof which is designed or used for residential purposes, but not including a cabin, hotel, motel, rooming house, or other such accommodation used for transient occupancy.

(a) "**Multiple-family dwelling**" or "**multiple-family residence**" means a building designed or used as a residence and containing separate cooking facilities, for three or more families living independently,

(b) "**Single family dwelling**" or "**single family residence**" means a building designed for, or occupied exclusively by, one family.

(c) "**Two-family dwelling**" or "**two-family residence**" means a building containing separate cooking facilities and designed for, or occupied exclusively by, two families living independently.

"**Easement**" means a right or privilege of use of land, as distinct from fee simple ownership.

"**Essential Services**" means the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of improved public streets and/or underground or overhead gas, electrical, steam, or water transmission or distribution systems; collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conducts, cables, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety, or general welfare, but not including buildings.

"**Failure of delivery**" means that a particular notice was not received, due to circumstances beyond the control of the City, and does not include the lack of mailing of the subject notices in the matter specified in the Ordinance.

"**Flood**" or "**flooding**" means a general and temporary condition of partial or complete inundation of normally dry land areas from 1) the overflow of inland or tidal waters and/or 2) the unusual and rapid accumulation of runoff of surface waters from any source

"**Flood plain**" or "**lands subject to flooding**" means those lands adjacent to a watercourse subject to flooding as have been identified by the Federal Emergency Management Agency (FEMA) in various Flood Hazard Boundary Maps, as adopted by Galion City Council in Chapter 1335 of the Codified Ordinances, as may be amended.

"**Floodway**" means the portion of land subject to flooding that comprises the channel of a watercourse, and the adjacent lands, that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"**Floodway fringe**" means that portion of land subject to flooding that is outside the floodway.

"**Floor area**" of a building means the sum of the gross horizontal areas of the building floors, measured from the exterior faces of exterior walls. Floor area shall not include basements, elevator and stair bulkheads, unfinished attic spaces, terraces, breezeways, open porches, uncovered steps, or garages.

"**Frontage**" or "**lot frontage**" means that portion of the lot that directly abuts the street, and has direct access thereto. Lot frontage shall be

measured along the front property line.

"Garage, private" means a building, or portion of a building, designed or used for the storage of motor-driven vehicles owned and/or used by the occupants of the principal use of the property.

"Group Residential Facility" means a community facility, licensed and/or authorized by the State of Ohio, which provides rehabilitative services in a residential setting. There are two (2) classes of group residential facilities:

(a) **"Class I group residential facility"** means any state, federal or locally approved dwelling or place used as a foster home for children or adults (not including nursing homes) or as a place for the care or rehabilitation of dependent or predelinquent children, for the physically handicapped or disabled, or for those with mental illness or developmental disabilities. A Class I Type A facility contains more than five (5) residents, exclusive of staff. A Class I Type B facility contains five (5) or fewer residents, exclusive of staff.

(b) **"Class II group residential facility"** means any state, federal or locally approved dwelling or place used as a home for juvenile offenders; a halfway house providing residential care or rehabilitation for adult offenders in lieu of institutional sentencing; a halfway house providing residence for persons leaving correctional institutions; and residential rehabilitation centers for alcohol and/or drug abusers, provided that detoxification is expressly prohibited on such premises. A Class II Type A group residential facility contains more than five (5) residents, exclusive of staff. A Class II Type B facility contains five (5) or fewer residents, exclusive of staff.

"Home occupation" means an occupation, profession or other activity carried out for commercial gain by a resident which is clearly accessory, incidental and secondary to the dwelling's residential use of the property and which complies with the standards of Section 1175.02 of this Ordinance.

"Hospital" means a building or structure containing beds for at least four (4) patients allowing for overnight or continuous care, diagnosis and treatment of human ailments.

"Hotel" or **"motel"** means a building in which lodging is provided or offered to the public for compensation and which is open to transient guests, in contradiction to a boarding house or lodging house operated on a membership basis.

"Improvements" mean any addition to the natural state of land which is designed or intended to increase its value or utility, including buildings, street pavements, sidewalks, crosswalks, water mains, sanitary sewers, storm sewers, landscaping, street lighting, street trees, public utilities, paved parking areas and other appropriate items.

(a) **"Site improvements"** mean the improvements made to the land outside the exterior limits of a structure or structures.

(b) **"Public improvements"** mean all improvements financed entirely or in part by public funds or which have been dedicated to public use by plat, easement or deed of transfer.

"Industrialized unit" means a building unit or assembly of closed construction that is fabricated in an off-site facility, that is substantially self-sufficient as a unit or as a part of a greater structure, that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured or mobile home as defined herein.

"Institution" means an organization providing social, cultural, educational or health services to member agencies, organizations, and individuals, or to the general public.

"Loading space" is a space within the main building or on the same lot therewith, providing for the standing, loading, or unloading of trucks.

"Lot" means a separate tract of real property described on recorded subdivision plat, recorded map or by metes and bound, and includes the terms "plat" and "parcel".

(a) **"Corner lot"** means any lot at the junction of and abutting on two (2) or more intersecting streets, where the angle of intersection is not more than 135 degrees.

(b) **"Lot coverage"** means the ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.

(c) **"Rear lot line"** means that lot line which is opposite and furthest removed from the front lot line. In the case of a lot where the side lot lines meet at the rear of the lot (i.e., a triangular lot), the rear lot line shall be considered to be the point of intersection of the side lot lines. In the case of a corner lot, the rear lot line is opposite and furthest removed from the lot line considered to be the front lot line for purposes of computing the front yard depth.

(d) **"Side lot line"** means a lot line running from the front lot line to the rear lot line. This line is also the line dividing two (2) interior lots.

(e) **"Lot of record"** means any lot which individually or as a part of a subdivision has been recorded in the Office of the Recorder, Crawford County, Ohio, as of the effective date of this Ordinance.

(f) **"Minimum lot area"** means the area of a lot computed exclusive of any portion of the right-of-way or any public thoroughfare.

(g) **"Lot width"** is the width of a lot at the building setback line measured at right angles to its depth. (Ord. 2009-85. Passed 12-8-09.)

"Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, that conforms with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to Manufactured Housing Construction and Safety Standards Act of 1974, and has a label or tag permanently affixed to it, certifying compliance with all applicable federal construction and safety standards. The term is used to distinguish mobile homes which have been so certified from those that have not. (Ord. 2014-84. Passed 11-25-14.)

"Manufactured home community" or "manufactured home park" means a development constructed primarily for manufactured homes, with continuing local management and special facilities for common use by residents. Typically, the land or lots upon which the manufactured homes are located will not be owned by the resident of the individual manufactured home.

"Manufacturing" means any production or industrial process, including food processing, which combines one (1) or more raw materials or components into a product or which changes the nature of the materials entering the process, and which by the nature of the materials, equipment and/or process utilized is not objectionable by reason of odor, noise, vibration, gas fumes, dust, smoke, refuse, or water-carried wastes.

"Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five (35) feet in length, or, when erected on the site, is 320 or more square feet, that is built on a permanent chassis and is transportable in one or more sections, and does not qualify as a manufactured home or industrialized unit, as defined herein. Because mobile homes, as defined herein, were not constructed to accepted standards, such mobile homes shall not be considered as a permitted or conditional use in any zoning district within the City of Galion.

"Modular home" means a non-site-built home that is certified as meeting the requirements of the State of Ohio Building Code for modular housing. For the purposes of this Ordinance, once certified by the State of Ohio, modular homes shall be subject to the same standards as site-built homes.

"Monument" means a permanent concrete or iron marker used to establish the lines of the plat of a subdivision, including all lot corners, boundaries, corners and points of change in street alignment.

"Nonconforming use" means the use of land or a building, or a portion thereof, which does not conform with the use regulations of the district in which it is situated, which use was lawful prior to the enactment of this Zoning Ordinance.

"Nursery" or **"Day care center"** means a facility which temporarily assumes responsibility for more than six (6) children other than those

related to the resident of the premises. Such responsibility shall consist of administering to the needs of those children during any part of a twenty-four hour day for a period of two (2) consecutive days.

"**Nursing home**" includes convalescent and extended care facilities; an establishment which specializes in providing necessary care, shelter and nursing services and services to those unable to be responsible for themselves.

"**Open space**" means that part of a zoned property, including courts or yards, which is open and unobstructed from its lowest level to the sky and is accessible to all users of the property.

"**Owner/Developer**" means any person proceeding under these regulations to create a subdivision of land hereunder.

"**Parking area**" or "**parking lot**" means any area other than street, drive, or alley, used or intended to be used for the storage of motor vehicles, with or without a fee.

"**Parking space(off-street)**" means any parking space located wholly off any street, alley, or sidewalk, either in an enclosed building or on an open lot and where each parking space conforms to the standards as specified in Chapter 1179 of this Ordinance.

"**Permanent foundation**" means a permanent masonry, concrete or locally approved footing or foundation that adequately transfers horizontal and vertical loads of the structure to the undisturbed ground below the frost line.

"**Permanently sited manufactured home**" means a manufactured home that meets all of the following criteria:

- (1) The structure is affixed to a permanent foundation and is connected to appropriate facilities;
- (2) The structure, excluding any addition, has a width of at least twenty-two (22) feet at one point, and a length of at least twenty-two (22) feet at one point, and a living area of at least 900 square feet, excluding garages, porches, or attachments;
- (3) The structure has a minimum 4:12 roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;

(4) The structure was manufactured after January 1, 1995;

(5) The structure is not located in a manufactured home community or manufactured home park as defined herein.

"**Person**" means any individual, corporation, company, business partnership, association or legal entity.

"**Personal services**" means any enterprise, conducted for gain, which primarily offers services to the general public.

"**Plan**" means a drawing showing the proportion and relation of parts of improvements to each other and their surroundings.

(a) "**Construction plan**" means a plan which gives information required to construct improvements including plan views, sections, profiles, details, quantities, reference specifications and standard drawings.

(b) "**Grading plan**" means a plan which shows the proposed grades for the development in a manner that reflects the scope of earthwork required and the finished site grades.

(c) "**Preliminary plan**" means a proposal for the subdivision of land as described in Chapter 1111 of this Ordinance, submitted to the City pursuant to these regulations.

"**Plat**" or "**Final Plat**" means a plan of a tract or parcel of land made by a surveyor registered in the State of Ohio showing public dedications, property lines, lot lines and such other information as is required by these regulations.

"**Professional office**" means the business office of a person or persons engaged in providing to the general public services of a professional nature such as legal, medical, accounting, and architectural services.

"**Recreational facilities**" means public or privately-operated uses such as country clubs, golf courses, swimming pools, or other areas maintained for the purpose of providing active and passive recreation.

"**Residence**" - see "Dwelling". (Ord. 2009-85. Passed 12-8-09.)

"**Residential Handicapped Ramp**" means any permanent, temporary, or accessory structure constructed or placed for the purpose of allowing individuals with special mobility needs egress and ingress into a one, two or three family detached dwelling. (Ord. 2012-93. Passed 12-11-12.)

"**Restaurant**" means a business establishment where food and beverages are prepared and presented for human consumption on the premises.

"**Retail stores**" means stores primarily engaged in selling merchandise for personal or household consumption and in rendering services incidental to the sale of goods.

"**Right of way**" means a strip of land lying between property lines, wherein is located a street, thoroughfare, alley or easement dedicated or otherwise acquired for use by the public, provided the term "right-of-way shall not include utility easements.

"**Sidewalk**" means a paved path, intended for pedestrian use, lying outside the curb lines or edge of pavement of a roadway.

"**Similar use**" means a use not specifically listed in any of the permitted building or use classifications of any district, but which may be found analogous and added to the classification, according to the procedures and requirements of Section 1127.02(e) of this Ordinance.

"**Street**" means the full width of the right-of-way between two (2) property lines, both paved and unpaved, intended to provide principal means of access to an abutting property. Streets shall be classified as follows:

(a) "**Arterial Street**" means a street connecting Galion with outside activity centers and/or serving as the primary routes through and within the City. Arterial streets carry the largest volume of traffic, typically more than 5,000 vehicles per day ADT, on a continuous route. Service to the adjacent land is subordinate to the provision of travel service on arterial streets.

(b) "**Collector Street (Major)**" means a thoroughfare which carries vehicular traffic from local streets to arterial streets, and is designed to accommodate 2,000 - 5,000 vehicles per day ADT.

(c) "**Collector Street (Minor)**" means a thoroughfare which primarily carries vehicular traffic from local streets to major collector and arterial streets, and is designed to accommodate 500-2,000 vehicles per day ADT.

(d) "**Cul-de-sac**" means a short local street having but one end open for motor traffic and the other end terminated by a vehicular turn-around or back-around.

(e) "**Local Street**" means a street on which the majority of the traffic originates or terminates in the abutting properties. These streets are designed to accommodate up to 500 vehicles per day ADT at low speeds.

(f) "**Industrial Street**" means a street on which more than twenty-five percent (25%) of the traffic is comprised of trucks, or where more than fifty percent (50%) of the abutting property is either occupied by industrial uses.

(g) "**Marginal Access Street**" means a street that is adjacent to and runs parallel to an arterial or major collector street and provides access to abutting properties so that the flow of through traffic on the arterial or collector street is not impeded by direct driveway access to such property.

(h) "**Private Street**" means a strip of privately-owned land providing access to abutting properties.

(i) "**Public Street**" means an improved strip of land providing public access to abutting property, as dedicated to and accepted by the City, upon a plat which has been duly approved, filed and recorded in the Crawford County Recorder's Office.

(j) "**Service road**" or "**access road**" means a minor street parallel to a thoroughfare to afford abutting property owners access to the thoroughfare at limited points.

"**Structure**" means anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground, including among other things walls, buildings, and patios. For the purposes of this Ordinance, "structure" shall include fences, and mobile or manufactured structures.

"**Structural alteration**" means any change that would replace or tend to prolong the life of a supporting member of a structure, such as bearing walls, columns, beams, or girders.

"**Subdivision**" means either of the following:

(a) The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax list and duplicate of real and public utility property, into two (2) or more parcels, sites or lots, any one of which is less than five (5) acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the following are exempt:

- (1) A division or partition of land into parcels of more than five (5) acres not involving any new streets or easements of access,
- (2) The sale or exchange of parcels between adjoining lot owners, where that sale or exchange does not create additional building sites and where the lots resulting are not reduced below minimum sizes required by law, or

(b) The improvement of one (1) or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any public or private street or streets, except private streets serving industrial structures, or involving the division or allocation of land as open spaces for common use by owners, occupants or leaseholds or as easements for the extension and maintenance of public or private sewer, water, storm drainage or other similar facilities.

"**Telecommunication tower**" means a structure that is intended for transmitting, receiving or relaying television, radio, telephone or other communications.

"**Thoroughfare Plan**" means a plan, which may be part of a comprehensive plan, now or hereafter adopted by the Planning Commission, which sets forth the location, alignment and/or classification of existing and proposed streets and/or roadways.

"**Variance**" means a modification of the strict terms and requirements of this Ordinance where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of these regulations would result in practical difficulties, in accordance with Chapter 1115 of these regulations.

"**Zoning**" or "**Zoning Code**" means the City regulations limiting the height, area and use of buildings, structures and/or areas.
(Ord. 2009-85. Passed 12-8-09.)

TITLE THREE - Administration and Enforcement

- Chap. 1107. Administrative Bodies and Their Duties.
- Chap. 1109. Zoning Certificate Procedures.
- Chap. 1111. Subdivision Procedures.
- Chap. 1113. Amendments.
- Chap. 1115. Appeals and Variances.
- Chap. 1117. Conditional Uses.
- Chap. 1119. Fees and Violations.
- Chap. 1121. Nonconformities.
- Chap. 1123. *Reserved for Future Use*

CHAPTER 1107

Administrative Bodies and Their Duties

1107.01 **Code Inspector.**

1107.02 **Planning Commission.**

1107.03 **Board of Zoning Appeals.**

1107.04 **Powers of Code Inspector, Board of Zoning Appeals, and City Council on matters of appeal.**

1107.01 CODE INSPECTOR.

(a) Office of Code Inspector Established. The Code Inspector, who shall be appointed by the Mayor, shall enforce the provisions of this Ordinance. In performance of his/her duties, the Code Inspector shall function as an employee of the City.

(b) Duties of Code Inspector. For the purposes of this Ordinance, the Code Inspector shall have the following duties:

- (1) Enforce the provisions of this Ordinance and take such steps as may be necessary to remedy conditions found in violation. Such steps include ordering, in writing, the discontinuance of illegal uses or work in progress, and directing cases of noncompliance to appropriate City official(s) for action.
- (2) Coordinate the submittal and processing of material so as to fulfill the requirements of Chapters 1109 through 1117 of this Ordinance
- (3) Issue zoning certificates when the provisions of this Ordinance have been met, or refuse to issue same in the event of noncompliance.
- (4) Report to the Planning Commission on a regular basis on development activity that has occurred in the City.
- (5) Collect all designated fees as established for zoning certificates and applications for other matters pertaining to this Ordinance.
- (6) Make and keep all records necessary and appropriate to the office including records of issuance and denial of zoning certificates and receipt of complaints of violation of this Ordinance and action taken on same.
- (7) Inspect any buildings or lands to determine whether any violations of this Ordinance have been committed or exist.
- (8) Advise the Planning Commission of other matters pertaining to the enforcement of and amendments to this Ordinance

(Ord. 2009-85. Passed 12-8-09.)

1107.02 PLANNING COMMISSION.

(a) Establishment. The Planning Commission shall consist of five (5) residents of the City of Galion. One (1) shall be the Mayor, one (1) the Safety Service Director, and the remaining three (3) shall be appointed by the Mayor for overlapping terms of (4) years. Members at the time of the enactment of this section shall complete the term to which they were previously appointed. Vacancies shall be filled by the Mayor and shall be for the unexpired term.

(b) Alternate Members. Two (2) alternate members shall be appointed by the Mayor for overlapping terms of (4) years. Alternates shall be called in rotation to attend meetings when a regular member cannot attend and shall be able to vote when so called.

(c) Removal of Members. Members of the Commission shall be removable for nonperformance of duty, misconduct in office, relocation to a residency outside the City, or for other good cause, by the City Council, after a public hearing has been held regarding such charges. The member shall be given the opportunity to be heard and answer such charges.

(d) Organization and Rules.

- (1) Rules. The Commission shall adopt, from time to time, such rules, procedures and regulations as it may deem necessary to carry into effect the provisions of this section.
- (2) Officers. The Commission shall elect a Chairperson who shall serve a two year term, and shall also elect a Vice Chairperson who shall serve a term concurrent with the Chairperson. The Commission shall likewise elect a Secretary who shall serve a term concurrent with the Chairperson.

- (3) Meetings. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question; or, if absent or failing to vote, indicating that fact. Three (3) members shall constitute a quorum. The meetings of the Commission shall be open to the public. The Commission shall keep records of its examinations and other official action.
- (4) Assistance. The Commission may call upon the various departments of the City for assistance in the performance of its duties and it shall be the duty of such departments to render assistance to the Commission as may reasonably be required.
- (e) Powers and Duties. The Planning Commission has authority to undertake the following:
 - (1) Prepare a recommended Comprehensive Plan for the City and recommend amendments to that Plan as may be needed from time to time.
 - (2) Take actions to approve, approve with modification or disapprove subdivisions of land, as authorized by this Planning and Zoning Code.
 - (3) Review proposed amendments to the Planning and Zoning Ordinance or Official Zoning Map and make recommendations to City Council.
 - (4) Permit Conditional uses as specified in the Official Schedule of District Regulations under the conditions specified in the Planning and Zoning Code, and such additional safeguards as will uphold the intent of this same.
 - (5) Review site plans as may be required by specific sections of the Planning and Zoning Code. The decisions of the Commission on such site plan(s) may be overruled by City Council by a 2/3 vote of the total membership.
 - (6) Make recommendations for newly annexed areas to the City, in accordance with this Ordinance.
 - (7) Authorize the substitution or extension of nonconforming uses, determine similarity of uses, declare zoning certificates void, and administer requirements for planned unit developments as specified in the Planning and Zoning Code. (Ord. 2014-45. Passed 5-13-14.)

1107.03 BOARD OF ZONING APPEALS. (REPEALED)

(a) Establishment. Pursuant to authority granted under the Ohio Revised Code, a Board of Zoning Appeals is hereby created, consisting of five (5) members to be appointed by the Mayor for overlapping terms of two (2) years. Three (3) members shall have initial terms of one (1) year to allow for this overlapping. All members of the Board shall be residents of the City of Galion, and shall serve until their successor is appointed. Vacancies shall be filled by the Mayor and shall be for the unexpired term.

(b) Alternate Members. Two (2) alternate members shall be appointed by the Mayor for four (4) year terms. Alternates shall be called in rotation to attend meetings when a regular member cannot attend.

(c) Removal of Members. Members of the Board shall be removable for non-performance of duty, misconduct in office, relocation to a residency outside the City or other cause, by the City Council, after a public hearing has been held regarding such charges. The member shall be given the opportunity to be heard and answer such charges.

(d) Procedures. The following procedures shall govern the operation and meetings of the Board of Zoning Appeals:

- (1) The Board shall adopt such rules and regulations consistent with this Ordinance. The Board shall elect a Chairman and Vice Chairman. The concurring vote of three (3) members of the Board shall be necessary to reverse an order, requirement, decision or determination of the Building Inspector.
 - (2) The meetings of the Board shall be public, and shall be held at the call of the Chairman, after compliance with public notification procedures as required by the Ohio Revised Code, as amended.
 - (3) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact; and shall keep records of its examinations and other official action.
 - (4) The Board shall have the power to subpoena witnesses, administer oaths, and may require the production of documents, under such regulations as it may establish.
 - (5) The Board may call upon the various departments of the City for assistance in the performance of its duties and it shall be the duty of such departments to render assistance to the Board as may reasonably be required.
- (e) Powers and Duties. In exercising its duties, the Board may, as long as such action is in conformity with the terms of this section, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, decision, or determination as ought to be made, and to that end shall have the powers of the Code Inspector from whom the appeal is taken. No appeal may be taken to the Board in connection with any matter over which the Planning Commission has jurisdiction. For the purpose of this section, the Board has the following specific responsibilities:
- (1) Interpret the boundaries of the Official Zoning District Map, in accordance with the provisions of this section.
 - (2) Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Code Inspector related to this Ordinance.
 - (3) Authorize such variances from the terms of the zoning provisions of this Ordinance as will not be contrary to the public interest, where, owing to special conditions of the land, a literal enforcement of this Ordinance will result in practical difficulty. (Ord. 2014-44. Passed 5-13-14.)

1107.04 POWERS OF CODE INSPECTOR, BOARD OF ZONING APPEALS, AND CITY COUNCIL ON MATTERS OF APPEAL.

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Code Inspector, and that such questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Code Inspector. It is further the intent of this Ordinance that the powers of City Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. City Council shall not have the authority to overrule the decisions of the Board of Zoning Appeals on such matters of appeal or variance. The procedure for deciding such questions shall be as stated in Chapter 1115 of this Ordinance. (Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1109

Zoning Certificate Procedures

- 1109.01 **Zoning Certificates.**
- 1109.02 **Conditions under which a Zoning Certificate is required.**
- 1109.03 **Application for a Zoning Certificate.**
- 1109.04 **Approval of Zoning Certificates.**
- 1109.05 **Record of Zoning Certificates.**
- 1109.06 **Expiration of Zoning Certificates.**
- 1109.07 **Certificate of Zoning Compliance.**
- 1109.08 **Void Zoning Certificates.**

1109.01 ZONING CERTIFICATES.

No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established, used or changed in use, pursuant to Section 1109.02 below, without a zoning certificate therefor, issued by the Code Inspector. The zoning certificate

shall certify that the proposed action is in conformance with this Ordinance.
(Ord. 2009-85. Passed 12-8-09.)

1109.02 CONDITIONS UNDER WHICH A ZONING CERTIFICATE IS REQUIRED.

A zoning certificate is required for any of the following:

- (a) Occupancy and/or use of vacant land.
- (b) Construction or structural alteration of any building or structure, including accessory buildings.
- (c) Change in use of an existing building, accessory building or land to a use of a different zoning classification in the same or different zoning district. For purposes of this condition, the term "zoning classification" shall mean the individual or group of uses designated by capital case letters (A, B, C, etc.) under permitted or conditional uses in the various zoning districts of this Ordinance.
- (d) Change in use of an existing building or land to another use that would result in a change in another required standard, of this Ordinance, e.g., parking or signage.

(Ord. 2009-85. Passed 12-8-09.)

1109.03 APPLICATION FOR ZONING CERTIFICATE.

Applications for a zoning certificate shall be obtained from the offices of the Code Inspector. The application shall contain the following information:

- (a) Name, address, and telephone number of the applicant.
- (b) Legal description of property, as recorded in Crawford County Recorder's office.
- (c) Existing and proposed uses
- (d) Zoning district in which property is located.
- (e) Number of proposed dwelling units
- (f) Plans and/or drawings drawn to approximate scale, showing the dimensions and shape of the lot to be built upon; and the dimensions and location of existing and/or proposed buildings or alterations.
- (g) Height of proposed buildings or alterations.
- (h) First floor elevations of all proposed buildings or structures
- (i) Number and dimensions of existing and proposed off-street parking or loading spaces, applicable.
- (j) Such other material as may be requested by the Code Inspector to determine conformance with, and provide for the enforcement of this Ordinance.
- (k) In every case where the lot is not provided with public water supply and/or disposal of sanitary wastes by means of public sewers, the application shall be accompanied by an approval by the Galion City Health Department of the proposed method of water supply and disposal of sanitary wastes.

Where complete and accurate information is not readily available from existing records, the Code Inspector may require the applicant to furnish a survey of the lot by a registered surveyor. In particular cases, the Code Inspector may reduce the submittal requirements for applications, when the scope and scale of the proposed action warrants.

(Ord. 2009-85. Passed 12-8-09.)

1109.04 APPROVAL OF ZONING CERTIFICATES.

Within thirty (30) days after the receipt, the application shall be either approved or disapproved by the Code Inspector, unless the provisions of other specific sections of this Ordinance apply. All zoning certificates shall be conditional upon the commencement of work within three (3) months. One (1) copy of the application shall be returned to the applicant by the Code Inspector, after such copy is marked as either approved or disapproved and attested to same by the signature of the Code Inspector, or his/her designated agent, on such copy. In the case of disapproval, the Code Inspector shall state on the returned plans the specific reasons for disapproval. One (1) copy of application, similarly marked, shall be retained by the Code Inspector. If the application is approved and upon issuance of a Certificate of Zoning Compliance, the County Auditor shall be so notified. The Code Inspector shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1109.05 RECORD OF ZONING CERTIFICATE.

A record of all zoning certificates shall be kept on file in the office of the Code Inspector and copies shall be furnished upon request to any persons.

(Ord. 2009-85. Passed 12-8-09.)

1109.06 EXPIRATION OF ZONING CERTIFICATES.

If the work described in any zoning certificate has not begun within three (3) months from the date of issuance thereof, or has not been completed within two (2) years from the date of issuance thereof, said permit shall expire. Further work as described in the expired permit shall not proceed unless and until a new zoning certificate has been obtained or an extension has been granted by the Planning Commission.

(Ord. 2009-85. Passed 12-8-09.)

1109.07 CERTIFICATE OF ZONING COMPLIANCE.

(a) Certificate of Zoning Compliance Required. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued therefor by the Code Inspector stating that the proposed use of the building or land conforms to the requirements of this Ordinance.

(b) Application for Certificate of Zoning Compliance. Certificates of Zoning Compliance shall be applied for by the applicant giving written notice to the Code Inspector that the exterior erection or structural alteration of such building shall have been completed in conformance with the provisions of this Ordinance.

(c) Approval of Health Department Required. If the property in question is not served by public water or sewer, a Certificate of Zoning Compliance shall not be issued by the Code Inspector until the water and sewage disposal systems have been approved by the Galion City Health Department, Ohio Environmental Protection Agency (OEPA) or other applicable entity.

(d) Record of Certificate of Zoning Compliance. The Code Inspector shall maintain a record of all Certificates of Zoning Compliance and a copy of any individual certificate shall be furnished upon request.

(Ord. 2009-85. Passed 12-8-09.)

1109.08 VOID ZONING CERTIFICATES.

A zoning certificate shall be void if any of the following conditions exist:

- (a) The zoning certificate was issued by the Code Inspector contrary to the provisions of this Ordinance .

(b) The zoning certificate was issued based upon a false statement by the applicant.

(c) The zoning certificate has been assigned or transferred.

When a zoning certificate has been declared void for any of the above reasons by the Planning Commission, written notice of its revocation shall be given by certified mail to applicant, sent to the address as it appears on the application. Such notices shall also include a statement that all work upon or use of the building, structure, or land cease, unless and until a new zoning certificate has been issued.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1111

Subdivision Procedures

1111.01 **Pre-application meeting.**

1111.02 **Submittal of minor subdivisions ("lot splits").**

1111.03 **Application for preliminary plan.**

1111.04 **Contents of application for preliminary plan.**

1111.05 **Submittal of preliminary plan to Planning Commission.**

1111.06 **Action on preliminary plan by Planning Commission.**

1111.07 **Application for submittal of final plat.**

1111.08 **Plans and specifications for site improvements.**

1111.09 **Review by City Engineer.**

1111.10 **Construction of improvements and performance guarantees.**

1111.11 **Application for approval of final plat.**

1111.12 **Contents of application for final plat.**

1111.13 **Action on final plat by Planning Commission.**

1111.14 **Conditional approval.**

1111.15 **Appeal of plat refusal.**

1111.16 **Acceptance of public lands and improvements.**

1111.17 **Recording of plat.**

1111.01 PRE-APPLICATION MEETING.

Prior to preparation of a preliminary plan, an Owner/Developer is encouraged to meet with the Code Inspector and/or the Planning Commission to familiarize himself/herself with the provisions of this Code, the zoning ordinance and other applicable regulations. The submittal of a concept or sketch plan for the proposed development, incorporating existing aerial photographs and topographic information, and plans for adjacent areas, is strongly recommended. (Ord. 2009-85. Passed 12-8-09.)

1111.02 SUBMITTAL OF MINOR SUBDIVISIONS ("LOT SPLITS").

If the Code Inspector, or his/her designated agent, determines that the proposed subdivision of land meets the following criteria, then it shall be classified as a minor subdivision:

- (a) Adjoins an existing public street and does not involve opening, widening, extension or improvement of any roadway, and
- (b) Creates no more than five (5) lots including the remainder, and
- (c) Complies with the requirements of Chapter 711 of the Ohio Revised Code and applicable zoning regulations of the City.

All other subdivisions not meeting the standards above shall be considered as major subdivisions and subject to the full requirements of this Chapter.

If the subdivision is considered as a minor subdivision, only such drawings and information as is determined necessary by the Code Inspector to determine compliance with pertinent subdivision, zoning and other regulations need to be submitted for approval. At a minimum, the submitted material shall include a survey of the property by a Registered Surveyor, along with a completed application form as provided for such purpose by the Code Inspector.

After determination that such action meets the criteria for a minor subdivision and within ten (10) business days after it has been submitted, the Code Inspector may approve or disapprove said minor subdivision by indicating upon the preliminary plan or instrument of conveyance "Approved (Disapproved) Galion Planning Commission / No Plat Required", or he/she may refer such submittal to the full Planning Commission. In cases of approval or disapproval, one (1) copy of the preliminary plan or instrument of conveyance, with such notation thereon, shall be retained for the files of the Planning Commission. The decision of the Code Inspector may be appealed in writing to the full Planning Commission within thirty (30) days from the date of the approval or disapproval.

If no action on the proposed minor subdivision is taken within thirty (30) days from submittal, then the minor subdivision shall be considered as approved by the Planning Commission. (Ord. 2017-23. Passed 6-13-17.)

1111.03 APPLICATION FOR PRELIMINARY PLAN.

Upon determining to proceed with a preliminary plan, the Owner/ Developer shall submit nine (9) complete sets of drawings and other material for an application as specified in Section 1111.04 below, to the Code Inspector, along with applicable fees as established by City Council in separate Ordinance.

Within fifteen (15) working days from receipt, the Code Inspector shall review the submitted materials to determine completeness. If the application meets the submittal requirements as specified in Section 1111.04 below, the Code Inspector shall certify such application and proceed with review. If the application is found to be incomplete, the Owner/Developer shall be notified, and the submitted materials shall be so marked.

(Ord. 2009-85. Passed 12-8-09.)

1111.04 CONTENTS OF APPLICATION FOR PRELIMINARY PLAN.

The application for preliminary plan shall, at a minimum, include the following information:

- (a) Proposed name of the subdivision and its location;
- (b) Names, addresses and telephone numbers of owners and/or developers;
- (c) Name, address and registration number of the Professional Engineer or Professional Surveyor preparing the plan.
- (d) Date, north arrow and plan scale;
- (e) Boundary lines of the proposed development and the total tract owned or controlled by Owner /Developer, along with the acreage of both;
- (f) Existing physical features, including any existing structures, with contour lines at not more than two foot (2') intervals if slope of the site is fifteen percent (15%) or less, and five feet (5') feet if slope of the site is more than fifteen percent (15%). Contours shall be based on USGS topographic information, recent aerial photography and/or ground surveys;
- (g) Portions of the site identified by the Federal Emergency Management Agency (FEMA) as within the Official Flood Hazard Area for the 100-Year Flood, as specified on Official Flood Hazard studies, or Flood Hazard Boundary Map(s) for Galion, as may be amended.
- (h) Portions of the site subject to federal wetlands requirements.

- (i) Existing sewers, water mains, transmission lines, culverts and other underground structures within the tract, adjacent to the tract or that will be used in developing the tract, indicating pipe sizes, grades and locations;
- (j) Proposed lot or parcel dimensions, street rights-of-way widths, water, sanitary sewer and storm sewer layout, along with grades and elevation of proposed streets, storm sewers and sanitary sewers;
- (k) Other utility system layouts and requirements;
- (l) Proposed methods for addressing storm runoff;
- (m) Parcels of land intended to be dedicated or temporarily reserved for public use or reserved by deed covenant with the conditions proposed for such covenant, and for the dedications;
- (n) For commercial and/or industrial development, the location, dimensions and grades of proposed parking and loading areas, alleys, streets and points of vehicular ingress and egress to the site.

All drawings shall be submitted as hard copies, as well as in AutoCAD format and as TIFF images or other format as approved by the City Engineer.

(Ord. 2009-85. Passed 12-8-09.)

1111.05 SUBMITTAL OF PRELIMINARY PLAN TO PLANNING COMMISSION.

Upon certification of the preliminary plan application pursuant to Section 1111.03 above, the Code Inspector shall review said application and submit same to the City Engineer, other City departments and/or other entities as deemed appropriate for input. In addition, the Code Inspector may seek the input of special consultants for the express purpose of providing input on particular issues. After review, the Code Inspector shall submit the preliminary plan to the Planning Commission, along with a compilation of comments, recommendations and input received from other sources and his/her recommendations for action. The date of submittal of the preliminary plan shall be deemed the date of the first Planning Commission meeting following completion of review by the Code Inspector.

(Ord. 2009-85. Passed 12-8-09.)

1111.06 ACTION ON PRELIMINARY PLAN BY PLANNING COMMISSION.

The Planning Commission shall review and take action on the preliminary plan not later than thirty (30) days from submittal of the preliminary plan to the Commission by the Code Inspector pursuant to Section 1111.05 above, or within such further time as is agreed upon by the Owner/Developer. In reviewing the preliminary plan, the Planning Commission shall consider the input received from the Code Inspector.

A preliminary plan shall not be approved unless the Planning Commission finds that:

- (a) The preliminary plan complies with the provisions of the Ohio Revised Code, these regulations and other codes of the City, and
- (b) The subdivision can be adequately served with public or private utilities, facilities and services suitable under the specific circumstances, as approved by the City Engineer, and
- (c) Land intended for building sites appears suitable for development and is not likely to be subject to peril from floods, erosion, continuously high water table, poor soil conditions or other menace; however, preliminary approval shall not be construed to imply or infer any warranty or assurance by the City that such hazards do not exist, or any liability thereof.

The Planning Commission may approve, disapprove, or approve with modification the submitted plan. The grounds for the action, including citation or reference for rules violated by the plan, shall be stated in the written record of the Commission. Any approval of a preliminary plan shall be effective for a period of two (2) years.

In the event that modifications are required, a copy of the revised preliminary plan incorporating such modifications shall be completed by the Owner/Developer and submitted to the Commission within three (3) months for the permanent file.

Approval of the preliminary plan shall confer upon the applicant the right for a two (2) year period from the date of approval that the general terms and conditions under which approval was granted will not be changed, and that within such two (2) year period, the whole, including all parts of the preliminary plan shall be submitted for final approval, pursuant to Section 1111.07 below, unless an extension of such time is granted by the Planning Commission

(Ord. 2009-85. Passed 12-8-09.)

1111.07 APPLICATION FOR SUBMITTAL OF FINAL PLAT.

Upon approval of the preliminary plan, an application for a final plat for land being subdivided shall be submitted by the Owner/Developer to the Code Inspector. It shall incorporate all modifications required by the Planning Commission during approval of the preliminary plan, and otherwise conform to the preliminary plan as approved. The Owner/Developer may apply for a final plat covering that portion of an approved preliminary plan which he/she proposes to develop and record at the time, provided that such portion conforms to all provisions of these regulations.

(Ord. 2009-85. Passed 12-8-09.)

1111.08 PLANS AND SPECIFICATIONS FOR SITE IMPROVEMENTS.

Prior to action on a final plat by the Planning Commission, the applicant shall prepare Construction and Grading Plans, specifications and cost estimates of the required site improvements. Construction and Grading Plans shall include a determination of the first floor elevations of all proposed structures. Cost estimates shall reflect current prevailing wage rates, if applicable, and be prepared and certified by a Professional Engineer. A minimum of ten (10) copies of such material shall be submitted to the Code Inspector, who shall provide copies of the plans and estimates to the City Engineer and local utilities, as applicable. All drawings shall be submitted as hard copies, as well as in AutoCAD format and TIFF images, or other suitable format, and shall comply with the requirements of the City Engineer.

The estimates shall be grouped according to the following:

- (a) Street improvements, including curb, gutter, pavement, sidewalks, street lighting, storm drainage and signage;
- (b) Water mains, including lines, valves and hydrants;
- (c) Sanitary sewers, including lines, manholes, lift stations and service taps if located within the public street right-of-way;
- (d) Storm drainage improvements, including pipes, drainage structures, and grading and earthwork for detention/retention areas and open channels.
- (e) Site improvements, including seeding, sodding, and erosion control.
- (f) Other site improvements as required by the Code Inspector.

(Ord. 2009-85. Passed 12-8-09.)

1111.09 REVIEW BY CITY ENGINEER.

The City Engineer shall review the plans submitted pursuant to Section 1111.08 above, and, subject to his review, they shall be approved or returned with comments. The City Engineer may submit the plans for review by special consultants selected by the City for that purpose, if it is determined by the City Engineer that such review is warranted. The costs associated with such reviews shall be paid for by the Owner/Developer.

(Ord. 2009-85. Passed 12-8-09.)

1111.10 CONSTRUCTION OF IMPROVEMENTS AND PERFORMANCE GUARANTEES.

The Owner/Developer may install, construct, have inspected and approved by the City Engineer all required site improvements prior to

submitting the application for approval of a final plat or he/she may furnish satisfactory performance guarantees, pursuant to Chapter 1195, for the construction of such improvements.

No construction work on such development, including street grading, shall be started until the Owner/Developer has obtained approval of the Construction and Grading Plans from the City Engineer, approval of necessary bonds and/or letters of credit, and execution of any development agreement.

(Ord. 2009-85. Passed 12-8-09.)

1111.11 APPLICATION FOR APPROVAL OF FINAL PLAT.

Upon determining to proceed with a final plat, the Owner/ Developer shall submit six (6) complete sets of drawings and materials as specified in Section 1111.12 below to the Code Inspector. The applicant shall submit all fees as applicable for a final plat, as established by City Council. The application shall be submitted within two (2) years after approval of the preliminary plan; otherwise, approval of the preliminary plan shall become null and void unless an extension is granted by the Planning Commission. Within ten (10) working days, the Code Inspector shall review the application, and determine if such application is complete and if all applicable requirements of this Ordinance have been met. If he/she determines that all applicable requirements have been met, the Code Inspector shall transmit the application to the Planning Commission at its next regularly scheduled meeting, which shall be deemed the date of submission of the final plat.

(Ord. 2009-85. Passed 12-8-09.)

1111.12 CONTENTS OF APPLICATION FOR FINAL PLAT.

A final plat shall be drawn to a scale of one (1) inch to one-hundred feet, capable of printing on sheet or sheets 24"X 36" in size, or other size and scale as determined appropriate by the City Engineer. All drawings shall be submitted as hard copies, as well as in AutoCAD format and TIFF images or other format as approved by the City Engineer. The final plat shall contain the following items:

- (a) Name of the subdivision and the section number, if it is a portion of the total subdivision.
- (b) A legal description giving the number of acres, City, township, section, range, parcel identification number and property owner's name.
- (c) All required certifications and approvals
- (d) Requested covenants and/or deed restrictions
- (e) Sheet and total number for each sheet, including covenant sheet and construction plan
- (f) Scale and north indicator
- (g) The bearings and distances of the boundary lines of the subdivision
- (h) The bearings and distances of all lot lines or areas dedicated to public uses within the subdivision. In case of curved sides of lots, the tangent deflection angle, the length of the tangent, the length of radius, the length of arc and the length and bearing of the chord shall be given
- (i) Lot numbers
- (j) The required setbacks and first floor elevations of all proposed structures on lots within the subdivision
- (k) The bearing and distances of all straight sections of street center lines. Curved sections of street center lines shall show the same information as curved lot lines
- (l) Street names
- (m) Street, alley and easement widths. Any easements not parallel to property lines shall show the bearings and distances of the lines
- (n) The location of all permanent markers or monuments
- (o) Building setback lines with their distance from the right-of-way lines
- (p) The proposed location of all utilities and easements, including dimensions
- (q) Certification of engineering data on the plat by a Professional Engineer
- (r) All of the above, including any additional requirements as may be cited by the Crawford County Auditor or Recorder.

(Ord. 2009-85. Passed 12-8-09.)

1111.13 ACTION ON FINAL PLAT BY PLANNING COMMISSION.

If the final plat as submitted to the Commission pursuant to Section 1111.11 above conforms to the provisions of this Ordinance, and is consistent with the preliminary plan with such changes as required by the Planning Commission, and if satisfactory provision is made regarding site improvements, and costs pursuant to Section 1111.08 of this Ordinance, the Commission shall take action on the final plat within thirty (30) days from the date that the final plat is submitted, or within such further time as the Owner/Developer may agree to. The approval of the final plat shall be indicated in writing on the original tracing by the signature of the Chairman of the Planning Commission. Reasons for disapproval of a final plat shall be stated in the records of the Commission, including citations or references to the requirements or provisions of the applicable Ordinance(s) that are inconsistent with the final plat.

If the Commission fails to act upon the final plat within the time allotted, the plat shall be considered as approved, and the certificate of the Planning Commission as to the date of the submission of the plat for approval, and the failure to take action thereon within such time, shall be issued on demand and shall be sufficient in lieu of the written endorsement or other evidence of approval.

(Ord. 2009-85. Passed 12-8-09.)

1111.14 CONDITIONAL APPROVAL .

The Commission may grant conditional approval to a final plat by requiring the Owner/Developer to alter the plat or any part of it, within a specified period after the end of the thirty (30) calendar days, as a condition for final approval. Once all conditions have been met within the specified period, the Commission shall cause its final approval to be endorsed on the plat. No plat shall be recorded until it is so endorsed with the Commission's final or unconditional approval.

(Ord. 2009-85. Passed 12-8-09.)

1111.15 APPEAL OF PLAT REFUSAL.

Within sixty (60) days after final plat denial, the Owner/Developer may file a petition in the Court of Common Pleas, in which he/she shall be named Plaintiff. The petition shall contain a copy of the plat sought to be recorded, a statement of facts justifying the propriety and reasonableness of the proposed subdivision, and a prayer for an order directed to the Crawford County Recorder to record such plat. Such petition may include a statement of facts to support the claim that the rules and regulations of the Planning Commission are unreasonable and/or unlawful. The Planning Commission of the City of Galion and the Crawford County Recorder shall be joined as Defendants, and summons shall be issued upon such Defendants as in a civil action.

(Ord. 2009-85. Passed 12-8-09.)

1111.16 ACCEPTANCE OF PUBLIC LANDS AND IMPROVEMENTS.

Within thirty (30) days after approval of the final plat by the Planning Commission, the Code Inspector shall forward the plat to the City Council for acceptance of the public rights-of-way and easements dedicated or granted thereon. Action of the City Council shall be by separate ordinance, containing a statement authorizing the Clerk of Council to sign the plat and instructing him/her when such signing shall occur.

(Ord. 2009-85. Passed 12-8-09.)

1111.17 RECORDING OF PLAT.

Upon approval of the final plat, a copy thereof shall be properly recorded in the Office of the Crawford County Recorder, at the sole expense of the Owner/Developer. The Final Plat shall be so recorded within sixty (60) days after such plat is approved. In the event that the Final Plat is not recorded within sixty (60) days, the approval of such Final Plat shall thereupon become null and void, unless an extension of such time is granted by the Planning Commission. At such time as the final plat is submitted for recording, the final plat shall contain the City lot number designations, as well as a statement that the public improvements associated with the plat shall be completed within twenty-four (24) months from final plat approval, pursuant to Section 1111.13 above.

Subsequent to the recording required hereby, one copy shall be returned to the Code Inspector, along with the assurances for completion of improvements as required in this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1113

Amendments

1113.01 **Power of City Council.**

1113.02 **Initiation of amendments.**

1113.03 **Application.**

1113.04 **Transmittal of ordinance to Planning Commission.**

1113.05 **Recommendation by Planning Commission.**

1113.06 **Action by City Council.**

1113.07 **Effective date and referendum.**

1113.08 **Successive applications.**

1113.09 **Exception for sign regulations.**

1113.01 POWER OF CITY COUNCIL.

Whenever the public necessity, convenience, or general welfare require, Council may, by Ordinance, after receipt of a recommendation thereon from the Planning Commission and subject to the procedures provided by law, amend, supplement or change the regulations, district boundaries or classifications of property now or hereafter established by this Ordinance or amendments thereof. The Planning Commission shall submit its recommendation regarding all applications or proposals for amendments or supplements to Council.

(Ord. 2009-85. Passed 12-8-09.)

1113.02 INITIATION OF AMENDMENTS.

Amendments to this Ordinance may be initiated in one of the following ways:

- (a) By referral of a proposed amendment to the Planning Commission by City Council.
- (b) By the adoption of a motion by the Planning Commission submitting the proposed amendment to City Council.
- (c) By the filing of an application by at least one (1) owner or person(s) or other entity having an interest in the property, or his designated agent, within the area proposed or affected by the said amendment.

(Ord. 2009-85. Passed 12-8-09.)

1113.03 APPLICATION.

An application for amendment shall be transmitted by the applicant to the Code Inspector and shall contain the following information:

- (a) Name, address, and phone number of the applicant.
- (b) Proposed amendment to the text or, in cases where property is proposed to be placed in a different zoning district, a legal description of the property affected.
- (c) Present use and district.
- (d) Proposed use and district, if applicable.
- (e) A map showing property lines, streets, existing and proposed zoning, and such other items as the Code Inspector may require.
- (f) A list of all property owners within, contiguous to, and directly across the street or alley from the parcel(s) proposed to be rezoned and their address as appearing on the Crawford County Auditor's current tax list. The requirement for addresses may be waived when more than ten (10) parcels are proposed to be rezoned.
- (g) A statement as to how the proposed amendment will impact adjacent and proximate properties.
- (h) Any other information as may be requested by the Code Inspector to determine conformance with, and provide for enforcement of this Zoning Ordinance.
- (i) A fee as established by the City Council.

(Ord. 2009-85. Passed 12-8-09.)

1113.04 TRANSMITTAL OF ORDINANCE TO PLANNING COMMISSION.

Upon referral of the proposed Ordinance by City Council, or the filing of an application by at least one (1) owner or other entity having an interest in the property, or their designated agent. The Code Inspector shall transmit said proposed amendment or application to the Planning Commission.

(Ord. 2009-85. Passed 12-8-09.)

1113.05 RECOMMENDATION BY PLANNING COMMISSION.

(a) Within sixty (60) days after the first regular meeting of the Planning Commission after the receipt of the proposed amendment, the Planning Commission shall recommend to the City Council that the amendment be approved as requested, approved with modification, or that the amendment be denied. A public hearing may be held by the Planning Commission for consideration of the proposed amendment. If held, the Planning Commission shall follow the requirements for notification of such hearing as specified in Section 1113.06 below.

(b) In considering a proposed zoning amendment, the Planning Commission may seek input and recommendations of outside counsel or consultants procured for that purpose.

(Ord. 2015-15. Passed 3-24-15.)

1113.06 ACTION BY CITY COUNCIL.

(a) Public Hearing. Before the proposed Ordinance may be considered, the City Council shall hold a public hearing, and shall give at least thirty (30) days notice of the time and place thereof in a newspaper of general circulation in the City. If the proposed Ordinance intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be made by the Code Inspector, by first-class mail, at least twenty (20) days before the date of the public hearing to the owners of property within, contiguous to, and directly across the street or alley from such parcel or parcels to be redistricted to the address, as provided by the applicant. The failure of delivery of such notice

shall not invalidate such proposed Ordinance.

(b) Display of Relevant Materials. During such thirty (30) days, the text of the proposed Ordinance, together with maps, plans, and reports submitted to the Planning Commission shall be on file, for public examination, in the office of the Code Inspector.

(c) Action by City Council. No such Ordinance which is in accordance with the recommendation submitted by the Planning Commission shall be deemed to pass or take effect without the concurrence of at least a majority of the membership of the City Council. No such Ordinance which violates, differs from, or departs from the recommendation submitted by the Planning Commission shall take effect unless passed or approved by not less than three-fourths (3/4) of the membership of the City Council. Failure of City Council to take final action on the proposed amendment within sixty (60) days after the public hearing shall be deemed a rejection of the ordinance.

(d) Criteria. In reviewing the proposed amendment and arriving at its decision, the Planning Commission and City Council shall consider the following factors:

- (1) Whether the proposed change is consistent with the established land use pattern in the surrounding area
- (2) Whether the proposed change would alter the population density pattern and thereby adversely impact public facilities such as schools, utilities, streets and the like
- (3) Whether the existing district patterns are logically drawn in relation to existing conditions on the property proposed for change.
- (4) Whether changed or changing conditions make adoption of the proposed amendment necessary
- (5) Whether the proposed change is out of scale with the needs of the neighborhood or City.
- (6) Whether the proposed change would be likely to have an adverse effect on the existing natural environment.
- (7) The relationship of the proposed amendment to the purposes and objectives of the Comprehensive Plan with appropriate consideration as to whether the proposed change will further the purposes and objectives of this and other ordinances, codes and regulations of the City of Galion.

(Ord. 2009-85. Passed 12-8-09.)

1113.07 EFFECTIVE DATE AND REFERENDUM.

Such amendment adopted by City Council shall become effective thirty (30) days after the date of Ordinance, unless City Council determines that an emergency exists, in which case, the amendment shall go into effect immediately. If the amendment as passed by City Council pertains to a change in the Official Zoning Map, such change shall be incorporated onto the Map by reference to the Ordinance Number and date of adoption.

(Ord. 2009-85. Passed 12-8-09.)

1113.08 SUCCESSIVE APPLICATIONS.

No application for a zoning change shall be made within eighteen (18) months from the date of the scheduled public hearing of a previous application for substantially the same request which was not approved by Council, unless the applicant can provide proof that there has been a substantial change of conditions and character of the surrounding area.

(Ord. 2009-85. Passed 12-8-09.)

1113.09 EXCEPTION FOR SIGN REGULATIONS.

All amendments to Chapter 1181 of this Ordinance (Sign Regulations) may be made solely by City Council without the need for following any of the procedures set forth in Section 1113.01 through 1113.06 of this Ordinance, including, without limitation, the need for recommendations from the Planning Commission and a public hearing.

(Ord. 2011-70. Passed 9-27-11.)

CHAPTER 1115

Appeals and Variances

1115.01 **Appeals.**

1115.02 **Powers of the Board of Zoning Appeals.**

1115.03 **Application for variances and appeals.**

1115.04 **Public hearing by the Board.**

1115.05 **Notice of public hearing.**

1115.06 **Action by Board of Zoning Appeals.**

1115.07 **Supplementary conditions and safeguards.**

1115.01 APPEALS.

(a) Taking of Appeals. Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Ordinance by the Code Inspector may be taken by any person aggrieved, including a tenant, or by a governmental officer, department, or board. Such appeal shall be taken within twenty (20) days after the date of the decision, by filing with the Code Inspector or with the Board of Zoning Appeals, a notice of appeal specifying the decision of the Code Inspector which the appeal is being taken.

(b) Imminent Peril. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Code Inspector certifies to the Board of Zoning Appeals, after notice of appeal shall have been filed with him, that by reason of facts stated in the application a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may, on due cause shown, be granted by the Board of Zoning Appeals after notice to the Code Inspector, or by judicial proceedings.

(Ord. 2009-85. Passed 12-8-09.)

1115.02 POWERS OF THE BOARD OF ZONING APPEALS.

The Board of Zoning Appeals shall have the power to authorize, upon appeal in specific cases, as hereinafter provided, such variances from the provisions or requirements of this Ordinance as will not be contrary to the public interest. Such variances shall be granted only in cases of exceptional conditions, involving irregular, narrow, shallow, or steep lots, or other exceptional physical conditions of the land, whereby strict application of such requirements would result in practical difficulty that would deprive the owner of the reasonable use of the land and buildings involved. No variance from strict application of any provision of this Ordinance shall be granted by the Board unless it finds that the applicant has shown that all of the following facts and conditions exist:

- (a) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located.
- (b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (c) That such necessary hardship has not been created by the applicant.
- (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor

substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public health, safety and/or welfare.

- (e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

Under no circumstances shall the Board of Zoning Appeals grant a variance that would allow a use not permissible under this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

(Ord. 2009-85. Passed 12-8-09.)

1115.03 APPLICATION FOR VARIANCE AND APPEALS.

Any person owning or having an interest in property, after being denied a zoning certificate, may file an application to obtain a variance or appeal from the decision of the Code Inspector, with the Board of Zoning Appeals, on a form as specified for that purpose.

The application for a variance or an appeal shall contain the following information:

- (a) Name, address, and phone number of the applicant.
- (b) Legal description of property as recorded in Crawford County Recorder's office.
- (c) A map or drawing to approximate scale, showing the dimensions of the lot and any existing or proposed building.
- (d) The names and addresses of all property owners within 200 feet, contiguous to, and directly across the street from the property, as appearing on the Crawford County Auditor's current tax list.
- (e) Each application for a variance or appeal shall refer to the specific provisions of this Ordinance which apply.
- (f) A narrative statement explaining the following:
 - (1) The use for which variance or appeal is sought.
 - (2) Details of the variance or appeal that is applied for and the grounds on which it is claimed that the variance or appeal should be granted, as the case may be.
 - (3) The specific reasons why the variance or appeal is justified, according to Section 1115.02 (a) to (e) above.

(Ord. 2009-85. Passed 12-8-09.)

1115.04 PUBLIC HEARING BY THE BOARD.

The Board of Zoning Appeals shall hold a public hearing within thirty (30) days after receipt of an application for an appeal from decision of the Code Inspector. At such hearing, any party may appear in person or may be represented by agent or attorney.

(Ord. 2009-85. Passed 12-8-09.)

1115.05 NOTICE OF PUBLIC HEARING.

Before holding any public hearing pursuant to Section 1115.04, notice of such hearing shall be given in one (1) or more newspapers of general circulation in the City at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed appeal or variance. In addition, written notice of such hearing shall be mailed by the Code Inspector, by first-class mail, at least ten (10) days before the day of the hearing to all parties of interest. The notice shall contain the same information as required of notice published in newspapers as specified above. Parties of interest shall include at a minimum, owners and occupants of property within 200 feet from, contiguous to, and directly across the street from the property being considered. Failure of delivery of such notice shall not invalidate the actions of the Board of Zoning Appeals.

In cases of appeal, property owners within 200 feet of the property in question need not be notified.

(Ord. 2009-85. Passed 12-8-09.)

1115.06 ACTION BY BOARD OF ZONING APPEALS.

Within thirty (30) days after the public hearing pursuant to Section 1115.04, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 1115.07, or disapprove the request for appeal or variance. The Board of Zoning Appeals shall transmit a written copy of its decision and findings to the Code Inspector, who shall forward such copy to the applicant. If the application is approved, or approved with supplementary conditions, the Board of Zoning Appeals shall make a finding that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building or structure.

If the request for appeal or variance is denied, the applicant may seek relief pursuant to procedures as cited in the Ohio Revised Code.

(Ord. 2009-85. Passed 12-8-09.)

1115.07 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate and reasonable conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 1119.02 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1117

Conditional Uses

1117.01 Purpose.

1117.02 Application for conditional use.

1117.03 General standards for conditional uses.

1117.04 Action by the Planning Commission.

1117.05 Supplementary conditions.

1117.06 Expiration and revocation of zoning permit issued under conditional use provisions.

1117.01 PURPOSE.

Under some unusual circumstances, a proposed use which more intensely affects an area than those uses permitted in the zoning district in which it is located, may nonetheless be desirable and compatible with permitted uses, if that use is properly controlled and regulated. Such uses shall be listed as conditional uses within the description of the respective zoning districts. The Planning Commission may allow such a use to be established as a conditional use where these unusual circumstances exist and where the proposed use will be consistent with the general purpose and intent of this Planning and Zoning Code.

(Ord. 2009-85. Passed 12-8-09.)

1117.02 APPLICATION FOR CONDITIONAL USE.

Any person owning or having an interest in property may file an application to use such property for a conditional use provided for by this Ordinance in the zoning district in which the property is situated. An application for a conditional use shall be filed in triplicate with the Code Inspector, who shall forward a copy to the Planning Commission. The application shall contain the following information:

(a) All of the information required for a zoning permit, pursuant to Section 1109.03.

(b) A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic circulation, open spaces, landscaping, refuse, and service areas, utilities, signs, yards, and such other information as the Commission may require to determine if the proposed conditional use meets the intent and requirements of this Ordinance.

(c) A narrative statement evaluating the effects on adjoining property, and a discussion of the general compatibility with adjacent and other properties in the district.

(d) The names and addresses of all property owners contiguous to, and directly across the street from the property, as appearing on the Crawford County Auditor's current tax list.

(e) Such other information regarding the property, proposed use, or surrounding area as may be pertinent to the deliberations of the Planning Commission.

(Ord. 2009-85. Passed 12-8-09.)

1117.03 GENERAL STANDARDS FOR CONDITIONAL USES.

The Commission shall not approve a conditional use unless it shall, in each specific case, make specific findings of fact directly based on the particular evidence presented to it, that support conclusions that such use at the proposed location shall meet all of the following requirements:

- (a) Will be harmonious with the existing or intended character of the general vicinity and that such use will not change the general character of such area.
- (b) Seeks to maintain, and will not be hazardous to, the health, safety and welfare of the existing neighborhood, and the total community.
- (c) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
- (d) Will not create excessive additional requirements for public facilities and services and will not be detrimental to the economic welfare of the community.
- (e) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- (f) Will have vehicular approaches to the property which shall be so designated as not to interfere with traffic on surrounding public streets or roads.
- (g) Complies with any other requirements or standards that are cited under the specific zoning district regulations of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1117.04 ACTION BY THE PLANNING COMMISSION.

Within sixty (60) days from the date of the application, the Commission shall approve, approve with supplementary conditions as specified in Section 1117.05, or disapprove the application as presented. In rendering its decision, the Commission may contact and seek input from adjacent property owners and/or other interested parties. If the application is approved with supplementary conditions, the Commission shall direct the Code Inspector to issue a zoning certificate listing the specific conditions listed by the Commission for approval. If the application is disapproved, the applicant may seek relief pursuant to other ordinances of the City. If no action is taken by the Commission within the specified time frame, the application shall be considered as approved.

(Ord. 2009-85. Passed 12-8-09.)

1117.05 SUPPLEMENTARY CONDITIONS.

In granting any conditional use, the Commission may prescribe appropriate conditions and safeguards in conformance with this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1117.06 EXPIRATION AND REVOCATION OF ZONING PERMIT ISSUED UNDER CONDITIONAL USE PROVISIONS.

The approval of the zoning certificate issued in accordance with Section 1117.04 above, shall become null and void if such use is not fully implemented, as evidenced by issuance of a Certificate of Zoning Compliance, within one (1) year after date of approval; however, the Planning Commission may grant an extension of a zoning certificate for a conditional use for an additional period of six (6) months. The Planning Commission may revoke the zoning certificate, if it finds, based upon written evidence by any citizen or official of the City, of violation of this Ordinance and/or written terms and conditions upon which approval was based.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1119

Fees and Violations

1119.01 **Schedule of fees, charges and expenses.**

1119.02 **Violation.**

1119.01 SCHEDULE OF FEES, CHARGES AND EXPENSES.

The City Council shall establish, by separate ordinance, a schedule of fees, charges, and expenses and a collection procedure for zoning certificates, subdivision plats, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Code Inspector, and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application.

(Ord. 2009-85. Passed 12-8-09.)

1119.02 VIOLATION.

(a) Violation and Remedies. If any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, demolished, maintained or used, or any land is or is proposed to be used in violation of this Planning and Zoning Ordinance or any amendment or supplement thereto, City Council, the Mayor or any citizen who would be specifically damaged by such violation may, in addition to other remedies provided by law, institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alteration, demolition, conversion, maintenance, or use; to restrain, correct or abate such violation; to prevent the occupancy of such building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

(b) Failure to Obtain a Required Certificate or Approval. Failure to obtain a zoning certificate, Certificate of Zoning Compliance, or other approval as required by specific Sections of this Ordinance shall be a violation of this Ordinance and punishable under subsection (e) below.

(c) Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates. Zoning certificates or other approvals issued on the basis of plans, plats and/or applications authorize only the use, and arrangement set forth in such approved plans and applications or amendments thereto. Any use, arrangement, or construction not in conformance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided in subsection (e) below.

(d) Complaints Regarding Violations. Whenever a violation of this Ordinance is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof, and shall be filed with the Code Inspector. The Code Inspector shall record properly such complaint, immediately investigate, and take such appropriate action thereon as may be necessary and provided for by this Ordinance.

(e) Penalties for Violation. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in various sections of this Ordinance) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 and in addition shall pay all

costs and expenses involved in the case. Each day such violation continues, after receipt of violation notice, shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and be subject to the penalties herein provided.

Penalties as above shall apply unless penalties are defined for specific sections of this Ordinance, in which case the penalties so defined in those sections shall apply.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1121

Nonconformities

1121.01 **Intent.**

1121.02 **Nonconforming uses.**

1121.03 **Nonconforming structures.**

1121.04 **Nonconforming lots of record.**

1121.01 INTENT.

Within the districts established by this Ordinance, or amendments hereinafter adopted, there may exist land, structures and/or lots, or uses thereof, which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit such nonconformities to continue until they are removed, but not necessarily to encourage their survival and expansion except as provided herein.

(Ord. 2009-85. Passed 12-8-09.)

1121.02 NONCONFORMING USES.

(a) Continuation. Any use of land, structures or buildings existing on the effective date of this Ordinance may be continued, even though such use does not conform to the provisions herein, so long as such use was legally existing prior to the establishment of this Ordinance. No nonconforming use shall be moved, extended, enlarged, reconstructed, or structurally altered, except as provided in this Ordinance.

(b) Substitution. The Planning Commission may allow the nonconforming use of land or a building or structure to be changed to another nonconforming use of the same or of a more restricted classification, provided no structural alterations except those required by law or ordinance are made. However, in an "R" District, no change in use shall be authorized by the Planning Commission unless the applicant clearly demonstrates that

(1) The existing and proposed nonconforming uses were lawful at the time of enactment of this Ordinance, and

(2) Such substitution is generally compatible with adjacent land use and zoning patterns.

(c) Expansion/Extension. No nonconforming use shall be enlarged, extended, reconstructed, or structurally altered, except as follows:

(1) The Planning Commission may permit a lawful nonconforming use to be expanded within an existing structure manifestly arranged or developed for such use, provided the applicant clearly demonstrates that such expansion is necessary and incidental to the continuance of such lawful nonconforming use.

(2) The Planning Commission may permit the expansion or extension of a nonconforming use of land, not involving the physical expansion of a building or structure, to an area consisting of one-hundred-twenty-five percent (125%) of the area enclosing the nonconforming use at the time of enactment of this Ordinance, provided such expansion occurs on the same lot as existing on the effective date of this Ordinance. In such cases, the applicant shall clearly demonstrate that the foregoing conditions have been met, that such expansion is necessary and incidental to the continuance of such lawful nonconforming use and that such expansion does not encroach on any yard or setback required for the district in which the nonconforming use is located.

(d) Discontinuance. A nonconforming use which has been discontinued or abandoned shall not thereafter be returned to a nonconforming use. A nonconforming use shall be considered abandoned whenever either of the following conditions exist:

(1) When the use has been voluntarily discontinued for a period of two (2) years.

(2) When the nonconforming use has been replaced by a conforming use.

(Ord. 2009-85. Passed 12-8-09.)

1121.03 NONCONFORMING STRUCTURES.

Nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any structure on which actual construction was lawfully begun prior to the effective date of this Ordinance or amendment hereto and upon which actual building construction has been diligently continued, provided such construction is completed within two (2) years from the effective date of this Ordinance.

(a) Nonconforming Mobile Homes. A nonconforming mobile home, as defined in Chapter 1103 of this Ordinance, located in any district, once removed shall not be relocated on such lot, or replaced with another mobile home. No enlargement, extension or expansion of a nonconforming mobile home, as defined in Chapter 1103, shall be permitted within the City of Galion.

(b) Extension.

(1) No nonconforming building or structure shall be moved in whole or in part to any other location unless such building or structure and the yard and other open spaces provided are made to conform to all of the regulations of the district in which such building or structure is to be located.

(2) Any structure which is nonconforming due to its location or configuration on the lot, resulting in lot coverage or yards inconsistent with the requirements of the zoning district where it is located, may be enlarged, extended or structurally altered in a manner that decreases or maintains its existing degree of nonconformity, but in no case shall such structure be enlarged, extended or structurally altered in a manner that increases its degree of nonconformity.

(3) Any residential structure which is nonconforming due to the fact of its being in a non-residential zoning district may be enlarged, extended, reconstructed or structurally altered, provided it meets the requirements of the most proximate R-District.

(c) Damage and/or Destruction of a Nonconforming Building or Use. When a building or structure, the use or location of which does not conform to the provisions of this Ordinance, is damaged by fire, explosion, act of God, or the public enemy, it may be restored or rebuilt and continued in such nonconforming use, provided that the following conditions are met:

(1) The restoration or rebuilding is commenced within six (6) months of the time of damage, and construction is completed within one (1) year, unless an extension is requested from and granted by the Planning Commission, and

(2) The damaged or destroyed building was not located in such a manner so as to encroach or intrude on adjacent property, and

(3) Such restoration or rebuilding would not extend or expand the existing use beyond the parameters established in Section 1121.04 below.

If any part of the damaged or destroyed building encroaches or intrudes on adjacent property, the location of the restored or rebuilt structure is subject to approval by the Planning Commission. If the restoration or rebuilding of the structure involves extension or expansion of the use, then the provisions of Section 1121.04 shall apply.

- (d) Maintenance and Repair. Nothing in this Chapter shall be deemed to prevent normal maintenance and repair of a nonconforming building or structure, or a building or structure containing a nonconforming use. Structural alterations may be made to a building or structure containing a nonconforming use when at least one of the following conditions exist:
- (1) When required by law.
 - (2) To convert to a conforming use.
 - (3) A building or structure containing residential nonconforming uses may be so altered as to improve interior livability. However, no structural alterations shall be made which exceed the area or height requirements or which would extend into any yard required in the district in which such building is located.
- (Ord. 2009-85. Passed 12-8-09.)

1121.04 NONCONFORMING LOTS OF RECORD.

In any district where dwellings are permitted, a one-family detached dwelling may be erected on any lot of official record on the effective date of this Ordinance, even though such lot does not comply with the lot area and width requirements of the district in which it is located, provided said lot has a minimum lot area of 3,000 square feet and at least thirty (30) feet frontage on a public right-of-way; and further provided the following conditions are complied with:

- (a) If the owner of such lot does not own adjacent property and did not own such property at the time this Ordinance became effective, two (2) inches may be deducted from the required minimum width of each side yard and four (4) inches from the required sum of minimum widths of both side yards for each foot that the lot is narrower than the required width for the district. In no case, however, shall any side yard be narrower than three (3) feet.
- (b) If the owner of such lot owns two (2) or more adjacent lots, or other adjacent property, such owner shall redivide the property in such a manner that they conform to the minimum width of such lots in the most proximate single-family district. However, if such redivision would result in lots that exceed width requirement of lots in the most proximate district, such redivision shall provide for one (1) more building lot than would otherwise be allowed.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1123

Reserved for Future Use

TITLE FIVE -Zoning Districts

- Chap. 1127. Standard Zoning District Regulations.
- Chap. 1129. Zoning Districts and Zoning District Map.
- Chap. 1131. (RE) Rural Estate District.
- Chap. 1133. (R-1A, R-1B) Single-Family Residential Districts.
- Chap. 1135. (R-1C) Historic Neighborhood Single-Family Residential District.
- Chap. 1137. (R1-D) Single Family Residential District.
- Chap. 1139. (MH-R) Manufactured Home Residential District.
- Chap. 1141. (RM) Residential Multiple Family District.
- Chap. 1143. *Reserved for Future Use*
- Chap. 1145. (RO) Residential Office.
- Chap. 1147. (LC) Limited Commercial.
- Chap. 1148. (HS) Health Service District.
- Chap. 1149. (GC) General Commercial District.
- Chap. 1151. (U) Uptowne District.
- Chap. 1153. (HC) Highway Commerce District.
- Chap. 1155. (ES) Educational Services District.
- Chap. 1157. (GI) General Industrial District.
- Chap. 1159. (IP) Industrial Park District.
- Chap. 1161. *Reserved for Future Use*
- Chap. 1163. (PUD) Planned Unit Development.
- Chap. 1165. (FP) Flood Plain District (Overlay).
- Chap. 1167. (RCO) Riparian Corridor Overlay District.
- Chap. 1169. *Reserved for Future Use*

CHAPTER 1127

Standard Zoning District Regulations

1127.01 **Regulation of the use and development of land or structures.**

1127.02 **Rules of application.**

1127.01 REGULATION OF THE USE AND DEVELOPMENT OF LAND OR STRUCTURES.

Regulations pertaining to the use of land and/or structures, and the physical development thereof within each of the zoning districts as established in Chapter 1129, are hereby established and adopted.

(Ord. 2009-85. Passed 12-8-09.)

1127.02 RULES OF APPLICATION.

(a) Identification of Uses. Listed uses are to be defined by their customary name or identification, except as specifically defined or limited in this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

(b) Permitted Uses.

- (1) Only a use designated as permitted shall be allowed as a matter of right in any zoning district, and any use not so designated shall be prohibited unless:
 - A. A permitted use may be added to a zoning district by formal amendment, in conformance with Chapter 1113 of this Ordinance.
 - B. An unlisted use may be determined by the Planning Commission to be a similar use, in accordance with Section 1127.02(e) of this Chapter.
 - C. Any use required to be a permitted use under federal or state law in any zoning district is a permitted use under this Ordinance as required by the applicable law.

(Ord. 2019-87. Passed 12-10-19.)

(2) No more than one (1) permitted use shall exist on any one zoning lot.

(c) Accessory Uses. An accessory use or structure is a subordinate use or structure clearly incidental and secondary to the principal permitted building or use, and located on the same lot with such principal building or use. Accessory uses or structures shall be allowed in accordance with the specific district regulations, and the requirements of Section 1175.01 of this Ordinance.

(d) Conditional Uses. A use designated as a conditional use shall be allowed in the zoning district where the designation occurs, when such use, its location, extent and method of development will not substantially alter the character of the vicinity, or unduly interfere with or adversely impact the use of adjacent lots. To this end, the Planning Commission may in addition to the development standards for the specific district, set forth additional requirements as will render the conditional use compatible with existing and future use of adjacent lots in the vicinity, in accordance with Chapter 1117 of this Ordinance.

(e) Similar Uses. Determination as to whether a use is similar to uses permitted by right shall be considered as an expansion of use regulations of the district and not as a variance applying to a particular situation. Any use found similar shall thereafter be considered as a permitted use in that district.

Applications for zoning permits for uses not specifically listed in the permitted building or use classifications of the zoning district, which the applicant feels qualify as a similar use under the provisions of this Section, shall be submitted to the Planning Commission.

Within thirty (30) days after such submittal, the Planning Commission shall determine whether the requested use is similar to those uses permitted in the specific district. In order to find that a use is similar, the Planning Commission shall find that all of the following conditions exist:

- (1) Such use is not listed as a permitted or conditional use in another zoning district.
- (2) Such use conforms to basic characteristics of the classification to which it is to be added and is more appropriate to it than to any other classification.
- (3) Such use creates no increased danger to health and safety, creates no increased level of noise, vibration, dust, heat, smoke, odor, glare, or other objectionable impacts, and does not create traffic congestion to an extent greater than normally resulting from uses listed in the classification to which it is to be added.

(f) Development Standards. Development standards set forth shall be the minimum allowed for uses permitted in that district. If development standards are in conflict with requirements of any other lawfully adopted rule, regulation, or law, the most restrictive standard shall govern.

(g) Site Plan. For particular uses in specific districts and most conditional uses, a Site Plan will be cited as required. In such cases, the Site Plan shall be submitted by the applicant at the time of the application for a zoning permit, or at such time when the property is rezoned into that district. The Site Plan shall contain a site plan for the property, drawn to approximate scale, showing all property lines, existing buildings, access drives, parking areas, existing vegetation and other notable physical features. The Site Plan shall also show the location, outlines and size of all proposed structures including the design of all improvements including drainage, private streets, water and sanitary sewer lines, as well as the size, design, materials and location of all signage proposed for the development. The Site Plan shall also contain a narrative description of the proposed use, and an evaluation of how such use may impact adjacent property and methods that will be employed to alleviate or minimize any adverse impacts.

The Site Plan shall be reviewed by the Code Inspector and may be subject to review by the Planning Commission. The Site Plan must be approved as a condition for the issuance of a zoning certificate. In reviewing such Plan, the Code inspector and/or Planning Commission may seek the timely input from specific consultants. In approving a Site Plan, the Code Inspector and/or Planning Commission shall find that the following criteria have been met:

- (1) The use(s) and structure(s), as proposed, can be adequately and efficiently served by public streets and utilities.
- (2) The proposed building or use shall have sufficient yard space to provide for adequate parking and screening of adjacent residential areas as may be required in this Ordinance.
- (3) The location, design and operation of the proposed use shall not impose undue adverse impacts on surrounding residential neighborhoods, and/or the Site Plan for the proposed facility has incorporated measures to lessen and/or alleviate such adverse impacts and protect the character of such adjacent residential areas.
- (4) The use(s) and structure(s), as proposed, are generally consistent with the purposes and intent of the zoning district and other provisions of this Ordinance.

(h) Essential Services. Essential Services, as defined and specified in Chapter 1103 of this Ordinance, shall be permitted in any and all zoning districts within the municipality.

CHAPTER 1129

Zoning Districts and Zoning District Map

1129.01 **Zoning districts established.**

1129.02 **Official Zoning Map.**

1129.03 **Interpretation of zoning district boundaries.**

1129.04 **Newly annexed areas.**

1129.01 ZONING DISTRICTS ESTABLISHED.

The following zoning districts are hereby established for the City of Galion:

- RE - Rural Estate District
- R-1A- Single-Family Residential District
- R-1B - Single-Family Residential District
- R-1C - Historic Neighborhood Single-Family Residential District
- MH-R - Manufactured Home Residential District
- RM - Residential Multiple Family District
- RO - Residential Office District.
- LC - Limited Commercial District
- GC - General Commercial District
- U - Uptowne District
- HC - Highway Commerce District
- GI - General Industrial District
- IP - Industrial Park District
- PUD - Planned Unit Development
- FP - Flood Plain District (Overlay).
- RCO - Riparian Corridor Overlay District

(Ord. 2009-85. Passed 12-8-09.)

1129.02 OFFICIAL ZONING MAP.

The districts established in Section 1129.01 above are shown on the Official Zoning Map, which together with all notations, references, data,

district boundaries and other explanatory information, is hereby adopted as a part of this Ordinance. The Official Zoning Map shall be identified by the signatures of the Mayor and President of Council, and shall be on file in the City offices.
(Ord. 2009-85. Passed 12-8-09.)

1129.03 INTERPRETATION OF ZONING DISTRICT BOUNDARIES.

Except where referenced and noted on the Official Zoning Map by a designated line and/or dimensions, the district boundary lines are intended to follow property lines, lot lines, centerlines of streets, alleys, streams and/or railroads as they existed at the time of passage of this Ordinance. The Code Inspector shall interpret the boundary lines from the Zoning Map. When and if the Code Inspector's interpretation of such boundary line is disputed, the final interpretation authority shall rest with the Planning Commission.
(Ord. 2009-85. Passed 12-8-09.)

1129.04 NEWLY ANNEXED AREAS.

Subject to the conditions stated below, territory which is annexed into the City of Galion subsequent to the effective date of this Ordinance shall, upon the effective date of the annexation, be zoned into the RE District. Within three (3) months from the date of annexation, the Planning Commission shall present a zoning plan for the annexed territory to City Council, however such plan may be submitted prior to annexation. Such plan shall consider the recommendations of any comprehensive plan for the area, if adopted by City Council. City Council may hold a public hearing on the proposed zoning plan, as recommended by the Commission. If such hearing is held, notice of such hearing shall be given in a newspaper of general circulation within the municipality not less than thirty (30) days before the date of the hearing. Within thirty (30) days after such hearing, City Council shall approve, or approve with modification the zoning plan. If such zoning plan is approved by City Council prior to the effective date of annexation, then the annexed property shall be considered to be zoned as specified in the date the annexation is effective.

Nothing in this Section shall prevent the owner of property within the annexed territory from applying for a zoning amendment, after the effective date of annexation, pursuant to the procedures specified in Chapter VI of this Ordinance.
(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1131

(Re) Rural Estate District

1131.01 Purposes.

1131.02 Permitted uses.

1131.03 Accessory uses.

1131.04 Conditional uses.

1131.05 Development standards.

1131.01 PURPOSES.

The Rural Estate District is established within the City of Galion for the following purposes:

(a) To provide areas for low density single family residential environments reflecting a rural lifestyle, and not normally served by public water and/or sewer.

(b) To promote the continuance of agriculture and farm-based uses.

(c) To physically conserve such areas as needed for future more intensive development.

This zoning district is intended to provide for development at low residential densities and is a "holding zone" until more intensive development opportunities present themselves to individuals or groups of property owners.

(Ord. 2009-85. Passed 12-8-09.)

1131.02 PERMITTED USES.

(a) Agricultural uses as defined in Chapter 1103, along with customary agricultural buildings and structures incidental to the carrying out of the principal agricultural activity, and/or no more than one single-family detached dwelling.

(b) One-family detached nonfarm dwellings.

(c) Public parks and nature preserves.

(d) Projects specifically designed for watershed protection, conservation of water or soils for flood control.

(e) Greenhouses and nurseries, including tree farms and woodlots.

(Ord. 2009-85. Passed 12-8-09.)

1131.03 ACCESSORY USES.

(a) Accessory buildings or structures customarily associated with single-family residential use, including detached garages or carports, tool or garden sheds, playhouses, tennis courts, swimming pools and/or similar facilities for primary use by occupants of the principal use of the property on which the facility is located, subject to the requirements of this Ordinance.

(b) Home occupations, subject to the requirements of Section 1175.02 of this Ordinance.

(c) Temporary seasonal roadside stands offering for sale primarily agricultural products grown on the premises

(Ord. 2009-85. Passed 12-8-09.)

1131.04 CONDITIONAL USES.

(a) Kennels and similar facilities for boarding of animals, provided adequate measures will be employed to minimize any adverse impacts on adjoining properties.

(b) Golf courses, provided a Site Plan showing the location of all use areas and facilities is submitted and approved pursuant to Section 1127.02(g) of this Ordinance.

(c) Churches, provided a Site Plan showing all facilities is submitted and approved pursuant to Section 1127.02(g) of this Ordinance.

(d) Bed and Breakfast establishments, provided the facility is owned and operated by the resident of the property, and subject to the following:

(1) Structures shall maintain the appearance of a single-family residence and be compatible with surrounding residences, in size and scale.

(2) Off-street parking shall be provided for all guests in specially designated improved areas.

(3) Exterior signage shall be limited to a single sign identifying the establishment, not more than twelve (12) square feet in size. No signs shall be internally illuminated and all lighting shall be arranged so as not to shine on adjacent properties.

(4) Accommodations shall be limited to three (3) guest rooms.

(Ord. 2009-85. Passed 12-8-09.)

1131.05 DEVELOPMENT STANDARDS.

(a) Minimum Lot Area. For property that is not served by central public water and sewer facilities, a minimum lot area for permitted and

conditional uses shall be not less than five (5) acres, or such size as determined by the Health Department having jurisdiction, whichever is larger.

(b) **Minimum Lot Width.** For property that is not served by central public water and sewer facilities, a minimum lot width shall be not less than 250 feet. In addition, all lots less than ten (10) acres in size shall have a depth: width ratio of not higher than 3:1.

(c) **Minimum Front Yard Depth.** All structures shall be located not less than 100 feet from the center line of any roadway.

(d) **Minimum Side Yard Width.** Twenty (20) feet.

(e) **Minimum Rear Yard Depth.** Fifty (50) feet.

(f) **Maximum Building Height.** Forty-five (45) feet for buildings. Silos, windmills, or other structures listed as permitted, accessory or conditional uses may exceed this height provided such structures maintain a distance equal to their height to any adjacent property.

(g) **Development Standards for Property with Services.** For single family residential uses that are served by public water and wastewater facilities, the minimum lot area, lot width, front yard depth, side yard width rear yard depth and maximum building size shall be as specified in the R-1A District.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1133

(R-1A, R-1B) Single-family Residential Districts

1133.01 **Purpose.**

1133.02 **Permitted uses.**

1133.03 **Accessory uses.**

1133.04 **Conditional uses.**

1133.05 **Development standards.**

1133.01 PURPOSE.

The Single-Family Residential Districts are established to provide for single-family residential development at various densities typical of contemporary suburban environments. The R-1A and R-1B Districts are to be utilized in areas of the City that are served by public water and sewer.

(Ord. 2009-85. Passed 12-8-09.)

1133.02 PERMITTED USES.

(a) One-family detached dwelling.

(b) Public parks and open space.

(c) Public parks and playgrounds of less than one (1) acre in size.

(Ord. 2009-85. Passed 12-8-09.)

1133.03 ACCESSORY USES.

(a) Accessory buildings or structures customarily associated with single-family residential use, including detached garages or carports, tool or garden sheds, playhouses, swimming pools and tennis courts and similar facilities for primary use by occupants of the principal use of the property on which the facility is located, subject to the requirements of this Ordinance.

(b) Home occupations, subject to the requirements of Section 1175.02 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1133.04 CONDITIONAL USES.

(a) Public parks or playgrounds of one (1) acre or more

(b) Public or private elementary or middle schools, provided a Site Plan showing all facilities is submitted and approved pursuant to Section 1127.02(g) of this Ordinance. In addition all parking and service areas must be landscaped and screened pursuant to the requirements of Section 1179.03 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1133.05 DEVELOPMENT STANDARDS.

The development standards for the R-1A and R-1B Districts shall be as shown on the following chart:

**SINGLE FAMILY RESIDENTIAL DISTRICTS
DEVELOPMENT STANDARDS**

	PERMITTED USES		CONDITIONAL USES
	R-1A	R-1B	
MINIMUM LOT AREA	15,000 S.F.	10,000 S.F.	6 acres
MINIMUM LOT WIDTH	100 feet	80 feet	300 feet
MINIMUM FRONT YARD DEPTH	30 feet	25 feet	50 feet
MINIMUM SIDE YARD WIDTH	15 feet	10 feet	50 feet
MINIMUM REAR YARD DEPTH	40 feet	40 feet	50 feet
BUILDING HEIGHT	35 feet	35 feet	50 feet
MAX. % OF LOT COVERAGE	20%	30%	25%
MIN. FLOOR AREA (1 STORY)	1,500 S.F.	1,300 S.F.	--
MIN. FLOOR AREA (1.5 - 2 STORY)	1,800 S.F.	1,600 S.F.	--

NOTE: On existing lots of record in the R-1A and R-1B Districts having sixty (60) feet or less of lot width and used for single family residential purposes, the interior side yard shall be six (6) feet and the street side yard shall be twelve (12) feet.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1135

(R-1C) Historic Neighborhood Single-family Residential District

1135.01 **Purpose.**

1135.02 **Permitted uses.**

1135.03 **Accessory uses.**

1135.04 **Conditional uses.**

1135.05 **Development standards.**

1135.01 PURPOSE.

The R-1C District is established to provide for the continuance of single-family housing and reinvestment within the older portions of the City of Galion, and expansion of such uses at densities consistent with existing development, thereby encouraging the revitalization of older neighborhoods and increasing the diversity of housing choice, while maintaining adequate development standards. This district could also be used to allow for new development in peripheral areas by meeting standards intended to promote the neighborhood character of such new development.

It is recognized that property in the R-1C District is located in the older areas of the City, and that such areas are likely to be characterized by patterns of mixed land use. Many of these mixed uses are the result of past development practices and might not be allowed under the current provisions of this Ordinance. It is the intent of this Ordinance, and this district in particular, to protect and preserve the basic property rights of such existing nonconforming properties. Specific provisions are made for the continuance, substitution and extension of such use, pursuant to Chapter 1121 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1135.02 PERMITTED USES.

- (a) One-family detached dwelling.
- (b) Public parks, playgrounds and open space.

(Ord. 2009-85. Passed 12-8-09.)

1135.03 ACCESSORY USES.

(a) Accessory buildings or structures customarily associated with single-family residential use, including detached garages or carports, tool or garden sheds, playhouses swimming pools and similar facilities for primary use by occupants of the principal use of the property on which the facility is located, subject to the requirements of this Ordinance.

- (b) Home occupations, subject to the requirements of Section 1175.02 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1135.04 CONDITIONAL USES.

(a) Churches and similar places of public assembly, provided the seating capacity of the sanctuary or main seating area is not more than 300 persons. A Site Plan shall be required for all new or expansion of existing churches in the R-1C District.

- (b) Day-care centers and schools associated with conditionally permitted churches.

- (c) Elementary schools, subject to submittal and approval of a Site Plan, pursuant to Section 1127.02(g) of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1135.05 DEVELOPMENT STANDARDS.

- (a) Minimum Lot Area. 6,750 square feet.

- (b) Minimum Lot Width. Forty-five (45) feet of lot width with frontage on a publicly dedicated, improved street or highway.

(c) Minimum Front Yard Depth. Twenty (20) feet, or the least of the front yards of the four (4) most proximate principal structures (including porches) on the same side of the street facing thereon, whichever is less. For purposes of this Section, the least front yard used as a reference shall not have been allowed by a previous variance. In no case shall any front yard be less than ten (10) feet. (Ord. 2014-84. Passed 11-25-14.)

- (d) Minimum Side Yard Depth. Seven-and-one-half (7 ½) feet; Fifteen (15) feet adjacent to a street.

On existing lots of record of sixty (60) feet of lot width or less, the side yard shall be six (6) feet, or the least of the side yards of the four (4) most proximate principal structures on the same side of the street thereon, whichever is less. For purposes of this Section, the side yard used as a reference shall not have been allowed by a previous variance. In no case shall any side yard that abuts a street be less than twelve (12) feet.

- (e) Minimum Rear Yard Depth. Twenty (20) feet.

- (f) Minimum Area of Principal Building. 1,050 square feet of living area for structures, excluding basement and garage areas.

- (g) Lot Coverage. All structures, including accessory structures, shall cover not more than 40% of the area of the lot.

- (h) Maximum Building Height. Thirty-five (35) feet.

(i) Additional Requirements for New Lots Developed in the R-1C District. Presently undeveloped areas outside the older portion of the City may be developed in the R-1C District, subject to the following regulations:

- (1) Adjacent to R-1C District. The property to be zoned for new R-1C development must be located adjacent to area of the City zoned in the R-1C District.

- (2) Site Plan. A Site Plan, pursuant to Section 1127.02(g) of this Ordinance, shall be required for all new residential development within the R-1C District, containing more than five (5) dwelling units. Such Site Plan shall show the proposed layout of all streets, lots and buildings, as well as the location of all public spaces.

- (3) Garages. All garages shall be located within the rear yard.

- (4) Street Trees. Street trees shall be required along all new streets developed within R-1C District. Such trees shall be spaced not further than thirty feet (30') apart and shall be a minimum of twelve feet (12') of overall height or a minimum caliper (trunk diameter measured six inches above the ground) of at least two inches (2") at time of planting. Such trees shall not be of a variety or species listed as undesirable in Section 1177.04 of this Ordinance.

- (5) Sidewalks. Sidewalks of not less than four (4) feet in width shall be required for both sides of all new streets developed within the R-1C District.

- (6) Required Open Space. Not less than fifteen percent (15%) of the total net developable area of the proposed development shall be dedicated to permanent open space parks, and/or public spaces. Such open space shall be granted to a homeowner's association, or - with the approval of the City Council - may be granted to the City. For the purposes of this calculation, net developable area shall mean the area of the site proposed for development, minus public and/or private streets and/or alleys.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1137

(R1-D) Single Family Residential District

1137.01 **Purpose.**

1137.02 **Requirements generally.**

1137.03 **Permitted uses.**

1137.04 **Accessory uses.**

1137.05 **Conditional uses.**

1137.06 Development standards.

1137.01 PURPOSE.

The City of Galion recognizes that permanently sited manufactured housing presents residential options and opportunities, especially related to cost, which are unavailable with conventional site-built housing. The R-1D Single Family Residential District is established to provide a desirable residential environment for permanently sited manufactured homes, protected from adverse neighboring influences, with adequate access for vehicular traffic and circulation. It is also established to provide a location for light retail and associated uses that do not conflict with the aforementioned purposes. These permanently sited manufactured homes shall be located and lots shall be developed so as to provide overall desirability equivalent to that for other forms of residential development. (Ord. 2020-65. Passed 11-10-20.)

1137.02 REQUIREMENTS GENERALLY.

Permanently sited manufactured homes, as defined in Chapter 1103 of this Ordinance, shall be considered as a permitted use in any zoning district that permits single-family residential dwellings. Mobile homes as defined in Chapter 1103 and/or Section 4501.01 of the Ohio Revised Code shall not be considered as a permitted or conditional use in this or any other zoning district. A nonconforming mobile home may be replaced by a permanently sited manufactured home, provided such home meets the standards of this Chapter. (Ord. 2019-23. Passed 4-23-19.)

1137.03 PERMITTED USES.

- (a) One-family detached dwellings.
 - (b) One-family individual permanently sited manufactured homes as defined in Chapter 1103 of this Ordinance.
 - (c) Public or private parks or playgrounds.
- (Ord. 2019-23. Passed 4-23-19.)

1137.04 ACCESSORY USES.

Uses and structures incidental and accessory to specified permitted uses.
(Ord. 2019-23. Passed 4-23-19.)

1137.05 CONDITIONAL USES.

- (a) Nursery schools and day care centers.
- (b) Class I Type A group residential facilities, subject to the requirements of Section 1175.05 of this Ordinance.
- (c) Churches and similar places of public assembly, provided the seating capacity of the sanctuary or main seating area is not more than 400 persons and provided a Site Plan showing the location of all new and expanded use areas and facilities is submitted and approved pursuant to Section 1127.02(g).
- (d) Garages and outbuildings located on other lot(s) than the lot(s) which the manufactured home is located. Such garages and outbuildings shall not be erected in a manner which would prohibit the placement of a permanently sited manufactured home or erection of a site-built house on the lots where erected by virtue of conflict with other provisions of this Ordinance.
- (e) For parcels that have frontage on a state highway, retail stores and shops; food, drug, variety, dry goods, clothing, music, hardware, equipment, and other similar light retail uses, as well as processing, assembly, and/or packaging of products and materials associated with said retail stores and shops, provided that such operations do not produce levels of noise or odors perceptible outside the building inconsistent with the purposes of the R-1D District as stated above. (Ord. 2020-65. Passed 11-10-20.)

1137.06 DEVELOPMENT STANDARDS.

The following standards for the arrangement and development of land and buildings are required in the R-1D District. This set of development standards shall have precedence and shall supersede all conflicting provisions of this Chapter.

- (a) Minimum Lot Area. The minimum lot area shall be 5,000 square feet.
- (b) Minimum Lot Width. Forty-five (45) feet of lot width with frontage on a publicly dedicated, improved street or highway.
- (c) Minimum Front Yard. Twenty (20) feet, or the least of the front yards of the four (4) most proximate principal structures (including porches) on the same side of the street facing thereon, whichever is less. For purposes of this Section, the least front yard used as a reference shall not have been allowed by a previous variance. In no case shall any front yard be less than ten (10) feet.
- (d) Minimum Side Yard Width. Seven-and-one-half (7 ½) feet; Ten (10) feet adjacent to a street. On existing lots of record of sixty (60) feet of lot width or less, the side yard shall be six (6) feet, or the least of the side yards of the four (4) most proximate principal structures on the same side of the street thereon, whichever is less. For purposes of this Section, the side yard used as a reference shall not have been allowed by a previous variance. In no case shall any side yard that abuts a street be less than twelve (12) feet.
- (e) Minimum Rear Yard Depth. Twenty (20) feet.
- (f) Minimum Lot Coverage. Detached dwelling units and their accessory buildings shall not occupy more than forty percent (40%) of any individual lot.
- (g) Garages. All garages shall be located within the rear yard except as provided in Section 1137.05. (Ord. 2019-23. Passed 4-23-19.)

CHAPTER 1139

(MH-R) Manufactured Home Residential District

1139.01 Purpose.

1139.02 Requirements generally.

1139.03 Permitted uses.

1139.04 Accessory uses.

1139.05 Conditional uses.

1139.06 Development standards.

1139.01 PURPOSE.

The City of Galion recognizes that manufactured housing presents residential options and opportunities, especially related to cost, which are unavailable with conventional site-built housing. The Manufactured Home Residential (MH-R) District is established to provide a desirable residential environment for manufactured homes, protected from adverse neighboring influences, with adequate access for vehicular traffic and circulation. These residential communities shall be developed and located to provide overall desirability equivalent to that for other forms of residential development.

The MH-R District may also be used to accommodate areas of the City occupied by existing mobile or manufactured homes, and to encourage the renewal and revitalization of these residential areas.

(Ord. 2009-85. Passed 12-8-09.)

1139.02 REQUIREMENTS GENERALLY.

Permanently sited manufactured homes, as defined in Chapter 1103 of this Ordinance, shall be considered as a permitted use in any zoning district that permits single-family residential dwellings. Manufactured homes not meeting the criteria for permanently sited manufactured homes in Chapter 1103 of this Ordinance shall only be allowed under terms as specified in this Chapter. Mobile homes as defined in Chapter 1103 and/or Section 4501.01 of the Ohio Revised Code shall not be considered as a permitted or conditional use in this or any other zoning district. A nonconforming mobile home may be replaced by a manufactured home, provided such home meets the standards of this Chapter.

(Ord. 2009-85. Passed 12-8-09.)

1139.03 PERMITTED USES.

- (a) One-family detached dwellings.
 - (b) Manufactured home communities, provided a Site Plan is approved, pursuant to Section 1127.02(g) of this Ordinance.
 - (c) Individual manufactured homes not considered as permanently sited manufactured homes on single lots, provided such homes are placed on a permanent foundation as defined in Chapter 1103.
 - (d) Public or private parks or playgrounds.
- (Ord. 2009-85. Passed 12-8-09.)

1139.04 ACCESSORY USES.

Uses and structures incidental and accessory to specified permitted uses to include common areas, community/recreational facilities and offices for rental and management of units therein.

(Ord. 2009-85. Passed 12-8-09.)

1139.05 CONDITIONAL USE.

- (a) Nursery schools and day care centers.
- (b) Class I Type A group residential facilities, subject to the requirements of Section 1175.05 of this Ordinance.
- (c) Churches and similar places of public assembly, provided the seating capacity of the sanctuary or main seating area is not more than 400 persons and provided a Site Plan showing the location of all new and expanded use areas and facilities is submitted and approved pursuant to Section 1127.02(g). (Ord. 2011-68. Passed 9-27-11.)

1139.06 DEVELOPMENT STANDARDS.

The following standards for the arrangement and development of land and buildings are required in the MH-R District:

(a) Minimum Lot Area.

- (1) The minimum lot area for any manufactured home community shall be ten (10) acres. Maximum gross density shall not exceed six (6) dwelling units per acre. (Ord. 2009-85. Passed 12-8-09.)
- (2) Individual manufactured home lots shall be not less than 2,750 square feet. (Ord. 2014-84. Passed 11-25-14.)
- (3) For any other permitted use, the minimum lot area shall not be less than 6,000 square feet.

(b) Minimum Lot Width.

- (1) The minimum lot width for any manufactured home community shall be not less than 300 feet. Frontage shall be provided on a publicly dedicated and improved street. The ratio of width to depth shall not exceed one to five (1:5). (Ord. 2009-85. Passed 12-8-09.)
- (2) The minimum lot width for any individual mobile home lot within such a community shall be not less than twenty-five (25) feet. (Ord. 2014-84. Passed 11-25-14.)
- (3) For any other permitted use, the minimum lot width shall be sixty (60) feet.

(c) Minimum Front Yard.

- (1) The minimum front yard depth for any manufactured home community shall be not less than thirty-five (35) feet. (Ord. 2009-85. Passed 12-8-09.)
- (2) For any other permitted use, the minimum front yard depth shall be twenty (20) feet. (Ord. 2014-84. Passed 11-25-14.)

(d) Minimum Side Yard Width.

- (1) The minimum side yard width for any manufactured home community shall be not less than thirty-five (35) feet.
- (2) The minimum side yard width for any individual lot within a manufactured home community shall be not less than five (5) feet. (Ord. 2009-85. Passed 12-8-09.)
- (3) For any other permitted uses, the minimum side yard width shall be not less than six (6) feet, with minimum of eighteen (18) feet for the sum of side yards. (Ord. 2014-84. Passed 11-25-14.)

(e) Minimum Rear Yard Depth.

- (1) The minimum rear yard depth for any manufactured home community shall be not less than thirty-five (35) feet.
- (2) The minimum rear yard depth for any individual lot within a manufactured home community shall be not less than ten (10) feet. (Ord. 2009-85. Passed 12-8-09.)
- (3) For any other permitted use, the minimum rear yard depth shall be not less than twenty (20) feet. (Ord. 2014-84. Passed 11-25-14.)

(f) Minimum Lot Coverage.

Detached dwelling units and their accessory buildings shall not occupy more than forty percent (40%) of the lot area of any individual manufactured home lot.

- (g) Required Open Space and Recreational Areas. At least twenty percent (20%) of the gross land area for any new manufactured home community shall be reserved for common recreational areas and facilities, such as playgrounds, swimming pools, pedestrian paths, and similar facilities. Such recreational and open space facilities shall not be a part of streets and/or parking areas, and shall be closed to motorized traffic, except for service and maintenance vehicles. Such areas shall be landscaped, improved and maintained for the intended uses.
- (h) Off-Street Parking. Off-street parking for permitted uses shall be provided. In manufactured home communities and conditional uses, parking spaces shall be provided for two (2) vehicles for each dwelling unit. Such parking spaces shall be located either on the same lot as the dwelling which they serve, or in specially provided common areas located not more than 400 feet from the dwelling which they serve, or some combination thereof. Required parking spaces shall not be provided on public or private streets within and on the perimeter of the community. Parking shall be so arranged that there is no maneuvering incidental to parking in the travel lane of streets.

- (i) Access. All manufactured home communities shall have direct access to collector streets. Principal vehicular access points shall be designed to encourage smooth traffic flow. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated traffic volumes indicate need. Minor streets shall not be connected with streets outside the district in such a way so as to encourage the use of those streets by substantial amounts of through traffic. No lot within the community shall have direct vehicular access to a street bordering the development.

- (j) Streets and Street Layout. All streets, whether private or dedicated to the City, providing access to the individual lots in a manufactured home community, shall be dimensioned and improved in accordance with the subdivision standards and requirements of this Ordinance.

The proposed layout of streets within a manufactured home community shall be subject to approval by the Planning Commission. In making such determinations, the Commission may procure the assistance of a Professional Engineer or other professional. All costs associated with such approval shall be paid by the applicant prior to issuance of a Certificate of Zoning Compliance.

- (k) Landscaping/Screening. If side or rear yards of any manufactured home community are located adjacent to any areas where single-family or two-family residences are permitted uses, the screening of such yards shall be required. Such landscaping shall consist of walls, fences, mounding, natural vegetation or a combination of these elements, so as to meet the requirements of Chapter 1177 of this Ordinance.
 - (l) Water and Sewer. Any manufactured home community shall be provided with a water and sanitary sewer distribution system, serving each individual home lot, which is connected to the municipal water and sanitary sewage system. The design and construction of all distribution and collection systems shall be approved by the City and the Ohio Environmental Protection Agency. All costs associated with such approval(s) shall be paid by the applicant prior to issuance of a Certificate of Zoning Compliance.
 - (m) Storm Drainage. All areas within a manufactured home community shall be graded and drained so as to minimize standing water and surface runoff. Open drainage ditches shall be prohibited. The proposed methods for alleviation of standing water and excessive surface runoff shall be submitted by the applicant and approved by the City. All costs associated with such approvals shall be paid by the applicant prior to the issuance of Certificates of Zoning Compliance.
 - (n) Underground Utilities. Within any manufactured home community, all utility lines, including electricity, telephone, and cable television shall be located underground.
 - (o) Trash and Garbage Control. All trash and garbage shall be stored in container systems which are located and enclosed in a manner which provides ease of access to individual manufactured home lots, while effectively screening them from view. The disposal of trash and maintenance of the area shall be the responsibility of the owner of the manufactured home community.
 - (p) Fire Protection. Within each manufactured home community there shall be provided a fire protection system approved by the local fire authority. Standard fire hydrants shall be located within 400 feet of any structure, or other system constructed which in the judgment of the local fire authority, provides an equal or greater measure of protection.
- (Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1141

(RM) Residential Multiple Family District

- 1141.01 **Purpose.**
- 1141.02 **Permitted uses.**
- 1141.03 **Accessory uses.**
- 1141.04 **Conditional uses.**
- 1141.05 **Development standards.**

1141.01 PURPOSE.

It is recognized that housing at higher densities creates issues and opportunities unique and distinct from more typical suburban development. This district is established to provide for the continuance, redevelopment and/or expansion of higher density residential uses in areas best equipped to accommodate such development. This district can also be used to provide for a range of projects, including condominiums and/or retirement housing.

(Ord. 2009-85. Passed 12-8-09.)

1141.02 PERMITTED USES.

- (a) Single family dwellings.
- (b) Common wall and zero lot line (ZLL) dwelling units having at least 3,630 square feet of lot area per dwelling unit (12 dwelling units per acre) provided a Site Plan, pursuant to Section 1127.02(g) is submitted
- (c) Multiple family structures having at least 3,630 square feet of lot area per dwelling unit (12 units/acre) and twenty (20) or less dwellings per structure, including independent senior and retirement housing.
- (d) Public or private parks, playgrounds and open space.

(Ord. 2009-85. Passed 12-8-09.)

1141.03 ACCESSORY USES.

- (a) Uses incidental and accessory to multiple-family dwellings and for exclusive use of their residents, to include common recreational facilities, community swimming pools, and offices for the rental and management of units therein.
- (b) Temporary buildings for uses incidental to construction work, which shall be removed upon the completion or abandonment of construction work.
- (c) Off street parking areas associated with and subsidiary to the primary use of the property, subject to the requirements of Chapter 1179 of this Ordinance.
- (d) Home occupations, subject to the requirements of Section 1175.02 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1141.04 CONDITIONAL USES.

- (a) Multiple family structures having less than 3,630 square feet of lot area per dwelling unit and/or more than twenty (20) dwellings per structure.
- (b) Nursery schools and day care centers.
- (c) Nursing and rest homes of not more than 120 beds.
- (d) Class I Type A and Type B group residential facilities, subject to the requirements of Section 1175.05 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1141.05 DEVELOPMENT STANDARDS.

- (a) Minimum Lot Area. 6,000 square feet for single family dwellings; 4,000 square feet per dwelling unit for two-family dwellings. Minimum area per dwelling unit for all other multiple-family dwellings pursuant to standards of 1141.02 or 1141.04 above.
- (b) Minimum Lot Width. Sixty (60) feet of frontage on a publicly dedicated and improved street or roadway for single and two-family dwellings.
200 feet for other permitted and conditional uses. (Ord. 2009-85. Passed 12-8-09.)
- (c) Minimum Front Yard Depth. Twenty-five (25) feet.
(Ord. 2014-84. Passed 11-25-14.)
- (d) Minimum Side Yard Width. Twenty-five (25) feet.
- (e) Minimum Rear Yard Depth. Forty (40) feet.
- (f) Maximum Building Height. Thirty-five (35) feet.
- (g) Minimum Distance Between Buildings. If there are two or more buildings on a single lot, the minimum distance between buildings shall be

fifteen (15) feet.

(h) Lot Coverage. Buildings or structures shall not occupy more than forty-five percent (45%) of the total lot area(a)

(i) Landscaping. If side or rear yards and/or off-street parking areas of any multiple family development are located adjacent to an existing single family residence, landscaping and screening of those yards shall be required to meet the requirements of Chapter 1177 of this Ordinance.

(j) Trash and Garbage Control. In any multiple family development, all trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view of adjacent properties. Screening of trash and garbage areas shall meet the requirements of Chapter 1177 of this Ordinance. The disposal of trash and maintenance of the area shall be the responsibility of the owner of the property.

(k) Open/Play Area. In cases where multiple family dwellings consist of more than three (3) units, an open space/play area must be established. Such open area shall not be less than 1,000 square feet for each five (5) units, or portion thereof, within the complex. Such open/play area shall be maintained by the owner of the complex.

(l) Site Plan. A Site Plan, pursuant to the provisions of Section 1127.02(g) of this Ordinance shall be submitted and approval of such Site Plan shall be required prior to issuance of a zoning certificate. For conditional uses such Site Plan shall require specific approved by the Planning Commission prior to issuance of a zoning certificate.
(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1143

Reserved for Future Use

CHAPTER 1145

(RO) Residential Office District

1145.01 **Purpose.**

1145.02 **Permitted uses.**

1145.03 **Accessory uses.**

1145.04 **Conditional uses.**

1145.05 **Special provisions for conditional uses.**

1145.06 **Development standards.**

1145.01 PURPOSE.

The RO District is established to provide areas along older major thoroughfares that are currently occupied by single-family residences, but are subject to development pressure for commercial use. The intent of the district is to provide for smaller low intensity administrative and/or professional offices while retaining the area's residential character.

(Ord. 2009-85. Passed 12-8-09.)

1145.02 PERMITTED USES.

(a) Any use or structure as specified in the R-1C District.

(b) Two family dwellings.

(Ord. 2009-85. Passed 12-8-09.)

1145.03 ACCESSORY USES.

(a) Accessory buildings or structures customarily associated with single-family residential use, including detached garages or carports, tool or garden sheds, playhouses, swimming pools and similar facilities for primary use by occupants of the principal use of the property on which the facility is located, subject to the requirements of this Ordinance.

(b) Home occupations, subject to the requirements of Section 1175.02 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1145.04 CONDITIONAL USES.

(a) Churches and similar places of public assembly, provided the seating capacity of the sanctuary or main seating area is not more than 300 persons.

(b) Day-care centers and schools associated with conditionally permitted churches.

(c) Bed-and-Breakfast establishments, subject to the following standards:

(1) Structures shall maintain the appearance of a single-family residence and be compatible with surrounding residences, in size and scale

(2) The Bed-and-Breakfast establishment shall be owned and operated by the occupant of the premises.

(3) Exterior signage shall be limited to a single nameplate not more than twelve (12) square feet in size.

(4) Accommodations shall be limited to not more than four (4) rooms.

(5) Off-street parking shall be in specially designated areas and shall not be allowed in the front yard.

(d) Administrative, business or professional offices of not more than 3,000 square feet gross floor area and not carrying on retail trade with the public, consisting of:

(1) Brokers and dealers in securities, investments and associated services, not including commercial banks and savings institutions.

(2) Insurance agents and brokers and associated services.

(3) Real estate sales and associated services.

(4) Medical and medical-related activities, but not including veterinary offices or animal hospitals.

(5) Professional, legal, engineering and architectural services, not including the outside storage of equipment.

(6) Accounting, auditing and other bookkeeping services.

(e) Funeral homes, provide the primary building has not more than 5,000 square feet of gross floor area.

(Ord. 2009-85. Passed 12-8-09.)

1145.05 SPECIAL PROVISIONS FOR CONDITIONAL USES.

(a) Site Plan. A Site Plan, pursuant to the provisions of Section 1127.02(g) of this Ordinance shall be required. Such Plan shall document how the provisions of this Section shall be met. The Site Plan shall be approved by the Code Inspector prior to issuance of a zoning permit and may be subject to approval by the Planning Commission.

(b) Hours. Activities shall be conducted principally between 6:00 a.m. and 8:00 p.m.

(c) Traffic Circulation. Ingress, egress and traffic circulation on the site shall be managed so as to minimize impacts on adjacent properties. No traffic lane shall be located less than twenty (20) feet from any adjacent residential property.

(d) Appearance. Structures shall maintain a residential appearance and be compatible with surrounding residences in size and scale.

(e) Lighting. Lighting shall be limited to those types customarily found in residential neighborhoods. Any exterior lighting shall be arranged so

as not to shine on adjacent properties.

(f) Signage. Exterior signage shall be limited to a single sign not more than twelve (12) square feet in area, identifying the business. No signs shall be internally illuminated.

(g) Storage. Storage of materials and equipment shall be within enclosed structures.

(h) Parking. Sufficient off-street parking shall be provided as specified in Chapter 1179. All parking shall be provided in designated areas in rear yards.

(i) Landscaping and Screening. The landscaping and screening of side and rear yards, including any parking areas, shall be required so as to meet the provisions of Chapter 1177.

(Ord. 2009-85. Passed 12-8-09.)

1145.06 DEVELOPMENT STANDARDS.

The minimum lot area, lot width, front yard depth, side yard width, and rear yard depth, and the maximum building height and lot coverage for all permitted and conditional uses in the RO District shall be as required in the R-1C District.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1147

(LC) Limited Commercial District

1147.01 **Purpose.**

1147.02 **Permitted uses.**

1147.03 **Conditional uses.**

1147.04 **Development standards.**

1147.01 PURPOSE.

The purpose of the Limited Commercial District is to provide for the orderly development of neighborhood-oriented small businesses and personal service uses, particularly those serving the personal service needs of residents. Because commercial establishments within the LC District are closely associated with the residential land uses, more restrictive requirements related to size and scale, traffic control and landscaping are needed than in other commercial districts.

(Ord. 2009-85. Passed 12-8-09.)

1147.02 PERMITTED USES.

(a) Administrative, business or professional offices of not more than 5,000 square feet of gross floor area consisting of:

- (1) Brokers and dealers in securities, investments and associated services, not including commercial banks and savings institutions.
- (2) Insurance agents and brokers and associated services.
- (3) Real estate sales and associated services.
- (4) Medical and medical-related activities, but not including veterinary offices or animal hospitals.
- (5) Professional, legal, engineering and architectural services, not including the outside storage of equipment.
- (6) Accounting, auditing and other bookkeeping services.

(b) Retail Stores of not more than 5,000 square feet of gross floor area, primarily engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of those goods; provided all storage and display of merchandise shall be within the principal structure; and not including drive-through establishments, or businesses selling gasoline or similar fuels. Examples include:

- (1) Food and food products.
- (2) Proprietary drug and hardware stores.
- (3) Similar retail stores, consisting of: florists, gift, antique or second-hand stores, books and newspapers, sporting goods, jewelry, optical goods, and other retail stores which conform to the purpose and intent of the LC District.

(c) Personal Services, involving the care of the person and his/her personal effects, consisting of consumer services generally involving the care and maintenance of tangible personal property, except for motor vehicles. All structures shall have a gross floor area of not more than 5,000 square feet. Examples include:

- (1) Restaurants, but not including restaurants with drive-through facilities and/or outside dining areas.
- (2) Banks, savings and loans, and credit agencies, but not including establishments with drive-through facilities.
- (3) Barber and beauty shops, having no more than four work stations.
- (4) Funeral services.
- (5) Human medical and/or dental clinics.
- (6) Commercial photography.
- (7) On-premises duplication services.

(d) Nursery schools and day care facilities.

(e) Churches and similar places of public assembly, provided the seating capacity of the primary assembly area is not more than 400 persons.

(f) Parks, governmental and community buildings.

(Ord. 2009-85. Passed 12-8-09.)

1147.03 CONDITIONAL USES.

(a) Veterinary offices, not including outside boarding of animals. A Site Plan, pursuant to the standards of Section 1127.02(g) of this Ordinance, shall be required.

(b) Class I Type A group residential facilities, subject to the requirements of Section 1175.06 of this Ordinance.

(c) Class II Type A or B group residential facilities, subject to the requirements of Section 1175.06 of this Ordinance.

(d) Multiple family residences, pursuant to the requirements of Chapter 1141 of this Ordinance.

(e) Any permitted use with a gross floor area of more than 5,000 square feet.

(f) Similar small business uses consistent with the purposes of the LC District, subject to the approval of a Site Plan by the Planning Commission, pursuant to Section 1127.02(e) of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

(g) Automobile service and motor vehicle sales establishments. Businesses selling gasoline or similar fuels excluded. The business shall be accomplished inside the structure with no negative impact on the surrounding properties.

(Ord. 2015-16. Passed 2-24-15.)

1147.04 DEVELOPMENT STANDARDS.

(a) Site Plan. All conditional uses shall require a Site Plan, pursuant to Section 1127.02(g) of this Ordinance. The Site Plan shall be approved by the Code Inspector prior to issuance of a zoning permit.

- (b) Lot Area. No minimum lot area is required; however, lot area shall be adequate to provide the required parking and yard areas.
- (c) Lot Width. No minimum lot width is required; however all lots shall abut an improved public street designated as having not less than secondary collector status. All lots shall have adequate width to provide for required parking and yard area.
- (d) Front Yard Setback. The minimum front yard setback shall be the average of the existing adjacent commercial structures on the same side of the street and facing thereon within the same block. Where there are no adjacent commercial structures, the front yard setback shall not be less than thirty (30) feet measured from the street right-of-way.
- (e) Side Yards. Fifteen (15) feet, unless adjacent to any district where residences are a permitted use, wherein the side yard shall be no less than thirty (30) feet.
- (f) Rear Yards. Twenty (20) feet, unless adjacent to any district where residences are a permitted use, wherein the rear yard shall be no less than forty (40) feet.
- (g) Additional Yard and Pedestrian Areas. Where new development in the LC District is located adjacent to a district where residences are a permitted use, the Planning Commission may require that at least five percent (5%) of the lot area, exclusive of parking areas and public rights-of-way, shall be devoted to landscaped yards or pedestrian space.
- (h) Maximum Building Size. Individual uses within LC District shall have usable floor area of not more than 5,000 square feet, even if such uses occupy more than one building. Any single building containing multiple uses within the LC District shall have a usable floor area of not more than 15,000 square feet.
- (i) Lighting. Lighting fixtures within the LC District shall be so arranged, shielded and directed so as to not shine directly on any adjacent residential property.
- (j) Parking and Loading. Parking and loading requirements shall be as specified in Chapter 1179 of this Ordinance. Parking areas shall be arranged so as to minimize the visual and functional impacts of business-related parking on any adjacent districts zoned for single family residences. In addition, parking spaces shall be designed to allow a minimum of five (5) feet between structure(s) and any parked vehicle.
- (k) Landscaping/Screening. If side or rear yards are located adjacent to any areas where single-family residences are permitted uses, the screening of such yards shall be required. Such landscaping shall consist of walls, fences, mounding, natural vegetation or a combination of these elements, so as to meet the requirements of Chapter 1177 of this Ordinance.
- (l) Trash and Garbage Control. All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view. The disposal of trash and maintenance of the area shall be the responsibility of the owner of the property.
- (m) Outside Vending Machines. Freestanding vending machines located outside the primary or accessory structures, not including ATM machines, shall not be permitted in the LC District.
- (Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1148

(HS) Health Services District.

- 1148.01 **Purpose.**
- 1148.02 **Permitted uses.**
- 1148.03 **Conditional uses.**
- 1148.04 **Development standards.**

1148.01 PURPOSE.

The Health Services District is established to provide areas where a full range of health services and related uses are encouraged to develop and expand and where greater efficiencies are achieved through the development of uses which are logically located in proximity to a hospital.

(Ord. 2013-5. Passed 2-12-13.)

1148.02 PERMITTED USES.

- (a) Hospitals and facilities for human medical care.
- (1) Clinics, diagnostic facilities, physician offices.
 - (2) Daycare, assisted living, nursing homes and convalescence facilities.
 - (3) Rehabilitation centers (Not including criminal rehabilitation of any kind).
- (b) Residential facilities for persons employed in the medical profession.
- (1) One-family detached dwellings subject to the development standards of the R1-B District.
 - (2) Multi-family dwellings subject to the development standards of the RM District.
- (c) One-family detached dwellings subject to the development standards of the R1-B District.
- (Ord. 2013-5. Passed 2-12-13.)

1148.03 CONDITIONAL USES.

- (a) Retail stores of not more than 5000 square feet of gross floor area, primarily engaged in the selling of merchandise for personal or household consumption that can be considered ancillary to the medical service industry.
- (1) Proprietary drug stores.
 - (2) Florist, and gift shops.
 - (3) Similar retail establishments as determined by the Planning Commission.
- (b) Administrative, business or professional offices of not more than 5000 square feet of gross floor area considered ancillary to the medical service industry.
- (1) Insurance offices.
 - (2) Legal and professional service.
 - (3) Similar offices or services as determined by the Planning Commission.
- (Ord. 2013-5. Passed 2-12-13.)

1148.04 DEVELOPMENT STANDARDS.

- (a) Site Plan. A Site Plan shall be required for all conditional uses and all permitted uses with a gross floor area of over 40,000 square feet. The Site Plan shall be approved by the Code Inspector prior to issuance of a zoning permit.
- (b) Minimum Lot Area. No minimum lot area is required; however, lot area shall be adequate to provide for the required parking and yard areas. Nothing shall prohibit more than one building per lot.
- (c) Minimum Lot Width. 100 feet of frontage on a publicly dedicated and improved street or highway. (Ord. 2013-5. Passed 2-12-13.)
- (d) Minimum Front Yard Depth. Forty (40) feet for structures.
- (Ord. 2014-83. Passed 10-28-14.)
- (e) Minimum Side Yard.
- (1) When abutting a non-residential zoning district: Twenty (20) feet for structures, ten (10) feet for paved areas.

- (2) When abutting a residential zoning district: Forty (40) feet for structures, thirty-five (35) feet for paved areas.
- (f) Minimum Rear Yard.
- (1) When abutting a non-residential zoning district: thirty (30) feet for structures, ten (10) feet for paved areas.
- (2) When abutting residential zoning district: Fifty (50) feet for structures, thirty-five (35) feet for paved areas.
- (g) Building Height. Seventy (70) feet. Any building exceeding 2 stories shall provide an additional 10 feet of front, side, and rear setback for each additional story.
- (h) Parking and Loading. Parking and loading requirements shall be specified in Chapter 1179.
- (i) Landscaping/Screening. If side or rear yards are adjacent to property in which single family residences are permitted use, the screening of such yards shall be required. Such landscaping shall consist of walls, fences, mounding, natural vegetation or a combination of these elements to meet the requirements of Chapter 1177 of this Ordinance.
- (j) Trash and Garbage Control. All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen from view.
- (Ord. 2013-5. Passed 2-12-13.)

CHAPTER 1149

(GC) General Commercial District

- 1149.01 **Purpose.**
- 1149.02 **Permitted uses.**
- 1149.03 **Conditional uses.**
- 1149.04 **Development standards.**

1149.01 PURPOSE.

The General Commercial District is established to provide areas for business uses that typically generate an significant degree of intense commercial activity dependent on high traffic volumes. The intent of the GC District is to encourage such business growth while promoting a compatible relationship between permitted uses and overall traffic movement, and minimizing negative impacts on adjacent land uses. The GC District is not intended to be used in the existing downtown core area as a substitute for the U District.

(Ord. 2009-85. Passed 12-8-09.)

1149.02 PERMITTED USES.

- (a) Administrative and business offices not carrying on retail trade with the public and having no stock of goods maintained for sale to customers including:
- (1) Insurance agents and brokers and associated services.
 - (2) Professional, legal, engineering and architectural services, not including the outside storage or equipment.
 - (3) Accounting, auditing and other bookkeeping services.
- (b) Retail Stores primarily engaged in selling merchandise for personal or household consumption including:
- (1) Food and food products, consisting of grocery, meat, fish, fruit or vegetable markets or combinations thereof.
 - (2) General merchandise, including limited price variety stores and other similar stores selling a variety of general merchandise.
 - (3) Similar retail stores selling specialty goods, including drug stores, hardware and home repair goods, gift and novelty stores, etc.
- (c) Personal Services, involving the care of the person and his/her personal effects, including consumer services generally involving the care and maintenance of tangible property or the provision of tangible services for personal consumption including:
- (1) Restaurants and taverns,
 - (2) Banks, savings and loans, and credit agencies.
 - (3) Barber and beauty shops.
 - (4) Self-service laundries and/or dry-cleaning establishments.
 - (5) Human medical and/or dental clinics.
 - (6) Funeral services.
- (d) Business Services engaged in the providing of services to business establishments on a fee or contract basis, consulting services, protective services, office equipment rental, lease or purchase, commercial research and development.
- (e) Commercial recreational facilities such as community and public swimming pools, skating rinks, bowling alleys, physical fitness centers.
- (f) Lumber and home improvement sales.
- (g) Motor vehicle sales.
- (h) Hotels and motels.
- (i) Garden centers.
- (j) Carry out food and beverage establishments with drive-through facilities.
- (k) Medical offices and clinics, including nursing and/or convalescent facilities.
- (l) Similar uses, as determined by the Planning Commission, in accordance with the provisions by Section 1127.02(e) of this Ordinance.
- (Ord. 2009-85. Passed 12-8-09.)

1149.03 CONDITIONAL USES.

- (a) Self-service car washes, provided a Site Plan is approved, pursuant to Section 1127.02(g) of this Ordinance.
- (b) Temporary or seasonal outdoor sales lots having a maximum operating duration of four (4) months, provided a Site Plan, including a plan for all signage, is approved pursuant to Section 1127.02(g) of this Ordinance and all other permits are obtained.
- (c) Self-service storage facilities.
- (d) Automobile service establishments including gas stations, but not including truck servicing establishments.
- (e) Telecommunications towers, subject to the requirements of Section 1175.07 of this Ordinance.
- (f) Adult entertainment facilities, subject to the requirements of Chapter 1183 of this Ordinance.
- (g) Churches and similar places of public assembly, provided the seating capacity of the sanctuary or main seating area is not more than 400 persons and provided a Site Plan showing the location of all new and expanded use areas and facilities is submitted and approved pursuant to Section 1127.02(g).
- (h) Tattoo and body piercing services (excluding ears) subject to Section 1183.04(f) and 1183.04(g) of this Ordinance. These are establishments where the principal business activity is the practice of one or more of the following: Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin. (Ord. 2019-61. Passed 10-8-19.)

1149.04 DEVELOPMENT STANDARDS.

- (a) Site Plan. A Site Plan shall be required for all conditional uses and all permitted uses with a gross floor areas of over 20,000 square feet.

The Site Plan shall be approved by the Code Inspector prior to issuance of a zoning permit.

(b) Minimum Lot Area. No minimum lot area is required; however, lot area shall be adequate to provide for the required parking and yard areas.

(c) Minimum Lot Width. 100 feet of frontage on a publicly dedicated and improved street or highway.

(d) Minimum Front Yard Depth. Forty (40) feet.

(e) Minimum Side Yard.

(1) When abutting a non-residential zoning district: Twenty (20) feet for structures, ten (10) feet for paved areas.

(2) When abutting a residential zoning district: Forty (40) feet for structures, thirty-five (35) feet for paved areas.

(f) Minimum Rear Yard.

(1) When abutting a non-residential zoning district: Thirty (30) feet for structures, ten (10) feet for paved areas.

(2) When abutting a residential zoning district: Fifty (50) feet for structures, thirty-five (35) feet for paved areas.

(g) Building Height. Thirty-five (35) feet.

(h) Parking and Loading. Parking and loading requirements shall be as specified in Chapter 1179.

(i) Landscaping/Screening. If side or rear yards are adjacent to property in which single family residences are a permitted use, the screening of such yards shall be required. Such landscaping shall consist of walls, fences, mounding, natural vegetation or a combination of these elements to meet the requirements of Chapter 1177 of this Ordinance.

(j) Trash and Garbage Control. All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1151

(U) Uptowne District

1151.01 **Purpose.**

1151.02 **Permitted uses.**

1151.03 **Conditional uses.**

1151.04 **Development standards.**

1151.05 **Outdoor dining.**

1151.01 PURPOSE.

The purpose of the Uptowne District is to promote and foster the economic and physical revitalization of Galion's town center, while recognizing the unique physical characteristics of the area and preserving historic mixed use and pedestrian focus. The standards and requirements of the Uptowne District are based on the following principles:

(a) The downtown should contain a healthy mix of land uses. The marketplace - not regulations - should be the primary force driving the mix of downtown uses.

(b) The maintenance and improvement of the downtown physical environment is important in promoting an active and vital business environment.

(c) Development standards and regulations should encourage the adaptive use of older structures.

(d) The downtown should be particularly receptive to small local-based entrepreneurship and start-up businesses.

(e) Housing - and particularly owner-occupied housing - should be an integral component of the physical fabric of areas adjacent to and around the downtown.

(Ord. 2009-85. Passed 12-8-09.)

1151.02 PERMITTED USES.

(a) Any use specified as a permitted use in Sections 1147.02 (a) through (d), but not including uses with drive-through facilities.

(b) Hotels and Bed-and-Breakfast Establishments.

(c) Community facilities such as governmental offices, post office, libraries, museums, private schools, public parks and similar uses.

(d) Churches and places of public assembly.

(e) Off-street parking areas.

(f) Outside trade areas associated with retail establishments, provided that:

(1) If on a public sidewalk, that no items for sale or display are located within the first four (4) feet from the edge of the curb, thereby allowing for free and clear access for pedestrians, and said trade area may not extend past the edge of the building in which the establishment is housed.

(2) That no obstruction of any kind can be made preventing free and open ingress and egress from any entrance to the retail establishment.

(3) That no merchandise fixtures or items may be left on any sidewalk during non-business hours.

(4) That the business owner shall maintain the sidewalk in a clean and safe condition, and shall immediately clear the sidewalk area when ordered to do so by any City of Galion official, including the Chief of Police or Fire Chief or their authorized representatives.

(5) That the business owner maintain public liability insurance consistent with and in an amount equal to that for their existing establishment that covers said dining or sales, and includes the City of Galion as an additional insured.

(g) Outside dining areas associated with establishments which otherwise serve food and drink, provided that said dining areas adhere to the guidelines as outlined in Section 1151.05.

(h) Similar Uses, which conform to the purpose of the Uptowne District, as determined by the Planning Commission in accordance with the provisions of Section 1127.02 (e) of this Ordinance.

(Ord. 2016-32. Passed 6-14-16.)

1151.03 CONDITIONAL USES.

(a) Two or more family residences, provided the development standards of the RM District are met, and a Site Plan, pursuant to the requirements of Section 1127.02(g) is submitted by the applicant. Such Site Plan shall include an explanation of how the specific residential use(s) will be developed so as to be consistent with the purposes of the Uptown District. Such Site Plan shall be approved by the Planning Commission. Such residential uses may be allowed as an accessory use to a permitted use in an existing building, provided such uses are limited to the upper stories of those buildings and specific approval is obtained from the Planning Commission.

(b) One-family detached dwellings.

(c) Uses with drive-through facilities, provided a Site Plan is prepared and approved by the Planning Commission.

(d) (Editor's Note: Former subsection (d) hereof was repealed by Ordinance 2015-66.)

(e) Processing, assembly and/or packaging of products or materials, provided such operations are carried out totally within the building, such operations do not produce levels of noise or odors perceptible outside the building, and such use promotes the purpose of the U District as stated in Section 1151.01 above.

(f) Tattoo and body piercing services (excluding ears) subject to Section 1183.04(f) and 1183.04(g) of this Ordinance. These are establishments where the principal business activity is the practice of one or more of the following: Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin. (Ord. 2019-62. Passed 10-8-19.)

1151.04 DEVELOPMENT STANDARDS.

- (a) Lot Area. No minimum lot area is required.
- (b) Lot Width. No minimum lot width is required.
- (c) Setbacks. The distance between any building or structure and the right-of-way line of any public street shall be not greater than that of the most proximate building on the same side of the street. No minimum side yard setback shall be required, unless the building or structure is located adjacent to an R District, in which case the setback shall be fifteen (15) feet.
- (d) Maximum Building Size. Individual uses within the U District shall have a ground floor area of not more than 5,000 square feet, unless the use is located in an existing building, in which case such restriction shall not apply.
- (e) Parking and Loading. Uses within the U District shall be required to provide only twenty-five percent (25%) of the number of parking spaces required in Section 1179.04 of this Ordinance, provided at least one (1) parking space is provided for each employee during any one business shift.
- (f) Manufactured/Modular Buildings. The use of manufactured and/or modular buildings for business purposes shall be prohibited.
- (g) Property Maintenance. No owner of a property or structure in the U District shall by willful neglect, fail to provide sufficient and reasonable care, maintenance and upkeep to such property or structure. For the purposes of this Section, maintenance and upkeep shall include keeping exterior surfaces free from debris, garbage, noxious weeds, or free from hazardous objects or conditions such as holes, broken concrete, broken glass, and dead or dying trees or vegetation.
- (h) Screening. If side or rear yards are adjacent to property in which single family residences are a permitted use, the screening of such yards shall be required. Such landscaping shall consist of walls, fences, mounding, natural vegetation or a combination of these elements.
- (i) Trash and Garbage Control. All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view.
- (Ord. 2009-85. Passed 12-8-09.)

1151.05 OUTDOOR DINING.

- (a) Outdoor dining areas associated with currently operating retail food and/or drink establishments are permitted in the Uptowne (U) District, provided that the requirements of this Section are met.
- (b) General Guidelines.
- (1) If on a public sidewalk, that no fixtures, merchandise, or obstruction of any kind may be placed within the first four (4) feet from the edge of the curb, thereby allowing for free and clear access for pedestrians, and said outdoor dining area may not extend past the edge of the building in which the establishment is housed.
 - (2) No obstruction of any kind can be made preventing free and open ingress and egress from any entrance to the business establishment.
 - (3) That the retail food and/or drink establishment business owner shall maintain the sidewalk in a clean and safe condition, and shall immediately clear the sidewalk area when ordered to do so by any City of Galion official, including the Chief of Police or Fire Chief or their authorized representatives.
 - (4) That the retail food and/or drink establishment owner maintain public liability insurance consistent with and in an amount equal to that for their existing establishment that covers said dining or sales, and includes the City of Galion as an additional insured.
 - (5) The City of Galion's permission to establish an outdoor dining area is on an annual, renewable basis, and during each period, the permit holder must remain compliant with all of the following:
 - Food trays or carts, receptacles for dirty dishes, etc. cannot be stored on any portion of the public right of way.
 - All tables, chairs, etc. must be promptly removed from the sidewalk at the end of each business day unless the same is secured consistent with the design guidelines herein.
 - Outdoor dining areas must meet applicable health requirements and all applicable ordinances of the City of Galion.
- (c) Application.
- (1) An application must be submitted by the owner of the retail food and/or drink establishment and, if said owner is a lessee, with the building owner's written permission, seeking to create or to significantly change an existing outdoor dining facility. It is assumed by both the City and the Applicant that permitted outdoor dining facilities are intended only for business customers and other invited guests of the retail food and/or drink establishment; a clearly delineated area within the public right of way for outdoor dining by definition removes access to the facilities by the general public.
 - (2) Applications for outdoor dining facilities will be considered by the City only if the Applicant is in full compliance with the City income tax and real estate tax obligations, as well as property maintenance requirements.
- (Ord. 2016-32. Passed 6-14-16.)
- (3) Applications will be reviewed by City staff on a first-come, first-served basis, with all such applications forwarded to the City of Galion Design Review Board for guidance, input, and approval on materials, placement, and overall aesthetics of proposed outdoor dining facilities. The Design Review Board shall base its review and decision on the design guidelines included herein. (Ord. 2018-5. Passed 3-13-18.)
 - (4) Retail food and/or drink establishments seeking to serve alcohol as part of their proposed outdoor dining facility must comply with all relevant City of Galion ordinances relating to the sale and consumption of alcohol on public property, as well as all relevant laws of the State of Ohio Department of Commerce, Division of Liquor Control. In all applications for, or permissions granted, by the City of Galion concerning outdoor dining facilities, the retail food and/or drink establishment must remain in good standing and otherwise compliant with all Division of Liquor Control regulations and requirements, including those addressing the configuration of seating elements.
- (5) Process.
- A. Applications for outdoor dining areas shall be submitted to the Safety-Service Director and, if the retail food and/or drink establishment seeks to serve alcohol within the outdoor dining facility, all appropriate applications and approval steps must first be completed with the Division of Liquor Control.
 - B. Applications must include a cover letter and numbered/lettered attachments that include or otherwise address all of the following:
 - Name and address of the retail food and/or drink establishment owner making the application ("Applicant"). If the Applicant is a lessee, it must include in its application the building owner's written permission.
 - A site plan of the retail food and/or drink establishment and its proposed outdoor dining facility, in such detail as to identify: boundaries, distances, entrances into the retail food and/or drink establishment, any delineated boundary area, and adjacent building entrances; property lines, sidewalk width and all surface obstructions within 15 feet of the

outdoor dining area (e.g. brick landscaping walls, fire hydrants, streetlights, parking meters, trees, tree grates, etc.); width and length of the outdoor dining area, approximate location of tables and chairs, the delineated boundary (if serving alcohol), with details showing specifications, materials, and conformity to the design guidelines set forth herein.

- Evidence that the outdoor dining area is in accordance with the City of Galion's master zoning plan or map and design review guidelines.
 - C. The City of Galion is not obligated to approve submitted applications and may decline the same for any reason.
 - D. Each approved application will be valid for one (1) year use of an outdoor dining area. Renewals may be granted administratively by the City of Galion Code Inspector.
 - E. The City of Galion reserves the right to revoke its permission for outdoor dining areas once granted, if the area fails to meet the standards under Ohio law, these policies and procedures, or adhere to the representations made in the application. As such, the City reserves unto itself the right to conduct any necessary review of outdoor dining areas prior to making any renewal determinations.
- (d) Design Guidelines.
- (1) Tables and chairs must be comprised of metal or wood. Likewise, planter style and materials must complement the storefront. No plastic tables or chairs are permitted.
 - (2) Retail food and/or drink establishments serving alcohol in the public right of way must clearly delineate the entire outdoor dining area with a boundary that is permanent (not easily movable), and the bounded area is contiguous to the premises for which the Division of Liquor Control has issued an appropriate liquor permit.
 - A. The delineating boundary must be in the form of either (i) a fence that is 36 inches in height or (ii) appropriately arranged planters. Whichever form taken, the delineated boundary must encompass the entire outdoor dining area.
 - B. If using a fence, its material must be either historically appropriate wrought iron or steel made to resemble historically appropriate wrought iron. There must be no more than one (1) fence gate along the boundary that allows for movement by patrons of the outdoor dining area.
 - C. If using planters, the delineated boundary shall have a permanent appearance and application, as well as a clearly defined entrance.
 - D. The delineated boundary materials may be removed on a seasonal basis (i.e. deconstruct the area during the colder months or during such special events or maintenance activities as the City may require). In such cases, the retail food and/or drink establishment must adhere to requirements set forth by the Division of Liquor Control. The City acknowledges that the regular cycle of construction of deconstruction of boundary materials necessarily involves the parallel process of the retail food and/or drink establishment business applying to the Ohio Department of Commerce for expansion/diminution under liquor permits each year.
 - (3) Retail food and/or drink establishments must keep at least one (1) durable, covered, and appropriately sized rubbish container within the outdoor dining area, and their staff are solely responsible for bussing tables and general clean-up.
 - (4) Placement of outdoor furniture, planters, and/or fencing on the sidewalk must conform to all federal, state, and local laws and regulations, including but not limited to the Americans with Disabilities Act and all relevant guidelines and procedures of the Division of Liquor Control.
 - (5) Umbrellas may be permitted under circumstances where the umbrellas, when raised, do not interfere with pedestrian traffic or other features within the public right of way. Umbrellas shall not depict any advertising, including graphics, logos, or names. Umbrellas are not to be used in any area of an outdoor dining area where an awning is in place.
 - (6) The outdoor furniture, planters, and /or fencing cannot have a substantially adverse impact on the use, enjoyment, or property values of adjoining properties.
- (e) Additional Considerations if Serving Alcohol.
- (1) Retail food and/or drink establishments with a valid on-premises liquor permit within the Uptowne District may serve alcohol within approved outdoor dining areas. Sale of alcohol shall be for on premises consumption only.
 - (2) Site plan information submitted to the City of Galion for outdoor dining areas must be identical to any such plans submitted to the Ohio Department of Commerce, Division on Liquor Control and such plans must be approved by said Division and the City.
 - (3) Alcohol must not be removed from the clearly delineated outdoor dining area.

(Ord. 2016-32. Passed 6-14-16.)

CHAPTER 1153

(HC) Highway Commerce District

1153.01 **Purpose.**

1153.02 **Development Plan.**

1153.03 **Permitted uses.**

1153.04 **Conditional uses.**

1153.05 **Minimum development standards.**

1153.06 **Off-site impacts.**

1153.07 **Review of Development Plan.**

1153.08 **Modification of Development Plan.**

1153.01 PURPOSE.

The purpose of the Highway Commerce District is to provide for the efficient, coordinated and integrated development of commercial and/or industrial uses that desire locations offering direct access to U.S. 30. Proposed uses in the HC District shall demonstrate development characteristics consistent with the land use, density, transportation and community facilities objectives of the City. In order to accomplish the above purpose(s), the applicant shall be allowed a greater degree of flexibility to design the business environment.

The process for achieving the above purposes is to require the submission and approval of a Development Plan prior to obtaining a Zoning Certificate as part of the approval for the construction in the area. The Development Plan shall specify the uses that will be developed on the site. The applicant shall also prepare and submit a development standards text that identifies any development requirements that are less restrictive than the standards proposed in this Ordinance. The applicant must also justify the modifications of these standards based on the fact that the proposed development exceeds the minimum requirements in other areas and will result in development pattern that is consistent with the purposes of this Chapter.

(Ord. 2009-85. Passed 12-8-09.)

1153.02 DEVELOPMENT PLAN.

Prior to the issuance of a Zoning Certificate in the Highway Commerce District, the applicant shall submit a Development Plan for the area. The Development Plan is a detailed site plan that contains, at a minimum, setbacks, height requirements, parking and loading, traffic circulation and "stacking" mechanisms, waste handling, landscaping and buffering, signage and graphics, and lighting. In addition, the Development Plan shall include a detailed description of the uses that are proposed on the site, and the development standards text as referenced in Section 1153.01 above. (Ord. 2009-85. Passed 12-8-09.)

1153.03 PERMITTED USES.

Land and buildings within the Highway Commerce District shall be used only for the specific use or uses as identified by the applicant in the Development Plan cited above. The applicant shall show that the proposed use is appropriate to the site. Generally, permitted uses within the Highway Commerce District shall not involve storage of inventory or operations outside an enclosed building, and shall demonstrate the ability to efficiently address large volumes of traffic in a manner coordinated with adjacent uses. Such permitted uses may include:

- (a) Retail sales and service, consisting of firms involved with the sale, lease or rent of products or goods to the general public and/or providing on-site product repair or services for such goods.
- (b) Personal services consisting of firms providing personal services or entertainment to the general public, including restaurants, banks and/or savings and loans, credit unions, medical and related offices, and similar establishments.
- (c) Hotels and motels
- (d) General office activities, consisting of facilities where activities are conducted in an office setting and generally focus on business services.
- (e) Warehousing and distribution, consisting of firms involved with the storage and/or movement of goods.
- (f) Vehicle service, consisting of firms servicing automobiles, trucks and other commercial and/or consumer vehicles, including motorcycles, boats and/or recreational vehicles.
- (g) Research and development uses involved with the testing, laboratory and minor fabrication/assembly operations.

(Ord. 2009-85. Passed 12-8-09.)

1153.04 CONDITIONAL USES.

Conditional uses may be appropriate within the HC District, but require more detailed evaluation with respect to location, design, size, method and hours of operation, intensity of use, traffic generation and potential impact on surrounding uses. It is the responsibility of the Planning Commission to perform this evaluation and to attach such necessary conditions and/or safeguards. Outside storage of materials and/or inventory shall be allowed as accessory to these uses, provided the required Development Plan includes acceptable methods for screening such storage areas from any adjacent residential areas. Conditional uses within the Highway Commerce District include the following:

- (a) Manufacturing and production, consisting of firms involved in the manufacturing, processing, fabrication, packaging or assembly of goods.
- (b) Industrial service, consisting of firms engaged with the repair or servicing of industrial, business or consumer machinery, equipment or products.
- (c) Industrial product sales, consisting of firms involved with the sale, rent or lease of products generally intended for industrial or commercial users.
- (d) Commercial recreational and assembly facilities serving a regional market.
- (e) Telecommunications towers, subject to the requirements of Section 1175.07 of this Ordinance.
- (f) Churches and similar places of public assembly, provided the seating capacity of the sanctuary or main seating area is not more than 400 persons and provided a Site Plan showing the location of all new and expanded use areas and facilities is submitted and approved pursuant to Section 1127.02(g).
- (g) Similar business uses meeting the objectives and standards of the Highway Commerce District, as determined by the Planning Commission

(Ord. 2011-68. Passed 9-27-11.)

1153.05 MINIMUM DEVELOPMENT STANDARDS.

(a) Minimum Lot Area. Five (5) acres, provided adequate space is allowed for building and parking setbacks, circulation and landscaping. In addition, all principal and subordinate uses and structures, including parking and paved areas, shall be located not less than 300 feet from any district where residences are a permitted use, and not less than fifty (50) feet from any other zoning district.

(b) Minimum Lot Width. The site shall have continuous frontage on an arterial street of not less than 200 feet, plus adequate width to provide for yard spaces and parking areas. In addition, when abutting a residential zoning district, 100 feet for structures, fifty (50) feet for paved areas, subject to the requirements of subsection (a) above.

(c) Side and Rear Yards. All structures shall be set back a minimum of twenty-five (25) feet from property lines, provided the requirements of subsection (a) above are met.

(d) Front Yard Depth. Any new structure, including signs, or parking area must be located not less than 100 feet from the centerline of the road or highway on which the use has frontage.

(e) Height. No structure shall exceed a height of sixty (60) feet.

(Ord. 2009-85. Passed 12-8-09.)

1153.06 OFF-SITE IMPACTS.

No land or structure in the HC District shall be used or occupied in such a manner so as to create any dangerous, injurious, or noxious impact on any land which is located in any other zoning district. Such impacts may result from noise, vibration, odor, smoke or dust, or glare. Statements in writing that such uses comply or will comply with such uses may be required by the Planning Commission from the owner. In cases of doubt, the City shall have the authority to select and arrange for an independent survey by a professional engineer qualified in the particular field and the costs for such service shall be paid by the applicant.

- (a) Noise. The sound pressure level of any operation on a lot shall not exceed the average intensity of street traffic noise in the nearest residential districts, and no sound shall be objectionable due to intermittence, beat, frequency or shrillness.
- (b) Vibration. No vibration which is perceptible without the aid of instruments shall be permitted, as measured on the most proximate lot.
- (c) Odor. No emission of odorous matter in any quantities so as to produce a public nuisance shall be permitted.
- (d) Dust and Smoke. The emission of smoke, soot, fly ash, fumes, dust or other types of pollutants borne by the wind shall be controlled so that the rate of emission and quantity deposited do not create a public nuisance, as measured on the most proximate lot within a non-industrial district.
- (e) Storm Drainage and Runoff. Excessive water runoff from the developed site shall be addressed in a manner that minimizes the impact of such runoff on adjacent property. Generally it will be necessary to route such storm water to a watercourse, stream or existing storm system that has the capacity to accommodate the additional flow, or other acceptable on-site water retention methods.
- (f) Trash and Garbage Control. All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view.

(Ord. 2009-85. Passed 12-8-09.)

1153.07 REVIEW OF DEVELOPMENT PLAN.

In reviewing the Development Plan, the Planning Commission shall consider the following criteria:

- (a) That the proposed development is consistent with the purpose, intent and purposes of this Chapter.
- (b) That the proposed development is in conformity with appropriate comprehensive plans, or portions thereof, as may be adopted by the City.
- (c) That the proposed uses are appropriate to the site and setting.
- (d) That the acceptability of setbacks, distances between buildings, yard space, traffic accessibility and other elements of the Plan shall contribute to the orderly development of the City.

(e) That any modifications to minimum development standards established by the Zoning Ordinance are properly identified and justified as necessary for a high level of development.

(Ord. 2009-85. Passed 12-8-09.)

1153.08 MODIFICATION OF DEVELOPMENT PLAN.

After approval, minor modifications to the Development Plan may be made as may be approved by the Planning Commission. Such modification shall not change the essential character of the Plan, as approved. If the Planning Commission determines that such proposed changes significantly alter the approved Plan, then the Plan must be resubmitted to Planning Commission for formal approval. Development of land shall not proceed prior to final approval of the Development Plan. Any development undertaken without such final approval shall be in violation and subject to penalties as specified in Chapter 1119 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1155

(ES) Educational Services District

- 1155.01 Purpose.
- 1155.02 Permitted uses.
- 1155.03 Accessory uses.
- 1155.04 Conditional uses.
- 1155.05 Development standards.

1155.01 PURPOSE.

The ES District is established to recognize and protect established land use patterns and the character of the surrounding neighborhoods, while at the same time providing for public school facilities that have no student housing; to allow for such other related uses which are of an educational nature and/or are compatible with the character and intensity of area properties; and to provide district regulations and development requirements consistent with these goals.

(Ord. 2018-3. Passed 1-9-18.)

1155.02 PERMITTED USES.

- (a) Public schools, including elementary schools, middle schools, high schools, vocational schools, or colleges/universities.
- (b) Any non-educational uses to which a permitted public school may be put pursuant to contract, lease, or permission, including but not limited to public gatherings, community meetings, religious assembly, and service as a polling location, provided that such uses are limited to no more than twenty-five percent (25%) of the gross square footage of any existing school building and may only be conducted on an intermittent basis.
- (c) Structures customarily associated with permitted uses, including playgrounds; unlighted athletic fields and tracks; and outdoor education-related facilities.

(Ord. 2018-3. Passed 1-9-18.)

1155.03 ACCESSORY USES.

- (a) Buildings used for storage of mechanical equipment or other general storage purposes not exceeding 1,000 square feet.
- (b) Parking areas.

(Ord. 2018-3. Passed 1-9-18.)

1155.04 CONDITIONAL USES.

- (a) Facilities relating to transportation services related to the operation of permitted uses, including structures for storing and maintenance of busses and other vehicles. A Site Plan shall be submitted for any such facility or the expansion thereof.
- (b) Lighted athletic fields and tracks, or the addition of lights to existing athletic fields and tracks.
- (c) Buildings used for storage of mechanical equipment or other general storage purposes exceeding 1,000 square feet.

(Ord. 2018-3. Passed 1-9-18.)

1155.05 DEVELOPMENT STANDARDS.

(a) General Development Standards. All buildings, structures, and improvements located in an ES District shall not be subject to Chapter 1173 and also Section 1175.01 of the City of Galion Planning and Zoning Code, but instead they shall be subject to the Development Standards outlined below.

- (b) Lot Size. The minimum lot size for any individual school is three (3) acres.
- (c) Yard Requirements (Setbacks). All structures, parking areas and active recreational/athletic uses shall be no less than twenty feet (20') from any adjoining residential property line or public street right-of-way. A landscaped buffer consistent with Chapter 1177 of the City of Galion Planning and Zoning Code shall be provided in all such instances.
- (d) Open Space. At least thirty percent (30%) the total land area located within a designated ES District, including public rights-of-way, shall be retained as open space. Exceptions will be made to parking areas with approved pervious pavement applications.
- (e) Building Height. The height of any building for a permitted main use shall not exceed forty feet (40'), and any permitted accessory structure shall not exceed twenty feet (20') unless permitted elsewhere in this Planning and Zoning Code. Conditional uses may be of such height as approved by the Planning Commission.

(f) Lighting. Floodlighting and all other lighting of any use allowed under this Chapter shall be so designed and located so as to shield the light sources and glare from any structure in any adjacent residential area.

(Ord. 2018-3. Passed 1-9-18.)

CHAPTER 1157

(GI) General Industrial District

- 1157.01 **Purpose.**
- 1157.02 **Permitted uses.**
- 1157.03 **Conditional uses.**
- 1157.04 **Minimum development standards.**
- 1157.05 **Performance standards.**

1157.01 PURPOSE.

The GI District is established to provide for the continuance of existing industrial activity and to encourage private reinvestment and revitalization of industrial sites within the older portions of the City of Galion, while maintaining adequate development standards.

It is recognized that property within the GI District is likely to be located in older areas of the City that are characterized by mixed land use and higher densities. It is the intent of this Ordinance, and this District in particular, to protect and preserve the basic property rights of such existing industrial uses, while promoting the compatibility of such uses with adjacent neighborhoods.

(Ord. 2009-85. Passed 12-8-09.)

1157.02 PERMITTED USES.

- (a) Public facilities consisting of buildings or structures housing essential services.
- (b) Manufacturing, compounding, processing, assembling, packaging, or treatment of goods, materials, and products, consistent with the purpose of the GI District.
- (c) Warehousing, wholesale establishments, manufacturing retail outlets, distribution and related uses, including truck and transfer terminals.
- (d) Industrial product sales or service, consisting of firms engaged in the sale, rent or lease of products intended for industrial or commercial users, or the repair and/or servicing of industrial or commercial machinery, equipment or products.
- (e) Firms servicing automobiles, trucks or other vehicles.
- (f) Administrative, professional and business offices associated with and incidental to another permitted use.
- (g) Similar uses, as determined by the Planning Commission in accordance with the provisions of Chapter 1127 of this Ordinance, and the purposes of the General Industrial District.

(Ord. 2009-85. Passed 12-8-09.)

1157.03 CONDITIONAL USES.

- (a) Storage and salvage yards and recycling facilities, subject to the screening requirements of this Chapter and the approval of a Site Plan by the Planning Commission.
- (b) Telecommunications towers, subject to the requirements of Section 1175.07 of this Ordinance.
- (c) Churches and similar places of public assembly, provided the seating capacity of the sanctuary or main seating area is not more than 400 persons and provided a Site Plan showing the location of all new and expanded use areas and facilities is submitted and approved pursuant to Section 1127.02(g). (Ord. 2011-68. Passed 9-27-11.)

1157.04 MINIMUM DEVELOPMENT STANDARDS.

- (a) Site Plan. A Site Plan shall be required for any proposed permitted or conditional use that is located adjacent or within 200 feet from any property that is zoned in any R District.
- (b) Minimum Lot Area. No minimum lot size is required; however sufficient area shall be provided to meet the requirements of Sections 1157.03 to 1157.05 below.
- (c) Minimum Lot Width. No minimum lot width is required; however, all lots shall abut a publicly dedicated and improved street and shall have adequate width to provide for yard spaces and parking areas.
- (d) Side Yards. When the lot abuts a residential zoning district, the required side yard shall be not less than twenty-five (25) feet. When the lot abuts a non-residential zoning district, the required side yard shall be not less than ten (10) feet for structures and paved areas.
- (e) Front Yard Depth. Front yard depth shall be equal to or more than the average of the three (3) nearest structures on the same side of the street. In those cases where there are no structures on those properties adjacent to the subject property, the front yard depth shall be not less than twenty (20) feet from the right-of-way line of the street on which the property has frontage.
- (f) Minimum Rear Yard Depth. Minimum rear yard depth shall be at least twenty-five (25) feet.
- (g) Height. No structure shall exceed a height of fifty (50) feet.
- (h) Trash and Garbage Control. All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view from any R District.

(Ord. 2009-85. Passed 12-8-09.)

1157.05 PERFORMANCE STANDARDS.

Permitted uses within the GI District shall comply with the following standards:

- (a) **Fire and Explosion Standards.** All activities, including storage, involving flammable or explosive material shall comply with regulations as enforced by the Ohio State Fire Marshal and/or the City of Galion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency (OEPA)
- (b) **Air Pollution.** No emission of air pollutants shall be permitted which violates the Clean Air Act as enforced by the OEPA.
- (c) **Glare, Heat and Exterior Light.** Any operation producing intense light or heat, such as high temperature processes like combustion, welding, or otherwise, shall be performed within an enclosed building and not be visible beyond the lot line bounding the property whereon the use is conducted.
- (d) **Liquid or Solid Wastes.** No discharge at any point into any public sewer, private sewage disposal system, or stream, or onto the ground, of any materials of such nature or temperature as may contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the OEPA shall apply.
- (e) **Vibration and Noise.** No uses shall be located and no equipment shall be installed in such a manner as to produce intense, earth shaking vibration which is discernable without instruments at or beyond the property line of the subject premises.
- (f) **Odors.** Any applicable standards of the Ohio Department of Health, OEPA and/or other applicable agencies shall be adhered to.
- (g) **Open Storage and Display of Material and Equipment.** The open storage and display of material and equipment incidental to permitted uses shall be permitted, provided the area used for open storage shall be effectively screened from all adjoining properties in any residential district by means of walls, fences or plantings. Walls or fences shall be a minimum of six (6) feet in height without advertising thereon. In lieu of such wall or fence, a strip of land not less than ten (10) feet in width, planted and maintained with an evergreen hedge or dense planting of evergreen shrubs not less than four (4) feet in height at the time of planting may be substituted.

(Ord. 2009-85. Passed 12-8-09.)

(IP) Industrial Park District

- 1159.01 **Purpose.**
- 1159.02 **Permitted uses.**
- 1159.03 **Conditional uses.**
- 1159.04 **Minimum development standards.**

1159.01 PURPOSE.

The purpose of the Industrial Park (IP) District is to provide suitable areas for the development and expansion of a broad range of industrial and related activities, particularly on the periphery of the City, while protecting the character of nearby residential and commercial areas. Permitted uses within the IP District must operate:

- (a) Primarily within enclosed structures.
- (b) In compliance with the performance standards cited in Section 1157.05 of this Ordinance.
- (c) with minimal adverse environmental or economic impact on adjacent properties.
- (d) Free from noise, odor, dust, smoke, light, glare or vibration at levels in excess of the average level on adjacent streets and properties.
- (e) Without imposing unusual burdens upon utility or governmental services.

(Ord. 2009-85. Passed 12-8-09.)

1159.02 PERMITTED USES.

- (a) General office activities, consisting of facilities where activities are conducted in an office setting and generally focus on business services.
- (b) Personal services, consisting of firms providing personal services or entertainment to the general public, including restaurants, banks and/or savings and loans, credit unions, hotels or motels, medical and related offices, and similar establishments.
- (c) Manufacturing, compounding, processing, assembling, packaging, or treatment of goods, materials, and products.
- (d) Warehousing and distribution, consisting of firms involved with the storage and/or movement of goods.
- (e) Industrial product sales or service, consisting of firms engaged in the sale, rent or lease of products intended for industrial or commercial users, or the repair and/or servicing of industrial or commercial machinery, equipment or products.

(f) Similar uses, as determined by the Planning Commission in accordance with the provisions of Section 1127.02(e) of this Ordinance, and the purpose of the IP District.

(Ord. 2009-85. Passed 12-8-09.)

1159.03 CONDITIONAL USES.

Conditional uses may be appropriate within the IP District, but require more detailed evaluation with respect to location, design, size, method and hours of operation, intensity of use, traffic generation and potential impact on surrounding uses. It is the responsibility of the Planning Commission to perform this evaluation, based on analysis of a required Site Plan and to attach such necessary and appropriate conditions and/or safeguards. Conditional uses within the IP District shall consist of the following:

- (a) Retail sales and service, consisting of firms involved with the sale, lease or rent of products or goods to the general public and/or providing on-site product repair or services for such goods.
- (b) Vehicle sales and/or service, consisting of firms servicing automobiles, trucks and other commercial and/or consumer vehicles, including motorcycles, boats and/or recreational vehicles.
- (c) Contractor equipment and storage yards, provided adequate fencing and screening devices are installed.
- (d) Telecommunications towers, subject to the requirements of Section 1175.07 of this Ordinance
- (e) Similar business uses meeting the objectives and standards of the Industrial Park District, as determined by the Planning Commission.

(Ord. 2009-85. Passed 12-8-09.)

1159.04 MINIMUM DEVELOPMENT STANDARDS.

(a) Minimum Lot Area. Five (5) acres, provided adequate space is allowed for building and parking setbacks, circulation and landscaping. In addition, all principal and subordinate uses and structures, including parking and paved areas, shall be located not less than 200 feet from any district where residences are a permitted use, and not less than fifty (50) feet from any other zoning district.

(b) Minimum Lot Width. No minimum lot width is required; however, all lots shall abut a publicly dedicated and improved street and shall have adequate width to provide for yard spaces and parking areas.

(c) Side Yards. When abutting a non-residential zoning district, fifty (50) feet for structures, twenty-five (25) feet for paved areas:

When abutting a residential zoning district, 150 feet for structures, fifty (50) feet for paved areas, subject to the requirements of Section subsection (a) above.

(d) Front Yard Depth. Any new structure or parking area must be located not less than 1seventy (70) feet from the right-of-way of the road or highway on which the use has frontage.

(e) Minimum Rear Yard Depth. Minimum rear yard depth shall be required so as to meet the spacing requirements of Section subsection (a) above.

(f) Maximum Lot Coverage. Forty percent (40%) of lot area.

(g) Height. No building shall exceed a height of fifty (50) feet.

(h) Fencing and Screening. Any area used for open storage related to a permitted or conditional use shall be effectively fenced from all adjoining properties. Walls or fences shall be a minimum of six (6) feet in height without advertising thereon, and shall contain gates, locks and/or other appurtenances so as to prevent illegitimate access. In addition, if side or rear yards are adjacent to property in any R District, the screening of such yards, using fencing or landscaping shall be required. Such landscaping shall consist of walls, fences, mounds, natural vegetation or a combination of these elements, as approved by the Planning Commission.

(i) Trash and Garbage Control. All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1161

Reserved for Future Use

CHAPTER 1163

(PUD) Planned Unit Development

- 1163.01 **Purpose.**
- 1163.02 **Definition.**

- 1163.03 **Permitted and conditional uses.**
- 1163.04 **Project area.**
- 1163.05 **Common open space.**
- 1163.06 **Utilities.**
- 1163.07 **Arrangement of non-residential uses and parking.**
- 1163.08 **Residential density.**
- 1163.09 **Private roads.**
- 1163.10 **Procedure for approval of PUD District.**
- 1163.11 **Pre-application.**
- 1163.12 **Contents of application for preliminary development plan.**
- 1163.13 **Review procedure.**
- 1163.14 **Action by Planning Commission on preliminary development plan.**
- 1163.15 **Criteria for recommendation by Planning Commission.**
- 1163.16 **Action by City Council.**
- 1163.17 **Final development plan.**
- 1163.18 **Contents of application for approval of final development plan.**
- 1163.19 **Action by the Planning Commission on final development plan.**
- 1163.20 **Expiration and extension of approval period.**
- 1163.21 **Platting.**

1163.01 PURPOSE.

The purpose of these regulations is to provide for planned unit development (PUD) within the City of Galion, in order to achieve:

- (a) A greater choice of living environments by allowing a variety of housing and building types and densities within a single development.
- (b) A more useful pattern of open space and recreation areas and, if permitted as part of the project, more efficiency in the location of accessory commercial uses and services.
- (c) A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation and prevents the disruption of natural drainage patterns.
- (d) A more efficient use of land resulting in substantial savings through shorter utilities and streets.
- (e) A development pattern in harmony with land use, density, transportation, and community facilities objectives of the City.

The Planned Unit Development process shall be treated as a zoning amendment.

(Ord. 2009-85. Passed 12-8-09.)

1163.02 DEFINITION.

"Planned Unit Development", or "PUD", shall mean an area of land in which a variety of housing types and/or subordinate commercial facilities are accommodated in a planned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations. The approval of such development contains requirements in addition to those of the standard zoning districts, such as building design principles, and landscaping plans.

(Ord. 2009-85. Passed 12-8-09.)

1163.03 PERMITTED AND CONDITIONAL USES.

Permitted uses within the R, LC and IP Districts may be combined in the PUD District, provided that the proposed locations of non-residential uses are compatible with the design of the overall tract, will not adversely impact adjacent property, and that the location of such uses are specified in the preliminary and final development plans.

The amount of land devoted to non-residential uses in a planned unit development combining residential and non-residential components shall require approval by the Planning Commission.

(Ord. 2009-85. Passed 12-8-09.)

1163.04 PROJECT AREA.

The gross area of a tract of land proposed to be developed in a single PUD District shall be a minimum of ten (10) acres. This requirement may be waived by the Planning Commission if all property abutting the subject tract is platted and/or developed.

(Ord. 2009-85. Passed 12-8-09.)

1163.05 COMMON OPEN SPACE.

A minimum of twenty percent (20%) of the gross land area developed in any planned unit development project shall be reserved for common open space and/or recreational facilities. Such common open space shall be:

- (a) Dedicated to a homeowner's association who shall have title to the land which shall be retained as common open space. The legal Chapters relating to the organization of the homeowner's association shall be subject to review and approval by the Planning Commission and shall provide adequate provisions for the perpetual care and maintenance of all such common areas; or,
- (b) Dedicated to the City for parks, open space, or the site of schools or other related public facilities. All land so dedicated to the City shall be subject to the review and approval of the Planning Commission; or,
- (c) Some combination of subsections (a) and (b).

Public utility and similar easements and rights-of-way for watercourses or other similar channels are not acceptable for common open space dedication unless such land or right-of-way is usable as a bikeway, trail or similar facility and has been approved by the Planning Commission.

(Ord. 2009-85. Passed 12-8-09.)

1163.06 UTILITIES.

All electrical, telephone, cable television, and similar utility transmission and distribution lines shall be located underground.

(Ord. 2009-85. Passed 12-8-09.)

1163.07 ARRANGEMENT OF NON-RESIDENTIAL USES AND PARKING.

When development in the PUD District includes non-residential uses, buildings shall be planned having common parking areas and common ingress and egress points, in order to reduce traffic congestion and mitigate potential conflict points. Planting screens or fences shall be provided on the perimeter of such areas where they are adjacent to properties zoned for single family residential use. Parking areas shall be designed so as to discourage single, large, unbroken paved lots, and shall encourage smaller defined parking areas within the total parking system. Such defined parking areas should be delineated and accented by landscaped areas.

Service, delivery, and loading areas shall be, to the maximum possible extent, located to the rear of structures, and screened from view by landscaping.

The plan of projects developed in the PUD District shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for internal traffic circulation, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding areas.
(Ord. 2009-85. Passed 12-8-09.)

1163.08 RESIDENTIAL DENSITY.

The City of Galion is prepared to accept a higher density in undeveloped areas than that reflected by current zoning, provided the developer can utilize planned unit development techniques to demonstrate that any increment of public cost clearly attributable to increased densities will be compensated for by the private amenities and public benefits to be achieved by the plan of development.

The overall maximum density of the residential portions of the entire planned unit development shall be consistent with the most previous zoning classification in which the tract was located. The calculation of such density shall be based on the number of proposed dwelling units divided by the area of the site designated for residential use, excluding streets, rights-of-way and parking areas.

Notwithstanding the above, individual portions of the planned unit development may be developed at a higher residential density, provided the overall density meets the requirements above. In such cases, the resulting undeveloped land may be utilized as common open space.
(Ord. 2009-85. Passed 12-8-09.)

1163.09 PRIVATE ROADS.

Private roads or streets as a common easement may be used in the PUD District to provide internal circulation to clustered lots and/or individual residential structures in residential planned unit developments in accordance with the following requirements:

- (a) The easement shall not be counted as required open space.
- (b) The road or street is approved as part of the subdivision plat as the most appropriate form of access to lots and/or structures
- (c) Private roads shall not be used to provide access to non-residential areas or as through streets.

(Ord. 2009-85. Passed 12-8-09.)

1163.10 PROCEDURE FOR APPROVAL OF PUD DISTRICT.

Planned unit development projects shall be processed in accordance with the procedures specified in Sections 1163.11 through 1163.21, as follows:

(Ord. 2009-85. Passed 12-8-09.)

1163.11 PRE-APPLICATION.

The developer is encouraged to meet with the Code Inspector, City Engineer and Planning Commission prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss early and informally the purposes of this section and the criteria and standards contained herein, and to familiarize the developer with the planned unit development process, other provisions of this Code, and the drainage, sewer, and water systems within the City.

(Ord. 2009-85. Passed 12-8-09.)

1163.12 CONTENTS OF APPLICATION FOR PRELIMINARY DEVELOPMENT PLAN.

An application for preliminary planned unit development shall be filed with the Planning Commission by at least one (1) owner of the property for which the planned unit development is proposed. The preliminary plan must cover the entire contiguous ownership of the applicant unless the applicant specifically states in writing that he/she does not intend to develop the withheld portion of the tract for at least five (5) years. At a minimum, the application shall contain the following information and material:

- (a) Name, address, and phone number of applicant.
 - (b) Legal description of property.
 - (c) Description of existing use.
 - (d) Present and proposed zoning district(s).
 - (e) A vicinity map at a suitable scale, showing property lines, streets, existing and proposed zoning for all property adjacent to and within 200 feet from the proposed site.
 - (f) A list of all property owners within 200 feet from the proposed site, and their address as appearing on the Crawford County Auditor's current tax list.
 - (g) Proposed schedule for the development of the site.
 - (h) Evidence that the applicant has sufficient control over the land in question to effectuate the proposed development plan.
 - (i) A Preliminary Development Plan drawn to scale, prepared by a registered architect, registered engineer and/or registered landscape architect.
- Such plan shall contain the following information at a minimum:

- (1) Selected uses by area or specific building location, allocation of land use by type as measured in acres, adjacent existing land use, right-of-way, and relationship to adjacent land use
- (2) General location of thoroughfares, including type, as well as location and size measured in number of parking spaces for all off-street parking areas, including curb cuts.
- (3) Open space and the intended uses therein and acreage provided
- (4) Residential land uses summarized by lot size, dwelling type and density.
- (5) Existing and proposed roads, buildings, utilities, permanent facilities, easements, rights-of-way and abutting property boundaries.
- (6) Physical features and natural conditions of the site including soils, the location of vegetation and existing tree lines.
- (7) Surface drainage and areas subject to flooding.
- (8) Preliminary plan for water, sewer, storm drainage and other utility systems, as well as a general analysis by a Professional Engineer attesting to the general engineering feasibility of the project, as proposed.

(Ord. 2009-85. Passed 12-8-09.)

1163.13 REVIEW PROCEDURE.

Ten (10) copies of the completed application and Preliminary Development Plan shall be submitted to the Code Inspector at least sixteen (16) working days prior to the Planning Commission's next scheduled meeting. Failure to submit a complete application shall result in a refusal of acceptance. The Code Inspector shall transmit the complete application package to the Planning Commission and other parties as deemed appropriate for review and comment.

A public hearing shall be held by the Planning Commission not more than sixty (60) days from the date of acceptance of the application package. The notification requirements for such hearing shall be as set forth in Section 1113.05 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1163.14 ACTION BY PLANNING COMMISSION ON PRELIMINARY DEVELOPMENT PLAN.

Within thirty-five (35) days after the public hearing held by the Planning Commission, the Commission shall make a recommendation to City

Council, following the procedures as cited in Section 1113.05 of this Ordinance.
(Ord. 2009-85. Passed 12-8-09.)

1163.15 CRITERIA FOR RECOMMENDATIONS BY PLANNING COMMISSION.

Before making its recommendation as required in Section 1163.14, the Planning Commission shall determine whether the facts submitted with the application and presented at the public hearing establish that:

- (a) Each individual part of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability, and the uses proposed will not impose undue adverse impacts on adjacent uses, but will have a beneficial effect which could not be achieved under standard district regulations.
- (b) The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate volumes of traffic which would overload the street network outside the development.
- (c) Any proposed commercial development can be justified at the proposed locations.
- (d) Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan.
- (e) The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
- (f) The existing and proposed public services are adequate for the population densities and uses proposed, and in conformance with capital improvements planned for the area.

In making its recommendation, the Planning Commission may seek the assistance and input of outside consultants and/or experts procured for that purpose. All costs associated with such input shall be paid by the applicant for the PUD zoning.
(Ord. 2009-85. Passed 12-8-09.)

1163.16 ACTION BY CITY COUNCIL.

Upon receipt of the recommendation by the Commission, City Council shall review and take action on the application, following the procedures specified in Section 1113.06 of this Ordinance. Following approval by City Council, the subject property shall be considered as zoned PUD. The approval of that zoning shall be conditioned on development of the tract being in conformance with the Final Development Plan.
(Ord. 2009-85. Passed 12-8-09.)

1163.17 FINAL DEVELOPMENT PLAN.

Not later than twelve (12) months from the approval of the Preliminary Development Plan, the developer shall submit ten (10) copies of the Final Development Plan to the Code Inspector. The Final Development Plan shall be in general conformance with the Preliminary Development Plan. Failure to submit a Final Development Plan within the specified time period shall render the approved Preliminary Development Plan and the rezoning of the property null and void and the land shall revert to the zoning district in which it was located prior to the amendment.
(Ord. 2009-85. Passed 12-8-09.)

1163.18 CONTENTS OF APPLICATION FOR APPROVAL OF FINAL DEVELOPMENT PLAN.

An application for approval of the Final Development Plan shall be filed with the Code Inspector at least sixteen (16) working days prior to the Planning Commission's next scheduled meeting, by at least one (1) owner or lessee of property for which the planned unit development is proposed. Each application shall be signed by the owner attesting to the truth and exactness of all information supplied on the application for Final Development Plan. The Final Development Plan shall be prepared by a registered architect or engineer and, at a minimum, shall contain the following information and materials:

- (a) A survey of the proposed development site, showing the dimensions and bearings of the property lines, areas in acres, topography, existing features of the development site, including major wooded areas, structures, streets, easements, utility lines, and land uses.
 - (b) All the information required in the Preliminary Development Plan, including the location and sizes of lots, location and proposed density of dwelling units, non-residential building intensity, and land use considered suitable for adjacent properties.
 - (c) A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres on the proposed project for various uses, the number of housing units proposed by type; estimated residential population by type of housing; estimated nonresidential population, anticipated timing for each unit; and population density and public improvements proposed for each unit of the development whenever the applicant proposes an exception from standard zoning districts or other resolution governing development.
 - (d) Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone, and natural gas installations; waste disposal facilities; street improvements, and, nature and extent of earth work required for traffic circulation and street improvements, and nature and extent of earth work required for site preparation and development.
 - (e) Site plan, showing building(s), various functional use areas, circulation and their relationship.
 - (f) Architectural renderings and accompanying narrative to discuss in detail the design treatment of all buildings and structures where applicable.
 - (g) Plans for landscaping
 - (h) Deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development and maintenance of land, and the improvements thereon, including those areas which are commonly owned and maintained.
- (Ord. 2009-85. Passed 12-8-09.)

1163.19 ACTION BY THE PLANNING COMMISSION ON FINAL DEVELOPMENT PLAN.

Within sixty (60) days from submittal of the items specified for approval of the Final Development Plan, or such other time as has been agreed to by the owner or developer, the Planning Commission shall approve, deny or approve with modification, the Final Development Plan. Approval shall mean that it finds that said plan is in conformance with the approved Preliminary Development Plan, and that no significant constraints exist to construction of the project as planned
(Ord. 2009-85. Passed 12-8-09.)

1163.20 EXPIRATION AND EXTENSION OF APPROVAL PERIOD.

The approval of the Final Development Plan shall be for a period of not to exceed two (2) years. If no construction has begun within two (2) years after approval is granted, the approved Development Plan shall be null and void, and the land shall revert to the zoning district in which it was located prior to the amendment. An extension of this time limit, for a specific period, may be approved if the Planning Commission finds that such extension is necessitated by conditions beyond the control of the applicant.
(Ord. 2009-85. Passed 12-8-09.)

1163.21 PLATTING.

The creation of new parcels under any planned unit development shall be subject to the subdivision requirements of this Ordinance. To reduce

the length of the review and approval process, a preliminary subdivision plat can be submitted simultaneously with the Development Plan for rezoning to the PUD District. A final subdivision plat cannot be submitted for review until an amendment to the Zoning Ordinance has been approved by City Council and such amendment has become effective.
(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1165

(FP) Flood Plain District (Overlay)

- 1165.01 **Purpose.**
- 1165.02 **Lands subject to flooding.**
- 1165.03 **Permitted uses.**
- 1165.04 **Development standards.**

CROSS REFERENCES

Flood damage prevention - see BLDG. Ch. 1335

1165.01 PURPOSE.

It is the intent of the Flood Plain Overlay District to manage the use of flood plains for activities which could be detrimental to health and welfare for citizens of the City. The FP District is an overlay zoning district. This means that the underlying district standards and requirements shall apply in addition to the Flood Plain Overlay District (FP) regulations and requirements.
(Ord. 2009-85. Passed 12-8-09.)

1165.02 LANDS SUBJECT TO FLOODING.

For the purposes of this Ordinance, "land subject to flooding" means those lands adjacent to a watercourse subject to flooding as have been identified by the Federal Emergency Management Agency (FEMA) in scientific and engineering report and referenced in Chapter 1335 of the Codified Ordinances of the City of Galion, as may be subsequently amended.
(Ord. 2009-85. Passed 12-8-09.)

1165.03 PERMITTED USES.

The only uses permitted in the FP District are those which are permitted in the underlying zoning district, and which meet the requirements of Chapter 1335 of the Codified Ordinances of the City of Galion, as cited above.
(Ord. 2009-85. Passed 12-8-09.)

1165.04 DEVELOPMENT STANDARDS.

The standards for development within the FP District shall be as specified in the underlying zoning district, and in Chapter 1335 of the Codified Ordinances of the City of Galion, as cited above.
(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1167

(RCO) Riparian Corridor Overlay District

- 1167.01 **Purpose.**
- 1167.02 **Boundaries.**
- 1167.03 **Permitted uses.**
- 1167.04 **Development standards.**

1167.01 PURPOSE.

It is hereby determined that the system of rivers, streams and other natural watercourses contributes to the health, safety, and welfare of the citizens of the City. The City of Galion therefore declares the preservation and conservation of these riparian corridors to be a public purpose.

It is the intent of the RCO District to:

- (a) Reduce flood impacts by absorbing peak flows, slowing the velocity of flood waters, and regulating base flood flows, and
- (b) Stabilize the banks of watercourses so as to reduce bank erosion, and
- (c) Reduce pollutants in watercourses during periods of high flows by filtering, settling and transforming pollutants in runoff before they enter the watercourse, and
- (d) Provide habitat for a wide range of wildlife by maintaining diverse and connected riparian vegetation, and
- (e) Benefit the City economically by minimizing encroachment on watercourse channels and the need for costly engineering solutions to protect structures and property located adjacent to the watercourse.

The RCO District is an overlay zoning district. This means that the underlying district standards and requirements shall apply in addition to the following regulations and requirements. The RCO District may also be utilized over the FP (Flood Plain) District. In such cases, the property would be subject to the requirements and standards of both the RCO and FP Districts.

(Ord. 2009-85. Passed 12-8-09.)

1167.02 BOUNDARIES.

The Riparian Corridor Overlay (RCO) District shall consist of areas fifty (50) feet from and parallel to the ordinary high water mark along banks of the watercourse away from the stream landward to a line parallel to the ordinary high water mark.

The "ordinary high water mark" is defined as the line between upland and bottomland which persists through successive changes in water level, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland, and is apparent in the soil itself and/or the configuration of the surface of the soil and vegetation.

(Ord. 2009-85. Passed 12-8-09.)

1167.03 PERMITTED USES.

- (a) Permitted and conditional uses as specified in the underlying base district(s), subject to the requirements and standards of this Chapter.
- (b) Passive private or public recreational uses such as fishing, walking and hiking, bird watching, etc. No public easement over such property is hereby created.
- (c) Selective harvesting of timber, provided not more than twenty-five percent (25%) of the tree crown cover within the portion of the individual land owner's parcel within the RCO District is removed and trees in the immediate vicinity are not harvested at the same time.
- (d) Notwithstanding the above, the removal of individual trees that are diseased or in danger of falling and causing damage to structures or causing blockage to the stream.
- (e) Stream crossing structures located not less than 1,000 feet from any existing stream crossing, provided the plans for such structures are approved by the Planning Commission.

(Ord. 2009-85. Passed 12-8-09.)

1167.04 DEVELOPMENT STANDARDS.

- (a) Construction of principal or accessory structures and changing of topography, including but not limited to grading, excavating and filling, is prohibited.
- (b) No drilling, dredging or dumping of soil, spoil, liquid or solid material shall be permitted.
- (c) The creation of new impervious surfaces is prohibited, unless within a public right-of-way or approved private street constructed as part of a subdivision.
- (d) No discharge is permitted into any public or private sewer, drain, tile or stream, or onto the ground of any liquids or materials which, because of their toxic properties or temperatures when discharged, would contaminate groundwater or stream. The Ohio Environmental Protection Agency (OEPA) standards shall apply and be met in making a determination as to the propriety of the discharge. Discharges expressly permitted by the OEPA are not restricted by this Section.
- (e) The natural vegetation within the Riparian Corridor Overlay District shall remain undisturbed except for the removal of noxious weeds as otherwise permitted under the Ohio Revised Code Chapters 5579 and 5589, subject to the activities referenced above in subsection (b) above.
- (f) In addition to the standards above, the requirements of the Flood Plain Overlay (FP) District shall apply.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1169

Reserved for Future Use

TITLE SEVEN - Additional Zoning Requirements

- Chap. 1173. General Development Standards.
- Chap. 1175. Additional Residential District Standards.
- Chap. 1177. Landscape Screens and Buffers.
- Chap. 1179. Off-Street Parking and Loading Requirements.
- Chap. 1181. Signs.
- Chap. 1183. Adult Entertainment Facilities.
- Chap. 1185. *Reserved for Future Use*

CHAPTER 1173

General Development Standards

- 1173.01 **Lot width.**
- 1173.02 **Front yards.**
- 1173.03 **Side yards.**
- 1173.04 **Rear yards.**
- 1173.05 **Architectural features.**
- 1173.06 **Height.**
- 1173.07 **Minimum floor area requirements.**
- 1173.08 **Curb cuts.**

1173.01 LOT WIDTH.

(a) Frontage Required. No building, structure, or improvement shall be constructed or altered, nor any new lot be established, unless such lot fronts on a publicly dedicated and improved street or thoroughfare within the City.

(b) Lot Width. Lot width shall be measured along the minimum building setback line for the district within which such lot is located. For lots on curved streets or at the terminus of a cul-de-sac, lot width shall be determined by the chord length of the lot at the minimum building setback line.

(Ord. 2009-85. Passed 12-8-09.)

1173.02 FRONT YARDS.

(a) Front Yard Requirements. All front yard space shall be landscaped by lawns, shrubbery, trees or other plantings and maintained in a neat and orderly state.

(b) Front Yard Measurements. Front yard depth shall be measured from the right-of-way line of the street or highway to the building line.

(c) Corner Lots. Lots fronting on more than one street shall provide the required front yard on both streets. Setbacks for one (1) of the other two (2) sides of a corner lot shall be as required for the rear yard of the district where the lot is located.

(d) Open Porches. In residential districts, an open, uncovered porch or paved terrace may project into a required front yard for a distance of not greater than ten (10) feet.

(e) Modification of Front Yard Setbacks in Specific Cases. Notwithstanding the minimum front yard setback established for any residential district, when a new single family residential structure is proposed on a lot or lots platted prior to the effective date of this Ordinance, and when such lot or lots are adjacent to existing structures on one or both sides thereof, the minimum front yard setback for the proposed structure shall not be less than the smaller of the front yard setback(s) of the adjacent structure(s).

(Ord. 2009-85. Passed 12-8-09.)

1173.03 SIDE YARDS.

(a) Measurement. Side yard width shall be measured from the side lot line to the nearest point of the outside wall of the building.

(b) Open Porches. In a residential district, an open, uncovered porch, deck or paved terrace may project into a required side yard, if a minimum of three (3) feet is maintained to any adjoining lot line.

(c) Accessory Uses or Structures. Accessory uses or structures may be allowed in a side yard, subject to requirements of Section 1175.01 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1173.04 REAR YARDS.

(a) Measurement. Rear yard depth shall be measured from the rear lot line to the nearest point of the outside wall of the building. Where a lot abuts a service street or alley, the rear yard shall be measured from the right-of-way line of the existing street or alley.

(b) Accessory Uses or Structures. Accessory uses or structures may be allowed in a rear yard, subject to requirements of Section 1175.01 of this Ordinance.

(c) Open Porches. In a residential district, an open, uncovered porch or paved terrace may project into a required rear yard, if a minimum of ten

(10) feet is maintained to any adjoining lot line.
(Ord. 2009-85. Passed 12-8-09.)

1173.05 ARCHITECTURAL FEATURES.

Cornices, canopies, eaves, pilasters, sills or other architectural features may project into a front, side or rear yard not more than three (3) feet.
(Ord. 2009-85. Passed 12-8-09.)

1173.06 HEIGHT.

Height regulations specified in the various zoning districts shall not apply to chimneys, steeples, spires, or similar structures attached to and appropriate with the primary structure, provided the height of all such structures shall not constitute a hazard to the safe landing and takeoff of aircraft from an established airport.
(Ord. 2009-85. Passed 12-8-09.)

1173.07 MINIMUM FLOOR AREA REQUIREMENTS.

Minimum floor area requirements as specified in the various zoning districts shall not include basements, open porches or decks with no roof, or outdoor living areas, garages, breezeways or steps.
(Ord. 2009-85. Passed 12-8-09.)

1173.08 CURB CUTS.

(a) R Districts. Curb cuts in R Districts shall be located not less than thirty-five (35) feet from any street intersection, as measured from the right-of-way line. If more than one (1) curb cut is proposed on a single lot, the applicant for a zoning certificate on such property shall demonstrate that such additional curb cut is necessary for safe vehicular movement to and from the site and that the distance between the curb cuts is sufficient to allow for the safe and efficient ingress and egress of vehicular traffic from the site.

(b) LC, GC, GI and IP Districts. Not more than two (2) curb cuts per street frontage shall be established for any single lot in the above districts. All new curb cuts must be located not less than 150 feet from any street intersection and fifty (50) feet from any adjacent property line. In addition, the applicant for a zoning certificate on such property shall demonstrate that the distance between the curb cuts is sufficient to allow for the safe and efficient ingress and egress of vehicular traffic from the site.
(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1175

Additional Residential District Standards

1175.01 **Accessory buildings and structures.**

1175.02 **Home occupations.**

1175.03 **Residential fences and/or hedges.**

1175.04 **Private swimming pools.**

1175.05 **Wind turbine systems.**

1175.06 **Group residential facilities.**

1175.07 **Telecommunication towers.**

1175.08 **Residential handicapped ramps.**

1175.01 ACCESSORY BUILDINGS AND STRUCTURES.

"Accessory building or structure" shall mean a structure and/or use which is subordinate, secondary, incidental to and customary in connection with the principal building or use and located on the same lot as the principal building or use. Residential accessory structures include detached garages, tool and garden sheds, tennis courts, swimming pools and similar structures or facilities. Such accessory structures are subject to the following additional requirements:

(a) The use of all accessory structures shall conform to the definition above, and no accessory structure shall be used for human habitation, or for commercial purposes.

(b) In the R Districts, no separate accessory structure can be erected on a vacant lot, or any lot where there is no principal residential structure.

(c) An accessory use or structure shall not exceed eighteen (18) feet in height, unless the subject property is subject to historic design review, and specific approval for a higher accessory building is granted by the Historic District Review Board, in order to promote consistency with the architectural character of the other structures on the site.

(d) An unattached use or structure shall be located to the rear of the front building line of the principal structure, within any side or rear yard no closer than six (6) feet from any side or rear lot line in the R-1A District and three (3) feet in the R-1B, R-1C, RO or MH-R Districts. In any other district, the location of accessory buildings must be approved by the Planning Commission.

(Ord. 2009-85. Passed 12-8-09.)

(e) The total area of all accessory uses or structures shall not exceed the greater of 1,000 square feet or 5% of the total area of the lot. Such area shall be considered as the area of all accessory uses and structures covered by a roof. Swimming pools, tennis courts and similar uncovered areas shall be exempt from these area requirements.

(Ord. 2015-76. Passed 9-22-15.)

(f) Not more than one (1) moveable storage building shall be allowed on any single residential property, and such structure shall comply with the location requirements of subsection (d) above.

(g) Notwithstanding the provisions of subsection (f) above, if an individual lot has less than sixty (60) feet of lot width and no attached or unattached garage, one (1) additional moveable storage building or structure shall be allowed, provided all such structures comply with the provisions of subsections (d) and (e) above.

(h) The above restrictions shall not apply to temporary storage structures in place for less than ninety (90) days.

(Ord. 2009-85. Passed 12-8-09.)

1175.02 HOME OCCUPATIONS.

Home occupations shall be regulated as permitted, accessory or conditional uses in the various residential districts. A home occupation typically consists primarily of rendering specific personal services and/or sale or service of products. A home occupation shall comply with the following standards:

(a) The use shall be clearly incidental and secondary to residential use of the dwelling and not more than twenty percent (20%) of dwelling unit floor area is devoted to the home occupation.

(b) The home occupation shall be managed by the occupant of the property. Not more than three (3) persons, other than immediate family residing at the premises, shall be employed in such occupation.

(c) The home occupation shall not generate greater traffic volume than is normal for a residential neighborhood.

- (d) External indication of such home occupation shall be limited to one non-illuminated sign of not more than eight (8) square feet,
- (e) No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to normal senses off the lot.
- (f) No home occupation shall be conducted from any accessory building on the lot.
(Ord. 2016-81. Passed 10-25-16.)

1175.03 RESIDENTIAL FENCES AND/OR HEDGES.

Fences as an accessory use or structure shall be regulated pursuant to the requirements of Chapter 1345 of the Codified Ordinances.
(Ord. 2009-85. Passed 12-8-09.)

1175.04 PRIVATE SWIMMING POOLS.

Private swimming pools as an accessory use shall be regulated pursuant to the standards and requirements of Section 1341.01 of the Codified Ordinances. A zoning certificate shall be required for the construction or installation of any private swimming pool. The owner of the property, or his agent, shall certify that the pool will be constructed, installed and maintained in conformance with the above cited standards and requirements.
(Ord. 2009-85. Passed 12-8-09.)

1175.05 WIND TURBINE SYSTEMS.

For the purposes of these regulations, a "wind turbine system" shall mean a wind energy conversion (WEC) system consisting of a tower, a unit consisting of blades, generator and associated control or conversion electronics which have a rated capacity appropriate for on-site electrical generation and use. Wind turbine systems shall be considered a conditional accessory use requiring approval by the Planning Commission in the districts so designated below and shall require a separate zoning certificate.

- (a) Small Wind Turbine Systems in Residential Districts. Not more than one (1) wind turbine system of not more than 20 kW design capacity shall be allowed as a conditional use on a single property or parcel in the RE or R-1A Districts, provided evidence is submitted to the Planning Commission that the following requirements are met:
 - (1) A Site Plan for the property shall be provided, showing all physical features of the lot, including landscaping and existing and proposed structures. The Site Plan shall also include an explanation of how the proposed wind turbine system can be specifically adapted to meet the requirements of the site and this Ordinance.
 - (2) The height of the tower of the wind turbine system shall not exceed seventy (70) feet as measured from the ground to the highest point of the tower, including the height of any building or structure upon which the tower is mounted. The specific lot shall be of such size that not less than 1.25 times the height of the tower can be provided to any property line.
 - (3) Notwithstanding the above, the height of the system shall not exceed the height recommended by the manufacturer or distributor of the system.
 - (4) The noise from the system shall not exceed 50 decibels (dBA) or 10 dBA above the documented ambient noise level as measured at the most proximate inhabited residential dwelling.
 - (5) The application shall include standard drawings and an engineering analysis of the structural stability of the tower, and certification of same by a Professional Engineer.
 - (6) The owner of the system shall certify and provide assurance that if the small wind turbine system is abandoned or otherwise inoperable for a continuous period of six (6) months or more, the system shall be removed. The reinstallation of such system shall require a new zoning certificate.
- (b) Wind Turbine Systems in Non-Residential Districts. Not more than three (3) wind turbine systems of not more than 100 kW design capacity shall be considered as a conditional use in the GC, GI or IP Districts and shall be subject to the requirements of that district, as well as the following:
 - (1) A Site Plan for the property shall be provided, showing all physical features of the lot, including landscaping and existing and proposed structures. The Site Plan shall also include an explanation of how the proposed wind turbine system can be specifically adapted to meet the requirements of the site and this Ordinance.
 - (2) The height of the tower of the wind turbine system shall not exceed 120 feet as measured from the ground to the highest point of the tower, including the height of any building or structure upon which the tower is mounted. The specific lot shall be of such size that not less than 1.25 times the height of the tower can be provided to any property line.
 - (3) The requirements of subsection (a)(3) through (6) shall apply.
(Ord. 2009-85. Passed 12-8-09.)

1175.06 GROUP RESIDENTIAL FACILITIES.

"Group residential facilities" shall be defined and classified in Chapter 1103 of this Ordinance. A Class I Type B group residential facility, as defined in Chapter 1103, is permitted by right in any zoning district that permits single-family dwellings. A Class I Type A group residential facility shall be considered as a conditional use in the MH-R, RM or LC Districts, subject to the standards below. A Class II Type A or Type B group residential facility shall be considered a conditional use in the LC District subject to the standards below:

- (a) The facility shall obtain all approvals and/or licenses as required by state and local laws.
- (b) The facility shall provide 24-hour supervision by trained and qualified professional personnel.
- (c) No exterior alterations of the structure shall be made which would be inconsistent with the residential character of the residential structures in the surrounding neighborhood.
- (d) The facility shall comply with the district regulations applicable to other properties in the zoning district in which they are located.
- (e) Such facilities shall be required to provide appropriate sleeping quarters without using normal living areas, such as living rooms, dining room or kitchen for sleeping.
- (f) Such facilities shall meet all applicable local and/or state building, safety and fire safety requirements for the proposed use and level of occupancy.
- (g) Such facilities shall be reasonably accessible, by virtue of location or transportation provided by the applicant, to medical, recreational and retail services, and employment opportunities.
- (h) The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, including a structured procedure whereby their grievances may be filed and resolved.
(Ord. 2009-85. Passed 12-8-09.)

1175.07 TELECOMMUNICATION TOWERS.

A telecommunications tower, as defined in Chapter 1103, shall be considered as a conditional use in the GC, HC, GI and IP Districts, subject to the following requirements. If a public telecommunication service provider desires to co-locate its facility on either an existing tower or utility structure, such proposed use shall be addressed as a permitted use in the respective zoning district.

- (a) Conditions. In approving an application for a telecommunications tower, the Planning Commission shall determine that the following

conditions are met.

- (1) Applicant shall demonstrate that the height of the tower is the minimum necessary for operation; however, no tower shall exceed two hundred fifty feet (250') in height.
 - (2) Minimum setback for the tower from all property lines shall be at least one hundred feet (100') if applicant provides a report from a professional engineer, indicating that the proposed tower has been designed to collapse upon itself, otherwise, the minimum setback from all property lines shall be the height of the tower. In addition, any stabilization structures or guy wires shall be located at least 10 feet (10') from any property line. Setback for purposes of this provision is defined as the distance from the property line to the nearest point of the structure.
 - (3) The tower shall be located not less than one hundred fifty feet (150') from the property line of any property zoned or used for residential purposes, except a tower shall be located not less than one thousand feet (1,000') from a property line of any property in an R-1A or R-1B District.
 - (4) The minimum lot or parcel size for the site of the tower shall be one (1) acre. Only one tower shall be permitted on any such lot or parcel.
 - (5) An eight foot (8') high security and obscuring fence shall be maintained around the tower and any other ancillary structures, with its location being as close to the tower and such structure as possible while still allowing adequate room for maintenance, temporary vehicle parking, etc. Uncontrolled access to the tower site shall be prevented by use of an operable lock.
 - (6) A Site Plan drawn to scale, including complete structure elevations, location of existing and proposed structures, setbacks from property lines, and vehicle access and parking, and a proposed landscaping plan shall be submitted to and approved by the Planning Commission.
 - (7) If the access drive to the tower passes through or adjacent to property zoned or used for residential purposes, such driveway shall be constructed and maintained through the use of materials determined by the Planning Commission to be dust free.
 - (8) The tower shall not be lighted except to assure safety or as required by the Federal Aviation Administration.
 - (9) The applicant shall document in writing that it is unable to co-locate on existing and approved towers within the range of the proposed equipment, and shall demonstrate that its planned equipment would harm the structural capacity of existing or approved towers, that its planned equipment would cause RF interference with equipment for the existing or approved towers and cannot be shielded at a reasonable cost, that existing or approved towers do not have space on which to function in parity with similar equipment in the area, or that the fees and/or costs for shared use are unreasonable in comparison to the erection of a new tower.
 - (10) The applicant shall demonstrate that the telecommunication tower must be located where it is proposed in order to service the applicant's service area, including submission of RF propagation maps showing the necessity of the proposed site.
 - (11) Underground wiring and utilities to the site shall be required.
 - (12) Equipment, mobile or immobile, not used in direct support of the transmission or relay facility, shall not be stored or parked on the site except in connection with a repair or maintenance being made to the tower.
 - (13) No employee shall be employed on a regular basis at the tower site.
 - (14) An obsolete or unused tower shall be removed within ninety (90) days after the tower's use is discontinued.
 - (15) The tower shall be painted a non-contrasting gray or similar color minimizing its visibility unless otherwise required by the Federal Aviation Administration or Federal Communications Commission.
 - (16) No advertising is permitted anywhere on the site.
 - (17) Warning signs shall be posted around the site with the telephone number of who to contact in the event of an emergency.
 - (18) Applicant shall provide a signed statement indicating that it agrees to allow for potential co-location of other similar facilities on its tower, if approved.
 - (19) Applicant shall produce a license to operate such telecommunications tower in the Galion area, if such license is required.
 - (20) The tower must be built and inspected in accordance with ANSI/EIA/TIA-222-E code.
 - (21) A non-refundable fee of one hundred fifty dollars (\$150.00) shall be paid to the Planning Commission for review of each application for a telecommunication tower. In addition, applicant shall be responsible for fees incurred to hire an outside contractor to review plans. A building and electrical permit must be applied for prior to erecting a telecommunication tower and the fees for such permits are in addition to the above fee to the Planning Commission.
- (b) **Exceptions.** The following are exempt from the regulations established above.
- (1) Telecommunications towers that a resident uses for receiving commercial television or radio for personal entertainment or educational purposes in accordance with 47 CFR, commonly known as the Federal Communications Commission Rules and Regulations.
 - (2) Recognizing the need for the possibility of emergency communications in time of disaster, telecommunications towers used by Federal Communications Commission licensed Amateur Radio Operators.
- (c) **Interference.** In the event that signals to and/or from the telecommunications tower causes interference to any radio or television operated by any resident within the immediate area, the resident shall notify the system owner, who shall immediately investigate the complaint and take proper action at no expense to the resident
(Ord. 2009-85. Passed 12-8-09.)

1175.08 RESIDENTIAL HANDICAPPED RAMPS.

A residential handicapped ramp as defined in Section 1103.02 shall be considered a permitted use in all residential zoning districts subject to the following requirements:

- (a) Residential handicapped ramps shall be placed no closer than three (3) feet from any front, side or rear lot line.
- (b) Residential handicapped ramps are exempt from the lot coverage limitations imposed by individual zoning districts.
(Ord. 2012-93. Passed 12-11-12.)

CHAPTER 1177

Landscape Screens and Buffers

1177.01 **Purpose.**

1177.02 **Tree preservation.**

1177.03 **Landscape screening.**

1177.04 **Landscape materials used as buffers.**

1177.01 PURPOSE.

The purpose of these landscaping requirements is to promote and protect the public health, safety and welfare through the promotion of environmental sustainability by recognizing the vital importance of tree growth as an integral part of the ecological system. It is further the purpose of this Section to specifically encourage the preservation and replacement of major trees removed in the course of land development, to promote the proper utilization of landscaping as a buffer between particular land uses, and to minimize noise, air and/or visual pollution and

artificial light glare.

(Ord. 2009-85. Passed 12-8-09.)

1177.02 TREE PRESERVATION.

When preparing and reviewing subdivision plans and preliminary and final development plans, good faith effort shall be made to preserve natural vegetation areas. Streets, lots, structures and parking areas should be laid out to avoid unnecessary destruction of heavily wooded areas or outstanding tree specimens.

(Ord. 2009-85. Passed 12-8-09.)

1177.03 LANDSCAPE SCREENING.

(a) Screening in Particular Districts. The development standards for particular districts require the installation of screen or buffer areas of side or rear yards that are adjacent to districts where residences are permitted uses. When required by the specific district development standards, such screening shall consist of walls, landscaped earthen mounds, fences, natural vegetation or an acceptable combination of these elements. Such areas shall be a minimum of ten (10) feet wide and contain screening at least seven (7) feet in height at the time of planting. The use of year-round vegetation, such as pines or evergreens, is encouraged. Landscaped screening shall have at least seventy-five percent (75%) opacity during full foliage.

(b) Screening of Trash Receptacles. The development standards for particular zoning districts require the screening of trash receptacles to effectively screen them from view. In those cases where screening is required, landscaping can be utilized to meet this requirement, provided the standards for such landscaping meet the requirements of this Section.

(c) Maintenance of Shrubbery and Hedges. In any district, no shrubbery, hedge and/or other vegetation shall be planted, in such a manner that any portion of growth extends beyond the property line. The owner or occupant of property on which there is shrubbery, hedges, trees and/or other vegetation located so as to affect the vision of drivers on adjacent streets shall keep such vegetation trimmed to a maximum of thirty (30) inches in height, and keep trees trimmed so as to avoid covering or obscuring of traffic visibility or traffic control signals.

(Ord. 2009-85. Passed 12-8-09.)

1177.04 LANDSCAPE MATERIALS USED AS BUFFERS.

Landscape materials utilized in meeting requirements of this Section should complement the form of existing trees and plantings, as well as the general design and architecture of the developed area. The type of sun or shade should be considered in selecting plant materials. Artificial plants are prohibited. All landscape materials shall be living plants and shall meet the following requirements:

- (a) Deciduous Trees. Trees which normally shed their leaves in the fall, shall be species having an average mature crown spread of greater than fifteen (15) feet and having trunks which can be maintained with over five (5) feet of clear wood in areas where visibility is required, except at vehicular use intersections where the clear wood requirement shall be eight (8) feet. A minimum of ten (10) feet overall height, or a minimum caliper (trunk diameter as measured six inches above the ground) of at least two (2) inches immediately after planting shall be required. Trees of undesirable species, as cited in subsection (b) below, are prohibited.
- (b) In meeting the planting and maintenance requirements of this Ordinance, the following species of trees shall be considered undesirable species, and shall not be utilized.
 - (1) Box-Elder (*Acer negundo*)
 - (2) Silver Maple (*Acer saccharinum*)
 - (3) Catalpa (*Catalpa speciosa*)
 - (4) Tulip Tree (*Liriodendrum tulipifera*)
 - (5) Mulberry (*Morus alba*)
 - (6) Poplars and Cottonwoods(all kinds) (*Populus*)
 - (7) Willows (all kinds) (*Salix*)
 - (8) Siberian Elm (*Ulmus pumila*)
- (c) Evergreen trees. Evergreen trees shall be a minimum of three (3) feet high with a minimum caliper of one (1) inch immediately after planting.
- (d) Shrubs and Hedges. Shrubs shall be planted at least two (2) feet in average height when planted and shall conform to specified requirements within four (4) years after planting.
- (e) Grass or Ground Cover. Grass of the fescue (*Gramineae*) or bluegrass (*Poaceae*) family shall be planted in species normally grown as permanent lawns, and may be sodded or seeded. In swales or similar areas subject to erosion, nets or suitable mulch shall be used; nurse grass shall be sown for immediate protection until complete coverage otherwise is achieved. In certain cases, ground cover consisting of rocks, pebbles, sand or similar materials may be approved.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1179

Off-Street Parking Requirements

1179.01 **Purpose.**

1179.02 **Provision for parking required.**

1179.03 **General requirements.**

1179.04 **Required number of off-street parking spaces.**

1179.01 PURPOSE.

The purpose of these requirements is to encourage the orderly development of parking and loading areas within the City and to promote the safety of residents and visitors by insuring the efficient handling of vehicular traffic.

(Ord. 2009-85. Passed 12-8-09.)

1179.02 PROVISION FOR PARKING REQUIRED.

In all zoning districts, at the time any building, structure or use is changed, established, erected, developed, or is enlarged or increased in capacity, there shall be provided off-street parking spaces in accordance with the provisions of this Chapter.

(Ord. 2009-85. Passed 12-8-09.)

1179.03 GENERAL REQUIREMENTS.

- (a) Area and Dimensions - Parking Spaces

	Minimum Width (Measured in Feet Parallel to Aisle)	Minimum Length (Feet)	Maneuvering Lane (Width in Feet)
Parallel Parking	9	23	12
30-53 Degree Angle Parking	13	20	15
54-74 Degree Angle Parking	10	20	20
75-90 Degree Angle Parking	10	20	24

(b) Area and Dimensions - Loading Spaces.

Length	Width	Height Clearance
30 feet	12 feet	15 feet

(c) Access. All off-street parking and loading areas provided in accordance with this Section shall have direct access to a publicly dedicated and improved street or alley.

(d) Surfacing. All off-street parking areas shall be properly graded, drained, marked and surfaced so as to provide a hard, durable and dustless surface. All off-street parking and loading areas located in front yard setbacks, serving other than single-family residential uses, shall be paved with asphalt, Portland concrete, brick or other similar material.

(e) Landscaping. In order to facilitate the absorption of storm water in parking areas, the following landscaping requirements shall apply

- (1) A landscaped strip of not less than five (5) feet in width shall be provided on front, side and rear sides of all parking areas. The landscaped strip shall conform to the requirements of Chapter 1177 of this Ordinance and shall include one (1) tree for each thirty (30) feet or fraction thereof.
- (2) In addition to the perimeter landscaping required above, parking areas of five (5) spaces or more shall provide maintained landscaped areas on the interior of such parking areas to comprise, at a minimum, five (5) percent of the total parking area.
- (3) Concrete curbs, vehicle wheel stops or similar permanent devices shall be provided within all parking areas to prevent vehicles from encroaching on landscaped areas.

(f) Drainage. All new or redeveloped parking areas having ten (10) or more spaces shall be required to have prepared a plan clearly showing how surface and storm water from the site will be addressed. Such plan shall be submitted with the application for a zoning certificate and shall be subject to approval by the City Engineer.

(g) Lighting. Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect light away from any adjoining premises in any zoning district where residences are a permitted use. In addition, such lighting shall be so arranged as to not interfere with traffic on any adjoining street or to be confused with any traffic control lighting.

(h) Location of Parking Spaces. In the LC and U Districts, required parking and loading spaces shall be provided either on the same lot, or within 300 feet of the principal use which they serve. In all other Districts, required parking and loading spaces shall be provided on the same lot as the principal use which they serve.

(i) Joint Provision of Parking Facilities. Two or more buildings or uses located in the same area may meet parking and loading requirements by the joint provision of parking and loading facilities, provided those facilities are located so as to meet the requirements of subsection (h) above, and the number of spaces so provided shall not be less than the sum of required spaces as per Section 1179.04 of this Ordinance. A written agreement between the parties stating the terms under which the proposed parking shall be developed and maintained shall be filed with the application for a zoning certificate.

(j) Provision of Parking in the U District. The Uptowne District contains small lots and is served by on-street parking. For these reasons, special regulations are justified in this district. Non-residential uses located within the U District must provide only twenty-five percent (25%) of the required spaces as specified in Section 1179.04, provided that - in all cases - sufficient off-street spaces shall be provided for all employees of the establishment.

(k) Parking Limitations in Residential Districts. The storage of travel trailers, motor homes, pick-up campers, folding tent trailers, boats or boat trailers and similar recreational equipment, commercial trucks and/or inoperable vehicles shall be subject to the following requirements:

- (1) Inoperable and/or unlicensed vehicles shall not be stored in front yards in any R district.
- (2) Not more than two (2) pieces of recreational equipment, not more than one (1) of which can be a motor home, shall be permitted to be stored outside on a parcel containing a single family or two-family dwelling. For the purpose of these regulations, a boat stored on a boat trailer shall be deemed one (1) piece of recreational equipment.
- (3) For multi-family uses, an area shall be designated for outdoor storage of recreational equipment and shall be limited in area to accommodate no more than one (1) piece of recreational equipment for each fifteen (15) dwelling units.
- (4) Recreational equipment shall not be occupied or used for sleeping, housekeeping or business purposes.
(Ord. 2009-85. Passed 12-8-09.)

1179.04 REQUIRED NUMBER OF OFF-STREET PARKING SPACES.

Parking spaces shall be provided according to the following Schedule, which is hereby made a part of this Ordinance. If a use consists of more than one (1) component (e.g., a school with a stadium) the required number of parking spaces shall be the sum of the required spaces for those component uses.

SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES	
USE	NUMBER OF REQUIRED SPACES
(a) Residential	
(1) Single or multiple- family residences	Two (2) per dwelling unit
(2) Institutional housing, other residential uses	One (1) per three (3) occupants plus two (2) for each main work shift
(b) Commercial	
(1) Professional, administrative and business	One (1) for each 300 S.F. of gross floor area

(2) Food, department, general merchandise, hardware, drugs, or other retail sales, including convenience stores.	One (1) for each 200 S.F. of gross floor area
(3) Eating or drinking establishments without drive-through facilities	One (1) for each 100 S.F. of gross floor area
(4) Eating or drinking establishments with drive-through facilities.	One (1) for each 75 S.F. of gross floor area plus additional space in the drive-through lanes equal to twenty-five percent (25%) of the required number of parking spaces
(5) Personal services, including banks, savings and loans, and repair services without drive-through facilities.	One (1) for each 300 S.F. of gross floor area
(6) Personal services, including banks, savings and loans, and similar services with drive-through facilities.	One (1) for each 200 S.F. of gross floor area plus additional space in drive-through lanes equal to eighty percent (80%) of the required number of parking spaces
(7) Barber and beauty shops	Two (2) for each work station
(8) Gasoline and service stations, automobile service	Two (2) for each service bay plus one (1) for each pump, plus one (1) for each employee during the main shift
(9) Self-serve laundries	One (1) for each three(3) washers.

SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES (Cont.)	
USE	NUMBER OF REQUIRED SPACES
(10) Medical and dental offices, human clinics	Four (4) for each doctor or dentist
(11) Veterinary clinics, animal hospitals	Three (3) for each doctor
(12) Hotels, bed-and-breakfast establishments	One (1) for each sleeping room plus one (1) for each employee during the main shift
(13) Funeral homes	One (1) for each 50 S.F. of gross floor area
(c) Industrial	
(1) Any manufacturing, processing, packaging, warehousing, distribution or service industry	Two (2) for each three (3) employees during work shift having greatest number of employees, plus one (1) for each vehicle maintained on the premises
(d) Institutional	
(1) Churches and places of public worship	One (1) for each four (4) seats in main sanctuary
(2) Public or private elementary or secondary school	Four (4) for each classroom, or one (1) for each five (5) seats in main auditorium, whichever is greater
(3) Business, trade, or technical school, college or university	One (1) for each two (2) students and one (1) for each faculty member
(4) Nursery School/Day Care	One (1) for each fifteen (15) students
(5) Libraries, museums, community centers and similar facilities	One for each 400 SF of gross floor area
(6) Civic, social and fraternal organizations	One (1) for each three (3) persons allowed in main meeting room at full capacity
(7) Hospitals, nursing facilities	One (1) for each four (4) beds plus one (1) per employee on main shift

SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES (Cont.)	
USE	NUMBER OF REQUIRED SPACES
(e) Recreational	
(1) Baseball, softball, football, soccer or similar organized sport playfield	Twenty (20) for each playfield, plus one for each six (6) seats in stands
(2) Tennis, handball or racquetball courts	Three (3) for each court
(3) Bowling alleys	Four (4) per lane, plus necessary spaces as required for auxiliary uses such as restaurants
(4) Theatres, stadiums, sports arenas, auditoriums or other assembly halls other than schools	One (1) for each four (4) seats

(5) Indoor recreational facilities in which seating is secondary to the principal use, e.g., roller rinks and similar venues

One (1) for each three (3) persons allowed in main room/area at full capacity

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1181

Signs

- 1181.01 Purpose.
- 1181.02 Definitions.
- 1181.03 Signs excluded from regulations.
- 1181.04 Prohibited signs.
- 1181.05 Sign permits and administration.
- 1181.06 Signs which do not require a permit.
- 1181.07 Temporary signs.
- 1181.08 General requirements - permanent signs.
- 1181.09 Measurement of signs.
- 1181.10 Nonconforming signs.
- 1181.11 Maintenance.
- 1181.12 Appeals and variances.
- 1181.13 Remedies.
- 1181.14 Amendments.
- 1181.99 Penalty.

1181.01 PURPOSE.

The purpose of these regulations is to encourage the proper development of signage systems that promote an economic and business environment while protecting the general health, safety, and welfare of the citizens of the City of Galion. The use of good judgment, in addition to the regulations stated herein, is encouraged in the installation and display of all signs.

(Ord. 2013-39. Passed 5-28-13.)

1181.02 DEFINITIONS.

As used in this Chapter, the following words or phrases shall have the meanings herein:

(a) **"Sign"** means any device for visual communication which is designed, intended, or used to convey a message, advertise, inform or otherwise direct attention to a person, institution, organization, activity, business, place, object or product. Unless otherwise indicated, the term "sign" shall include any support structures.

(b) Other Definitions

(1) **"Awning"** means a hood or cover that projects from the wall of a building.

(2) **"Banner"** means a non-rigid cloth, plastic or canvas sign typically related to a special event or promotion. For the purposes of this Chapter, the term "banner" shall not include official flags of public entities, or civic, philanthropic, educational or religious organizations.

(3) **"Billboard"** means an off-premises sign that is more than two-hundred (200) square feet in area.

(4) **"Canopy"** means a structure separate from, but associated by use with the principal building, which is supported independently by posts or columns, is open on all sides, and is intended only for shelter or ornamentation. A "canopy sign" is a sign that is attached to or a part of the roof of such a structure.

(5) **"Changeable copy sign"** means a sign in which the material or message composing the sign, in whole or in part, is manually or mechanically changeable. This definition does not include digital display signs.

(6) **"Digital display sign"** means a sign which uses digital technology to produce a bright clear image which automatically changes on a programmed interval.

(7) **"Directional sign"** means any sign which indicates the direction or specific location of an institution, organization or business, which does not include advertising or any information regarding product lines or services offered.

(8) **"Flashing sign"** means a sign or graphic which in any manner, as a whole or in part, physically changes in light intensity or gives the appearance of such change.

(9) **"Freestanding sign"** means a sign which is wholly independent of any building for support.

(10) **"Joint Identification sign"** means a sign intended to provide the identity or name, for two or more uses within one building or on one property or the name of the building or its address for property occupied by two or more businesses.

(11) **"Marquee"** means an awning that has been constructed primarily so as to support a sign. "Marquee sign" means a sign that is attached or mounted to a marquee.

(12) **"Mural"** means a large picture or graphic generally free of a written message that is painted or attached directly to an exterior building surface.

(13) **"Off-premises sign"** means any sign that identifies or provides information related to a good, service or event that is not located on the property where such sign is located.

(14) **"Permanent sign"** means a sign intended to be erected or used, or in fact which is used for time period in excess of ninety (90) days.

(15) **"Temporary Portable sign"** means a sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes and shall include:

A. **"Trailer sign"** meaning a sign that is constructed on a chassis intended for the mounting of wheels, thereby permitting the sign to be moved.

B. **"Illuminated portable sign"** means an internally illuminated portable sign similar in design to a trailer sign, but without a chassis or explicit provision for the mounting of wheels.

C. **"Folding portable sign"** meaning a sign constructed of wood or other durable material which can be folded or collapsed for ease of transport.

(16) **"Projecting sign"** means a sign which extends outward perpendicular to the building face.

(17) **"Roof sign"** means any sign erected upon or completely over the roof of any building.

(18) **"Temporary sign"** means a sign intended to be used, or in fact used, for a time period of ninety (90) days or less.

(19) **"Vending machine sign"** means a permanent sign installed by the manufacturer on a fuel pump, vending machine, or similar outdoor

object.

- (20) **"Wall sign"** means a sign attached to a building face, with the exposed face in a plane parallel to the plane of the wall. Wall signs include painted murals, messages, graphics and other designs painted along with any letters or numerals mounted directly on buildings.
- (21) **"Window sign"** means a sign, graphic, poster, symbol or other identification which is physically affixed to or painted on the glass or other structural component of the window.
- (Ord. 2013-39. Passed 5-28-13.)

1181.03 SIGNS EXCLUDED FROM REGULATIONS.

The following signs are excluded from the regulations and requirements of this Chapter:

- (a) Signs not exceeding four (4) square feet in area that are customarily associated with residential use and are not of a commercial nature, including address and/or name of occupants of the structure, signs on mailboxes or newspaper tubes, signs posted on property related to private parking, and signs warning against trespassing or danger from animals.
- (b) Signs erected by a governmental entity for a recognized public purpose and duly authorized by any law, statute or ordinance. Such signs include legal notices and traffic control or safety devices, provided such signs carry no supplementary advertising.
- (c) Signs which are in the nature of cornerstones, commemorative tablets and historic designations, provided such signs are less than nine (9) square feet in size.
- (d) Signs clearly in the nature of decorations associated with a national, local or religious holiday.
- (e) Flags or insignias of any governmental entity when not displayed as an advertising device, or in connection with any commercial promotion.
- (f) Flags or banners not more than fifteen (15) square feet in area associated with an active business indicating "open" or "closed".
- (Ord. 2013-39. Passed 5-28-13.)

1181.04 PROHIBITED SIGNS.

Signs that are not specifically permitted in this Chapter shall be considered as prohibited. Without restricting or limiting the generality of the foregoing provisions, the following signs are specifically prohibited:

- (a) Any sign that contains a light source that flashes or blinks.
- (b) Any sign that obstructs any part of a doorway, exit or fire escape.
- (c) Any sign that resembles or is intended to resemble a traffic control device, or is located in such a manner so as to obscure or impact the effectiveness of such traffic control device or signal.
- (d) Any sign affixed to any utility pole, street tree or otherwise located within the street right-of-way. Such signs may be subject to confiscation at any time by city employees or authorized personnel. Confiscated signs will be stored for a minimum of fourteen (14) calendar days during which time they may be reclaimed by any interested party. Signs may be reclaimed at the City of Galion Street Department during normal business hours.
- (e) Any signs located in such a manner as to create a safety or visibility hazard.
- (Ord. 2013-39. Passed 5-28-13.)

1181.05 SIGN PERMITS AND ADMINISTRATION.

Signs shall be permitted and administered under the following provisions:

- (a) Permit Required. No permanent or temporary sign, except as exempted in Sections 1181.03, 1181.06 or 1181.07 of this Chapter shall hereafter be erected, constructed or altered within the City of Galion unless a permit for the same has been issued by the Code Inspector. Application for a permit shall be made by the owner of sign or the property upon which the sign is proposed, or his/her agent on forms as provided by the City. An application for a permit to erect a sign shall contain, at a minimum, a drawing of the sign including its size, its location on the lot, and specific information regarding its construction. Signs and their associated structure and systems under the jurisdiction of the Ohio Building Code or the Residential Code of Ohio, shall be approved and maintained according to the provisions thereof.
- (b) Action on Sign Permit. The Code Inspector shall issue a sign permit upon submittal of a completed application and payment of applicable fees if he/she determines that the provisions of this Ordinance have been met. If the application for a sign permit is denied, the applicant shall be given written notice of such denial, along with the reasons therefor.
- (c) Appeals. Any decision made by the Code Inspector under the terms of this Chapter may be appealed to the Board of Zoning Appeals in the manner set forth in Chapter 1115. (Ord. 2013-39. Passed 5-28-13.)

1181.06 SIGNS WHICH DO NOT REQUIRE A PERMIT.

The following signs may be erected without a permit; such signs, however, shall be subject to all other provisions of this Chapter:

- (a) Signs that indicate the sale, development, rental or lease of a particular structure or land area, provided such sign does not exceed sixteen (16) square feet in area. One such sign shall be allowed per street front.
- (Ord. 2013-39. Passed 5-28-13.)
- (b) Signs or posters concerning candidates for elective office, public issues and similar matters to be decided by public election, to be displayed beginning not more than forty-five (45) days prior to the first day on which votes may be cast for the election, and to be removed not later than three (3) days after such election. Such signs shall not exceed twelve (12) square feet in area, shall not be illuminated and shall not be located within a public right-of-way nor be affixed to any public utility pole or street tree. In addition such sign shall not be located in any manner so as to create a safety or visibility hazard.
- (Ord. 2014-43, Passed 6-10-14.)
- (c) Credit card decals, store hour specifications, "open" or "closed" signs, or similar signs that do not exceed an aggregate area of eight (8) square feet.
- (d) Joint identification signs, which are less than sixteen (16) square feet in size and mounted or attached flat or parallel onto a building face of an administrative, business or professional office building, which denote the name and address of an occupant in a building where more than one tenant is located and which has individual and separate entries.
- (e) A sign which advertises the sale of personal property, such as a garage, yard, porch or moving sale sign.
- (f) Construction signs which display the identification of the construction project, including identification of the contractors, architects and other construction principals. Such construction sign shall be removed upon the completion of construction or the commencement of occupancy, whichever event occurs first.
- (g) Signs promoting community events and programs which are sponsored by nonprofit, public, educational, religious or charitable organizations. All such signs shall be removed not later than three (3) days after the scheduled activity.
- (h) Window Signs
- (i) Signs determined by the Planning Commission to be similar to those specified in subsection (a) through (h) above.
- (Ord. 2013-39. Passed 5-28-13.)

1181.07 TEMPORARY SIGNS.

Except as otherwise specified in this section, temporary signs shall be exempt from regulation in all zoning districts.

- (a) Signs in U District One (1) temporary sign per building frontage may be placed on the sidewalk during business hours provided the sign is placed next to the building and does not obstruct more than one-third (1/3) of the available sidewalk width.
- (b) Signs listed in Section 1181.03 and 1186.06 that are intended for temporary display, but exceed the limitations of size or duration of display listed therein shall be permitted according to the provisions of Section 1181.05.
- (c) Temporary signs that meet the provisions of Section 1181.04 shall be prohibited.
- (d) Temporary signs shall be maintained in accordance with the provisions of Section 1181.11.
(Ord. 2013-39. Passed 5-28-13.)

1181.08 GENERAL REQUIREMENTS - PERMANENT SIGNS.

Permanent signs shall be subject to the following requirements:

- (a) Wall Signs. Wall signs may be erected on any building wall or extension of a building wall which faces a street, parking lot or service drive, and such sign may not extend beyond any building setback line. Wall signs shall be attached parallel to the building face and extend outward perpendicular from the building face a maximum of twelve (12) inches.
- (b) Marquee, Canopy and/or Awning Signs. Canopy signs may be painted on an awning area or attached to a canopy or roof which projects beyond the building provided that no part of such sign may extend above the roof line, canopy or marquee. Canopy or marquee signs shall be a minimum of nine (9) feet above ground level. If a marquee, canopy or awning sign consist of two (2) faces facing two (2) directions and each face having the same message, it shall be considered as one (1) sign.
- (c) Projecting Signs. Projecting signs shall be placed not less than nine (9) feet above the sidewalk or ground level, and project not more than six (6) feet outward from the building face.
- (d) Freestanding Signs. The location, height and other characteristics of freestanding signs must meet the requirements of this Chapter.
- (e) Permanent Window Signs. Permanent window signs shall be unrestricted in all zoning districts.
- (f) Off-Premises Signs. Off-premises signs, not including billboards, shall be considered as an accessory use in all nonresidential districts. Not more than one (1) off-premises sign with a sign face area not exceeding twenty (20) square feet is permitted on a single lot. Off-premises signs shall conform to height restrictions for structures in the zoning district where they are located.
- (g) Digital Display Signs. Digital display signs shall be considered a permitted use in GC, HC and IP Districts. Digital display signs shall be considered a conditional use in all other districts, requiring specific approval of the Planning Commission. Digital display signs shall be allowed only on properties having direct frontage on state and federal highways as designated on the primary system. Digital display signs which are also billboards shall meet the requirements of subsection (h) below. The digital display of text and graphics associated with this type of sign shall not be considered to flash, blink, or provide constant illumination.
- (h) Billboards. Billboards shall be allowed only on properties having direct frontage on federal highways as designated on the primary system. The erection of all billboards shall comply with all federal and state requirements. All billboards shall be not greater than forty-five (45) feet in height. The maximum display area for any billboard shall not exceed 300 square feet per side. Billboards shall not be located within 200 feet from the right-of-way of the highway or within 1,500 feet from any residence or district where single-family residences are a permitted use. No billboard shall be erected within 1,000 feet from any other billboard. Nothing in this Ordinance shall prohibit the changing or alteration of the display surface of any otherwise lawful billboard.
- (i) Vending Machine Signs. For the purposes of this Chapter, vending machines with attached signs shall be treated as permanent signs. Vending machine signs shall not be included in the number of permitted signs pursuant to subsection (j)(11) below; however, vending machine signs shall meet the requirements for illuminated signs in subsection (j)(1) below. In addition, if a vending machine sign is located on a lot adjacent to any single-family residence, such sign shall be positioned or shielded so as not to be visible from such residence.
- (j) General Requirements.
 - (1) Illumination. Illuminated signs shall be permitted in the LC, HS, GC, U, GI and IP Districts. Illumination shall be from a concealed or indirect light source and shall not flash, blink, or in any manner fail to provide constant illumination, and shall not create a hazard or visibility problem or interfere with or impair vehicular traffic. The level of illumination emitted from a sign shall not be of an intensity to constitute a safety hazard to vehicular movement on any street. Illuminated signs shall be constructed and maintained so that the source of illumination is shielded or otherwise prevented from beaming directly onto adjacent properties or streets.
 - (2) Pennants and/or Streamers. No permanent sign shall contain or consist of banners, pennants, ribbons, streamers, balloons or similar devices.
 - (3) Construction. All signs and parts thereof, including any electrical wiring, shall be erected, constructed, and maintained so as to not constitute a safety hazard. The construction and installation of all signs shall be subject to inspection and approval by the City and/or the State of Ohio.
 - (4) Changeable Copy Signs. Changeable copy signs shall be permitted in the RO, LC, HS, GC, U, GI and IP Districts. The number, height and area of changeable copy signs shall be determined by the structural type of the sign, i.e., freestanding, wall, projecting, etc. as cited elsewhere in these regulations.
 - (5) Permanent Subdivision Identification Signs. Such signs shall be limited to wall mounted or freestanding signs only, with placement on walls, columns or similar architectural or landscaped entrance features used to denote the entrance to the subdivision.
 - (6) Joint Identification Signs. Joint identification signs shall be limited to wall or freestanding signs, and to premises where there are two (2) or more uses located on one (1) property or two (2) adjoining properties. Joint identification signs shall be limited to one (1) per street frontage.
 - (7) Signs in U District. Notwithstanding the other provisions of this Ordinance, a sign within the U District may extend into the right-of-way, provided the applicant demonstrates that, due to the location of the building or other physical characteristics of the lot, the erection of an alternative sign outside the right-of-way is not feasible. In addition, such applicant shall obtain a revocable license for such encroachment from the City and shall certify that such sign shall be subject to subsequent removal at the owner's expense, if so required by the Ohio Department of Transportation (ODOT) and/or the City.
 - (8) Murals. Murals, as defined in Section 1181.02 (b)(12) above, shall be allowed as a conditional use within the U District, subject to approval by the Planning Commission.
 - (9) Signs in PUD District. Signs in the PUD District shall reflect the standards for similar uses in other districts. The applicant shall submit a total signage plan for the proposed development as part of the Development Plan.
 - (10) Signs in the Design Review District(s). All permanent signs in the various Design Review Districts as designated by the city shall be subject to additional standards and approval by the Design Review Board having authority in the respective District.
 - (11) Schedule of Sign Regulations. The Schedule of Sign Regulations as follows on TABLE I is hereby made a part of this Ordinance.

**SECTION 1181.08(j)(11)/TABLE I
PERMITTED NUMBER AND STRUCTURAL TYPE OF SIGNS
(PERMANENT ON-PREMISES SIGNS)**

USE / DISTRICT	PERMITTED SIGN TYPES	MAXIMUM NUMBER OF SIGNS
<i>Residential</i>		
Subdivision Identification Sign in all districts	* All Types	2 per entry
Two- and Multi-Family Dwellings in all districts	* All Types	1
Nursery Schools, Day Care in all districts	* All Types	1 per frontage
<i>Commercial/Office/Institutional</i>		
Schools, churches, and other public facilities in all districts	* All Types	1 per frontage
Buildings housing Essential Services and similar public facilities	* All Types	1 per frontage
Permitted / conditional uses in RO District	* All Types	1
Permitted / conditional uses in the LC District	* All Types	2 per frontage (only one freestanding)
Permitted/conditional uses in the HS District	* All Types	2 per frontage (only one freestanding)
Permitted/conditional uses in the GC District	* All Types	2 per frontage (only one freestanding)
Business/professional offices in the U District	* All Types	2 per frontage (only one freestanding)
Other commercial uses in the U District	* All Types	2 per frontage (only one freestanding)
<i>Industrial</i>		
Permitted / conditional uses in the GI and IP Districts	* All Types	2 per frontage (only one freestanding)

*All sign types shall be permitted in all districts unless specifically prohibited or restricted by other provisions of this Chapter.

**SECTION 1181.08(j)(11)/TABLE I (CONTINUED)
SIGN AREA, HEIGHT AND DISTANCE FROM R.O.W.
(PERMANENT ON-PREMISES SIGNS)**

USE / DISTRICT	MAXIMUM SIGN AREA (SQ. FT.)	MAXIMUM HEIGHT (FEET)	MINIMUM DISTANCE FROM R.O.W.**
<i>Residential</i>			
Subdivision Identification Sign	20	5	10
Two- and Multi-Family Dwellings in all districts	20	10	10
Nursery Schools, Day Care in all districts	10	15 (wall) 6 (freestanding)	10
<i>Commercial/Office/Institutional</i>			
Schools, churches, and other public facilities in all districts	* see below	20 (wall) 10 (freestanding)	10
Buildings housing Essential Services and similar public facilities	* see below	15 (wall) 10 (freestanding)	10
Permitted / conditional uses in RO District	12	15 (wall) 6 (freestanding)	10
Permitted / conditional uses in the LC District	* see below	15 (wall)	10
Permitted/conditional uses in the HS District	* see below	15(freestanding) 20 (other types)	10
Permitted/conditional uses in the GC District	*see below	15(freestanding) 20 (other types)	10
Business/professional offices in the U District	*see below	20(wall) 10 (freestanding)	-

Other commercial uses in the U District	*see below	20 (wall) 10 (freestanding)	-
Industrial			
Permitted / conditional uses in the GI and IP Districts	* see below	15 (freestanding) 20 (other types)	10

*Freestanding Sign - No size restrictions.

*Wall/Roof Sign - 1 square foot for each lineal foot of building width. Sign area may be increased 10% for each additional 50 feet of setback.

*Projecting Sign - 1 square foot for each 4 feet of building width.

**Distance from R.O.W applicable to freestanding signs only.

NOTES / TABLE I:

- For the purposes of calculating the number of permitted signs, "frontage" shall be interpreted as frontage on a publicly dedicated and improved street. Businesses which abut public alleys or driveways may place one (1) additional sign facing said alley or driveway.
- Plans for signage in the HC and PUD Districts must be submitted with the required Development Plan; the Planning Commission may impose additional requirements.
- In all districts where so permitted, uses having drive-through facilities shall submit a specific site plan for signage, showing the type, size and location of all permanent signs, including directional signs and menu boards. Such site plan shall be subject to the review and approval of the Planning Commission.
- Buildings or developments with multiple business occupants, i.e., shopping centers, shall be permitted one (1) joint identification sign per street frontage in addition to signage permitted above. If such sign is a freestanding sign, no individual business within such building or development shall use a separate freestanding sign.
- In addition to the designated number of permitted signs, nonresidential uses along arterial or collector highways within the HS, GC, HC and IP Districts shall be allowed a maximum of two (2) directional signs, each not exceeding two (2) square feet in area. Such directional signs shall clearly be for the purpose of designating entrances and/or exits and directing customers to the internal circulation network on the site.
- The Galion Community Hospital has special and unique needs for signage directly related to its role as a regional provider of health and safety functions. These needs are likely to be different and exceed those of other business, public and institutional uses. Any new signs requested by the Galion Community Hospital shall be accompanied by a written explanation of why the specific request is necessary for the delivery of services to the community, and how the proposed sign(s) is/are integrated with the existing signage system. The Planning Commission shall have the authority to approve the proposed signs after review of the submittal.

(Ord. 2013-39. Passed 5-28-13.)

1181.09 MEASUREMENT OF SIGNS.

For the purposes of this Chapter, the measurement of sign area shall comply with the following standards:

- (a) Sign area shall include the face of all the display area of the sign not including bracing, framing and structural supports of the sign, unless such support members are made part of the message or face of the design.
- (b) Where a sign has two or more display faces, the area of all faces of the sign shall be included in determining the area of the sign, unless one of the following exceptions apply:
 - (1) Two (2) display faces join back-to-back and parallel to each other and not more than twelve inches (12") apart,
 - (2) The sign is marquee, canopy or awning sign subject to the requirements of Section 1181.08(b).
In such cases, the area of the sign shall be considered as one (1) of the two (2) sign faces.
- (c) For spherical signs, the sphere shall be bisected by an imaginary line through the center of the sphere, and the surface area of the half sphere shall be counted as the sign face. For cubical signs, the area of all display faces shall be included in determining the area of the sign.
- (d) The area of the letters, numbers or emblems mounted directly on a building wall or wall extension shall be computed by enclosing the entire word or words formed by such letters, numbers or emblems with the smallest single continuous perimeter consisting of rectangular or series of rectangles, and determining the area within such perimeter.
- (e) The height of the sign shall be measured from the elevation of the ground at the point which the base of the sign meets the ground, to the highest point on the sign.

(Ord. 2013-39. Passed 5-28-13.)

1181.10 NONCONFORMING SIGNS.

Nonconforming signs shall be regulated and maintained under the following conditions:

- (a) Continuance of Existing Signs. Except as otherwise provided below, nothing in this Article shall require the removal or discontinuance of a lawfully existing sign.
- (b) Abandonment. The continuance of an existing sign which does not meet the regulations and requirements of this Article shall be deemed a nonconforming sign which shall terminate by abandonment when any of the following conditions exist:
 - (1) When the sign is associated with an abandoned use.
 - (2) When the sign remains after the termination of a business. A business has ceased operations if it is closed to the public for at least 120 consecutive days. Seasonal businesses are exempt from this requirement.
 - (3) When the sign, together with all supports, braces, guys and anchors is not maintained in a proper state of repair and/or the immediately surrounding premises is not maintained by the owner, or his agent, in a clean, sanitary and inoffensive condition, free from all obnoxious substances, rubbish and weeds.

Upon finding that the sign is abandoned, the right to maintain and use such sign shall terminate immediately.

- (c) Relocation or Replacement. A nonconforming sign shall not be structurally relocated or replaced unless it is brought into compliance with the provisions of this Section.
- (d) Maintenance. A nonconforming sign shall be maintained or repaired in accordance with the following provisions:
 - (1) The size and structural shape of the sign shall not be changed or altered. The copy may be changed provided that the change applies to the original use associated with the sign at the time the sign became nonconforming, and a permit is obtained. The copy area shall not be enlarged.
 - (2) In cases where damage has occurred to a sign, the sign shall be repaired or removed within ninety (90) days.
- (e) Inspection and Removal. If any sign is found, upon inspection, to constitute a hazard to public safety, such sign shall be subject to immediate removal by order of the City, with the costs associated with such removal assessed to the owner of the property. (Ord.

1181.11 MAINTENANCE.

All Signs shall be maintained in accordance with the provisions of Chapter 1315 of the Galion Codified Ordinance, the Residential Code of Ohio and the Ohio Building Code.

(Ord. 2013-39. Passed 5-28-13.)

1181.12 APPEALS AND VARIANCES.

Variations to this Chapter may be granted pursuant to the procedures and policies set forth in Chapter 1115.

(Ord. 2013-39. Passed 5-28-13.)

1181.13 REMEDIES.

In the event any sign is erected, constructed, reconstructed, altered, repaired, or maintained contrary to and in violation with any of the provisions of this chapter, then, in addition to and not in lieu of other action as may be provided in this chapter, the Mayor, his/her agent, or other proper authority of the City, may institute injunction, mandamus or other legal proceedings as may be necessary to abate such violation and/or to cause the removal of any illegal sign.

(Ord. 2013-39. Passed 5-28-13.)

1181.14 AMENDMENTS.

City Council may, by ordinance, amend, supplement or change the regulations contained in Chapter 1181 hereof (Sign Regulations) without the need to follow the procedures set forth in Section 1113.01 through 1113.06 of this Ordinance (Amendments).

(Ord. 2013-39. Passed 5-28-13.)

1181.99 PENALTY.

Any person, firm, corporation, partnership or association violating any provision of this Chapter or failing to obey any lawful order issued pursuant to its terms shall be subject to fines and penalties as specified in Chapter 1119.

(Ord. 2013-39. Passed 5-28-13.)

CHAPTER 1183

Adult Entertainment Facilities

1183.01 Purpose.

1183.02 Definitions.

1183.03 Exception.

1183.04 Location.

1183.01 PURPOSE.

The purpose of this Chapter is to promote the public health, safety and welfare through the regulation of adult entertainment businesses. It is the intent of this section to regulate businesses, as defined herein, in such a manner as to prevent the erosion of the character of the surrounding neighborhoods and to prohibit the establishment of such businesses within close proximity to existing adult entertainment businesses, residential areas, schools, churches, parks and playgrounds within the City.

(Ord. 2009-85. Passed 12-8-09.)

1183.02 DEFINITIONS.

(a) "Adult Entertainment Facility" means any establishment which is involved in one or more of the following listed categories.

(1) "Adult Book Store" means an establishment which utilizes fifteen percent (15%) or more of its retail selling area for the purpose of retail sale or rental, or for the purpose of display by coin or slug-operated, or motion picture machines, projectors, or other image-producing devices, or both, books, magazines, other periodicals, films, tapes and cassettes which are distinguished by their emphasis on "specified sexual activities" or "specified anatomical areas" as defined below.

(2) "Adult Motion Picture" means a facility for the display of motion pictures which is regularly used or utilizes fifteen percent (15%) or more its total viewing time for presenting material distinguished or characterized by an emphasis to "specified sexual activities" or "specified anatomical areas," for observation by patrons therein.

(3) "Adult Entertainment Business" means any establishment involved in the sale of services or products characterized by the exposure or presentation of "specified anatomical areas" or physical contact of live male or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of adult entertainment business are photography, dancing, reading, massage, and similar functions which utilize activities as specified above.

(b) "Specified Sexual Activities" means any of the following:

(1) Human genitals in a state of sexual stimulation or arousal.

(2) Acts, real or simulated, or human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or sadomasochistic sexual abuse.

(3) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

(c) "Specified Anatomical Areas" mean any of the following:

(1) Less than completely covered human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola.

(2) Human male genitals in a discernible turgid state.

(d) "Fine Art Gallery" means any display of art work which is individually crafted and signed by the artist or which is limited in edition to 1,000 or less.

(e) "Sexually explicit nudity" means the sexually oriented and explicit showing of nudity, including, but not limited to, close-up views, poses, or depiction in such position or manner which present or expose such nudity to prominent, focal, or obvious viewing attention.

(f) "Sadomasochistic sexual abuse" means actual or simulated flagellation, rape, torture, or other physical or sexual abuse, by or upon a person who is nude or partially denuded, or the condition of being fettered, bound for sexual gratification or abuse or represented in the context of a sexual relationship.

(g) "Visibly displayed" means the material is visible on a billboard, viewing screen, marquee, newsstand, display rack, window, show case, display case, or other similar display area that is visible from any part of the general public or otherwise, or that is visible from any part of the premises where a juvenile is or may be allowed, permitted, or invited, as part of the general public or otherwise, or that is visible from a public street, sidewalk, park, alley, residence, playground, school, or other place to which juveniles, as part of the general public or otherwise, has unrestrained and reasonable anticipated access and presence.

(Ord. 2009-85. Passed 12-8-09.)

1183.03 EXCEPTIONS.

Nothing in this Chapter shall be construed to pertain to:

- (a) The purchase, distribution, exhibition and/or loan of any work of art, book, magazine or other printed material or manuscript by an accredited museum, library, fine art gallery, school or museum of higher learning.
 - (b) The exhibition and/or performance of any play, drama tableau, or motion picture by any theater, museum, library, fine art gallery, school, or institution of higher learning either supported by public appropriation or which is an accredited institution supported by private funds.
- (Ord. 2009-85. Passed 12-8-09.)

1183.04 LOCATION.

Adult Entertainment Facilities shall be considered a conditional use in the GC District, and are subject to the following conditions:

- (a) No adult entertainment facility shall be established within 1,500 feet of any residence or district where residences are a permitted use.
- (b) No adult entertainment facility shall be established within a radius of 1,500 feet of any school, library, or teaching facility, whether public or private, when such school, library, or teaching facility is attended by persons under 18 years of age.
- (c) No adult entertainment facility shall be established within a radius of 1,500 feet of any park or recreational facility attended by persons under 18 years of age.
- (d) No adult entertainment facility shall be established within a radius of 1,500 feet of any church, synagogue, or permanently established place of religious services attended by persons under 18 years of age.
- (e) No adult entertainment facility shall be established within a radius of 1,500 feet of any other adult entertainment facility.
- (f) No advertisements, displays or other promotional materials displaying specified sexual activities or specified anatomical areas shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other public or semi-public areas.
- (g) All building openings, entries, windows, etc. for adult entertainment uses shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk or street.
- (h) No screens, loudspeakers or sound equipment shall be used for adult motion picture theaters (enclosed or drive-in) that can be seen or discerned from public or semi-public area.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1185

Reserved for Future Use

TITLE NINE - Subdivision Development Requirements

- Chap. 1191. Obligations of Developer and City.
- Chap. 1193. Minimum Design Standards and Requirements.
- Chap. 1195. Site Improvements.
- Chap. 1197. Nonresidential Subdivisions.
- Chap. 1199. *Reserved for Future Use*

CHAPTER 1191

Obligations of Owner/developer and City

- 1191.01 **Required improvements.**
- 1191.02 **Obligations of owner/developer.**
- 1191.03 **Costs to be shared by the City.**

1191.01 REQUIRED IMPROVEMENTS.

The Owner/Developer who desires to subdivide or develop any land subject to this Ordinance shall provide and pay the entire cost of improvements to such land as follows:

- (a) Streets and parking areas, graded full width and paved, including drainage structures, bridges, sidewalks (including provisions for handicapped access as may be required by ADA), curbs and other improvements as may be required by these regulations and/or the City Standard Plans and Specifications.
- (b) Sanitary sewers, including manholes, services and all appurtenances.
- (c) Water distribution system including mains, services, valves, fire hydrants and all appurtenances.
- (d) Storm drainage improvements, including both enclosed and non-enclosed systems, as well as all appurtenances to such systems.
- (e) Monuments, stakes and property pins.
- (f) Street signs designating the name of each street at each intersection within the development and other traffic control signage as determined necessary by the City Engineer.
- (g) Street lighting including poles, underground conduits and appurtenances;
- (h) Utilities, including electric, telephone and cable television services.
- (i) All other improvements shown on the plans as approved by the City.

The Owner/Developer shall provide for the future extension of streets and water, sanitary sewer and storm drainage lines from his/her site to adjacent property as deemed necessary by the Planning Commission.

(Ord. 2009-85. Passed 12-8-09.)

1191.02 OBLIGATIONS OF OWNER/DEVELOPER.

The Owner/Developer of the land being developed shall be subject to the following obligations:

- (a) The Owner/Developer shall be responsible for the payment of all fees incurred by the City Engineer pertaining to administrative responsibilities specified in this Ordinance, including inspection of the improvements
- (b) All construction work and materials used in connection with improvements shall conform to the requirements of the City and be installed under the general supervision of the City Engineer.
- (c) The Owner/Developer, or his agent, shall give not less than three (3) working days notice to the City for any inspection to be conducted. The Owner/Developer shall also insure that no work shall be covered or obscured prior to inspection by the City.
- (d) The Owner/Developer shall provide proof of insurance and hold the City free and harmless from any and all claims for damage of every nature arising or growing out of the construction of improvements or resulting from improvements and shall defend, at his own cost and expense, any suit or action brought against the City by reason thereof.
- (e) All improvements and utilities will be satisfactorily installed within one (1) year from the date of approval of the Construction Plans or within such other time schedule as specifically approved by the City Engineer.
- (f) As an alternative to the construction and approval of the required public improvements prior to recording the final plat, an acceptable performance assurance equal to one-hundred ten percent (110%) of the estimated cost of all required improvements, as approved by the City Engineer, shall be deposited with the City. Such performance assurance shall consist of one of the following:

- (1) A performance or construction bond equal to one hundred ten percent (110%) of the estimated construction cost as approved by the City Engineer for the public improvements. Such bond shall be without time limit and shall be on such forms as provided by the City, or
- (2) A letter of credit or certified check made payable to the City, equal to one hundred ten percent (110%) of the estimated construction cost as approved by the City Engineer for the public improvements.
- (g) All permits and approvals shall be obtained and all fees and deposits paid prior to beginning any construction of any improvements;
- (h) During construction and prior to acceptance of any public improvement, the Owner/Developer shall remove or cause to be removed such dirt and debris and foreign matter from all public rights of way, improvements and/or easements as were deposited, left or resulted from the construction of improvements of any nature within the development. Such removal shall take place within twenty-four (24) hours after being notified by the City that such work is required, and shall be completed to the satisfaction of the City Engineer.
- (i) All public improvements shall be guaranteed by the Owner/Developer for a period of one (1) year from the date such improvement is accepted, in writing, by the City. Such guarantee shall consist of a maintenance bond, certified check or other acceptable instrument, for ten percent (10%) of the total cost of the improvements. Such guarantee shall include any and all defects and deficiencies in workmanship and materials. The cost of all labor, materials, equipment and other incidentals required to maintain, repair and replace any or all of such improvements and to maintain them in good and proper condition, excluding ordinary wear and tear, but including filling trenches and restoring lawns, sidewalks, yards, streets, sewers, pipe lines, etc., during the one year guarantee period shall be assumed by such Owner/Developer. In the event the Owner/Developer fails to make such maintenance, repairs or replacements within a reasonable time after notice in writing by the City, or in the event of an emergency which may endanger life or property, the City may make or cause to be made, such repairs or replacements from the above guarantee.
- (j) The Owner/Developer shall execute a development agreement with the City, specifying the terms and conditions required under this Section of this Ordinance.
- (k) The Owner/Developer shall furnish to the City final plats and as-built drawings of all improvements as required by these regulations.
- (l) No person or owner shall violate any of the regulations established in this Section and, upon identifying such violation, the City shall have the authority to:
 - (1) Stop all work on the development site forthwith;
 - (2) Hold the bonding company responsible for the completion of the public improvement according to the approved construction drawings and the agreement.

(Ord. 2009-85. Passed 12-8-09.)

1191.03 COSTS TO BE SHARED BY THE CITY.

In consideration for the agreement by the Owner/Developer of the land being developed to install utilities and/or streets to sizes and configurations in excess of the needs of the land being developed, the City shall share in the cost of the excess size and configuration of the utilities and/or streets as stipulated herein:

- (a) A utility or street shall be considered excessive to needs of the land being developed when any of the following conditions exist:
 - (1) The City specifically requires a greater width, size or configuration of any nonadjacent street for the purpose of meeting the future needs of the City as provided for a comprehensive or thoroughfare plan, or similar study, as adopted by City Council;
 - (2) There is additional pavement width and depth and/or additional length of storm sewers and other improvements required for all thoroughfares;
 - (3) The City requests that a water line be more than twelve inches (12") in diameter, when such size is not required to meet the needs of the land being developed;
 - (4) A sanitary sewer line is more than fifteen inches (15") in diameter, unless this size is required for the land being developed by reason of grade or trench loading requirements of the land being developed, or because of anticipated sewerage flows from the land being developed;
 - (5) Other conditions warrant cost sharing and such conditions are approved by City Council.
- (b) The City shall share in the cost of improvements by:
 - (1) Paying for all the material costs only for the size difference of the waterline, sanitary sewer pipe and the appurtenances thereto between what is required for the land being developed and what is excessive to the needs of the land being developed;
 - (2) Paying for all materials F.O.B. the plant, factory, supply depot or warehouse for such other improvements that are excessive to the land being developed;
- (c) Nothing in this Section shall be interpreted, read or construed to obligate the City for expenses incurred by the Owner/Developer, contractor, subcontractor or other persons because of:
 - (1) Equipment or labor costs, including but not limited to excavation, due to the over sizing and/or increased depth or width of waterlines, sewers and/or roadways;
 - (2) Equipment, labor or material cost due to improperly and/or unacceptable installed improvements including the removal and replacement thereof; or
 - (3) Any improvements installed prior to the approval of the cost sharing by the City.
- (d) Upon approval by Planning Commission of the preliminary plat for the land being developed, the following procedure shall be followed:
 - (1) The City Engineer shall identify all improvements eligible for cost sharing, and shall estimate the cost of the City's portion of such improvements;
 - (2) If applicable, an ordinance shall be submitted to Council for approval, appropriating funds to cover the City's portion;
 - (3) Upon completion and acceptance of the work and quantities thereof by the City Engineer, the costs shall be certified to the chief fiscal officer of the City.
- (e) Failure of the Owner/Developer of the land to provide the City with copies of billings, invoices, contracts, agreements or such other evidence of construction costs as the City Engineer deems necessary within six (6) months of completion and acceptance of the improvements by the City, shall constitute just cause to declare the City's agreement to cost share as provided herein null and void and no reimbursement shall be made or monies paid without reapproval by Council.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1193

Minimum Design Standards and Requirements

- 1193.01 **Conformity with requirements.**
- 1193.02 **General subdivision design.**
- 1193.03 **Land not suited for development.**
- 1193.04 **Erosion and sedimentation control.**

- 1193.05 **Storm water management.**
- 1193.06 **Streets.**
- 1193.07 **Lots.**
- 1193.08 **Easements.**
- 1193.09 **Sanitary sewers.**
- 1193.10 **Water lines.**
- 1193.11 **Underground utilities and street lighting.**
- 1193.12 **Street trees.**
- 1193.13 **Public sites and open space.**
- 1193.14 **Monuments.**

1193.01 CONFORMITY WITH REQUIREMENTS.

The design standards and requirements of this Chapter shall apply to all subdivisions of land as defined in Chapter 1103 of this Ordinance.

(a) Conformity with City Standards. All public improvements undertaken in any subdivision shall conform to the standards of this Chapter and the City Standard Plans and Specifications.

(b) Conformity with Zoning and Plans. No final plat of land shall be approved unless it conforms with the existing zoning requirements. The design of a proposed subdivision shall be shown by the Owner/Developer to be in general conformity with any adopted land use and/or comprehensive master plan(s) prepared by the City for the area.

(Ord. 2009-85. Passed 12-8-09.)

1193.02 GENERAL SUBDIVISION DESIGN.

The design of the subdivision shall be based on an analysis of environmental characteristics of the site. To the maximum extent possible, development shall be located so as to:

- Preserve the natural features of the site,
- Avoid areas of environmental sensitivity, and
- Minimize negative impacts on and alteration of natural features.

The following specific areas should be preserved as undeveloped open space, to the extent consistent with reasonable utilization of the land:

- (a) Wetlands, as defined in Section 404, Federal Water Pollution Control Act Amendments of 1972, subject to field verification by the U.S. Army Corps of Engineers, or other agency authorized to make such determination;
 - (b) Lands subject to flooding, pursuant to Section 1193.03 below;
 - (c) Slopes in excess of fifteen percent (15%) unless appropriate engineering methods are employed to address erosion, stability and resident safety;
 - (d) Historically significant structures and/or sites as listed, or eligible for inclusion, on the National Register of Historic Places;
- (Ord. 2009-85. Passed 12-8-09.)

1193.03 LAND NOT SUITED FOR DEVELOPMENT.

If the Planning Commission finds that land proposed for subdivision development is unsuitable due to flooding, poor drainage, topography, inadequate public facilities, and/or other condition that may be detrimental to the general health, safety or welfare of the public, and if it is determined that the land should not be developed for the purpose proposed, the Planning Commission shall not approve such subdivision unless adequate methods are proposed by the Owner/Developer for alleviating the problems that would be created by development of the land, subject to the approval of the City Engineer.

(a) Land Subject to Flooding. The subdivision of lands within areas subject to flooding shall be subject to the standards and regulations of Chapter 1335 of the Codified Ordinances, and shall, in addition, be subject to the following requirements:

- (1) No subdivision or part thereof shall be approved if the proposed subdivision development will, individually or collectively, significantly increase flood flows, heights or damages.
- (2) No subdivision, or part thereof, shall be approved which would substantially affect the storage capacity of the flood plain.
- (3) Buildings or structures shall not be permitted in floodway areas. Sites for these uses may be permitted outside the floodway if the sites or structures are elevated to such height that the lowest floor of the structure is least one (1) foot above the 100-year base flood elevation, as established by the Federal Emergency Management Agency (FEMA), and/or other authorized agency, in a flood study or report approved by the City. Required fill areas must extend fifteen (15) feet beyond the limits of the structure(s).
- (4) When the Planning Commission determines that only part of a proposed plat can be developed in compliance with these requirements, it shall limit development to only that portion,
- (5) The Planning Commission may attach other reasonable conditions as is appropriate to the approval of plats within areas subject to flooding. Such conditions may include, but are not limited to, requirement for the construction of dikes, levees or other similar measures, or flood proofing of structures, as recommended by the City Engineer.

(Ord. 2009-85. Passed 12-8-09.)

1193.04 EROSION AND SEDIMENTATION CONTROL.

(a) The Owner/Developer shall use adequate measures to minimize erosion and its impacts during subdivision construction activity. The City Engineer shall have the authority to require detailed erosion and sedimentation plans be submitted if it is determined that the size and/or scale of the proposed subdivision warrants such action. Generally, such a plan shall be required for, but not limited to, major subdivisions where the total area of the subdivision is more than one (1) acre in size, or if the subdivision is located where average slope exceeds five percent (5%). In addition, the Mayor shall have the authority to require erosion and sedimentation plans for any established lot where development is proposed to occur.

(b) Erosion and sedimentation plans shall be prepared by a Professional Engineer, and indicate the techniques to be used to control erosion both during construction and permanently, and include a schedule for installing same. Erosion control plans shall be based on the control of erosion on-site, with the objective of eliminating or minimizing erosion and sedimentation impacts off-site. Techniques, devices and/or measures used shall be reviewed and approved by the City Engineer.

(c) All erosion and sedimentation control devices shall be in place at the start of construction activity.

(Ord. 2009-85. Passed 12-8-09.)

1193.05 STORM WATER MANAGEMENT.

(a) Construction Site Runoff Control. The Owner/Developer shall use adequate measures to minimize erosion and other negative water quality impacts as a result of construction and development activity. The Planning Commission shall have the authority to require a Storm Water Pollution Prevention Plan in those cases where the scope and scale of the development warrants, as recommended by the City Engineer. The plan

shall be prepared by a Professional Engineer or other certified professional and shall be developed utilizing current industry standards and effective Best Management Practices (BMPs). As part of the plan, the Owner/Developer shall install, inspect and keep records of inspection, and maintain BMPs throughout the duration of the permit. The City may inspect the construction site for compliance with the Storm Water Pollution Prevention Plan and, if found lacking, may issue a permit violation, stop work order, fine or other measure to ensure compliance.

(b) Post Construction Runoff Control. Post construction runoff control shall be addressed in the design phase of proposed subdivisions. Both structural and nonstructural post construction BMPs will be considered. Use of riparian setbacks, green space preservation, porous pavements, water quality swales and grass filter strips are a few methods to be considered. Specific sites within the proposed subdivision may be inspected for compliance and, if found lacking, an inspector may issue a permit violation, stop work order, or fine to ensure compliance. Fines as defined by separate ordinance may be levied by the City as soon as one (1) week after notification of violation.

(c) Storm Water Drainage.

(1) General. No subdivision plan or plat shall be approved that does not make adequate provision for storm water runoff and flood waters.

The Planning Commission shall have the authority to deny subdivision approval for areas of extremely poor drainage, including subdivisions in areas dominated by hydric soils. In any subdivision, the storm drainage system shall be separate and independent of any sanitary sewer system.

(2) Preservation of Natural Drainage Courses. The flow of all existing drainage courses, including underground drainage systems, shall not be impeded. Such underground systems, including farm field tile systems, shall be identified and mapped as part of the preliminary plan.

No natural drainage course shall be altered and no fill, buildings or structures shall be located unless provision is made for the flow of storm runoff and/or surface water. An easement shall be provided on both sides of the existing surface drainage course adequate for the purpose of future widening, deepening, enclosing or otherwise improving said drainage course. If such drainage course crosses private property, easements must be obtained by the Owner/Developer for construction and future maintenance. These easements must be shown on the Construction Plans, including the volume and page number of the recorded easement.

(3) Outlets. No subdivision plan or plat shall be approved by the Planning Commission unless an adequate outlet for storm water, as shown on the plan or plat, is approved by the City Engineer. Generally it will be necessary to pipe storm water to an adequate watercourse, stream or existing storm system which has the capacity to accommodate the flow, or to utilize acceptable on-site water retention methods adequate to minimize excessive off-site storm water flows.

(4) Submittal Data. Culverts and other components of storm water conveyance systems that cross streets or roadways shall be designed so as to adequately address the ten (10) year storm under residential streets and the fifty (50) year storm under collector and arterial streets. The City Engineer may require the Owner/Developer to pay for an analysis of the existing storm water system to determine how best to connect the proposed development to the existing system or any required improvements downstream so as not to overload the system. The post development runoff rate may not exceed the predevelopment runoff rate as determined by the 100 year storm event.

(d) Culverts. All culverts utilized in subdivisions shall have the appropriate headwalls and/or other structures and improvements to protect the facility.

(e) Open Drainage Channels. The determination as to whether a specific drainage course shall be enclosed or open shall be made by the City Engineer. In those cases where an open channel is determined to be acceptable, the cross section and profile of the open channel and its banks shall be determined by the City Engineer.

(Ord. 2009-85. Passed 12-8-09.)

1193.06 STREETS.

(a) General. All streets shall be designed with appropriate regard for topography, streams, wooded areas, soils, geologic limitations and natural features. Roadways shall further be designed to permit efficient drainage and utility systems layouts while providing safe and convenient access to property.

(b) Classification, Street Widths and Street Grades. The arrangement and classification of all streets in newly developed areas shall conform to the Thoroughfare Plan. For streets not indicated on the Thoroughfare Plan, the arrangement shall provide for appropriate extensions of existing streets. The Planning Commission shall make the final determination as to the classification of any new street, based on the potential development of the site, and its potential traffic volume, expressed in ADT (Average Daily Traffic), the character of the surrounding area, and the Thoroughfare Plan. Rights-of-way, pavement widths and street grades shall be as specified in Appendix A, which is hereby made a part of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

(c) Alignment.

(1) The street pattern shall make provision for the continuance of streets into adjoining areas and for the connection to existing rights-of-way in adjacent areas.

(2) If a subdivision adjoins or contains an existing or proposed arterial or major collector street, direct access points to such street shall be minimized. The Planning Commission may require marginal access streets or reverse frontage with a planting strip of a minimum width of twenty (20) feet on the rear of those lots abutting the street, and no vehicular access across the strip.

(3) If a subdivision adjoins an existing or proposed arterial or major collector street, the Planning Commission may require drainage improvements and the construction of separate turn lanes and/or traffic signals on such streets into the proposed subdivision.

(4) Local streets shall be laid out so as to discourage use by through traffic.

(5) Streets shall intersect one another at ninety (90) degrees, or as near to ninety (90) degrees as possible, but in no case less than seventy-five (75) degrees. The intersecting street must remain within these degree parameters for a distance of not less than one-hundred feet (100') from the intersection.

(6) Street jogs shall be discouraged. Where such jogs are unavoidable, in no case shall the centerlines be offset by less than 125 feet.

(7) Half width streets shall be prohibited.

(Ord. 2020-54. Passed 9-8-20.)

(d) Dedication. The necessary rights-of-way for widening or extension of all thoroughfares, shall be dedicated to public use. When a subdivision fronts on an existing City street, or County or township road, dedication shall be made to the proper authority so as to meet the requirements of the table in Appendix A.

(e) Blocks. Blocks shall not exceed 1,200 feet in length except where specific topographic conditions require a greater length.

(f) Street Names. The names of new streets shall not duplicate names of existing dedicated streets except that new streets which are extensions of existing streets shall bear the names of such existing streets. All new roadways shall be named according to the following manner:

DIRECTION	CUL-DE-SACS	ALL OTHER STREETS
North/South	Place	Avenue
East/West	Court	Street

<i>Diagonal</i>	<i>Way</i>	<i>Road</i>
<i>Curving (over 600 ft.)</i>	-	<i>Drive</i>
<i>Curving (under 600 ft.)</i>	<i>Way</i>	<i>Circle</i>

(g) Curbs, Gutters and Sidewalks. Curbs, gutters and sidewalks shall be required in all subdivisions. In no case shall a Certificate of Zoning Compliance be granted for a building within a new subdivision where sidewalks are required until such sidewalks are constructed on the lot(s) and approved. Sidewalks shall comply with standards as provided by the City Engineer.

(h) Driveways.

- (1) All driveways shall be at least three (3) feet from the side lot line.
- (2) No driveway shall be approved providing direct access from a single or two family residential lot to a street designated as an arterial or major collector street, except where no alternative access is available.

(Ord. 2009-85. Passed 12-8-09.)

1193.07 LOTS.

(a) All lots shall have the required frontage on an improved public street or an approved private street.

(b) Lots in subdivisions located within the City of Galion shall meet the dimension and area requirements of the zoning district in which such subdivision is located. In addition, all lots shall also meet the following requirements:

- (1) All residential lots shall be approximately rectangular in shape, and should not have a depth in excess of three (3) times their width, except where extra depth is necessary due to topography and/or natural conditions, or to meet other requirements of this Ordinance.
- (2) Double frontage and reverse frontage lots should be avoided, except where required to provide separation from arterial or major collector streets, or to overcome specific conditions of topography and/or orientation. In such cases, an easement shall be provided along the rear lot line across which there shall be no vehicular access.
- (3) Whenever possible, residential subdivisions shall be designed so that corner lots have a larger area than interior lots
- (4) Whenever possible, side lot lines should be at right angles or radial to street lines.
- (5) When necessary, easements shall be provided along side and rear lot lines for utility lines. Easements shall be provided on both sides of any open drainage course, for the purposes of widening, deepening or general maintenance. Such easements shall comply with the requirements of Section 1193.08 below.

In no case shall a fence or any other obstruction be constructed on this easement. Notwithstanding the above, the removal of any existing obstruction within such easement shall be the responsibility of the owner of the property at the time such action is required.

(Ord. 2009-85. Passed 12-8-09.)

1193.08 EASEMENTS.

(a) Utility Easements. Easements shall be required for poles, wire, cable, conduits, storm and sanitary sewers, water lines, gas lines and/or other utility lines. Generally, such easements shall be not less than ten feet (10') in width and be located along front, rear and/or side lot lines of each lot. Notwithstanding the above, easements of greater width may be required in particular cases, upon determination of the City Engineer.

(b) Watercourse Easements and Riparian Setbacks. When any stream or surface drainage course is located within a proposed subdivision, the Owner/Developer shall provide an easement along each side of such stream or water course for the purpose of widening, deepening, relocating or other maintenance. The width of such easement shall be determined by the City Engineer. Provisions shall be made by the Owner/Developer for perpetual maintenance of all watercourse easements.

(Ord. 2009-85. Passed 12-8-09.)

1193.09 SANITARY SEWERS.

(a) Sanitary sewers should be designed to maintain a minimum velocity of two (2) feet per second. The design of the overall sewer system shall be in conformance with the requirements of the City Standard Plans and Specifications, the Ohio Environmental Protection Agency (OEPA), the Ohio Department of Health and Recommended Standards for Wastewater Facilities (Great Lakes - Upper Mississippi River Board of State Public Health and Environmental Managers:1990) as may be subsequently updated or amended.

(b) Sanitary sewer lines should be located in the street right-of-way, except under special conditions, when this requirement may be waived by Planning Commission.

(c) Only under circumstances of extreme hardship shall sewage lift stations, sewage grinder pumps or individual household sewage disposal systems be permitted in subdivisions established after the effective date of this Ordinance. Such systems shall only be permitted with the approval of the Planning Commission. The Owner/ Developer shall be responsible for all costs associated with any lift station until such time that sixty percent (60%) of the lots in the subdivision are developed.

(d) Minimum line size for gravity sewers shall be eight inches (8"). Downstream sewer pipe sizes shall be greater than or equal to the upstream size unless otherwise approved by the Planning Commission. If larger pipe sizes are required to accommodate future growth, the City may participate in the costs associated with the larger sizes, in accordance with Chapter 1191 of this Ordinance.

(Ord. 2009-85. Passed 12-8-09.)

1193.10 WATER LINES.

(a) Water lines shall be designed, sized and constructed so as to be in conformance with the City Standard Plans and Specifications. Fire hydrants shall be located, so that adequate fire flow to each structure, based on the current guidelines of the Insurance Services Office (ISO) can be met, but, no case shall be more than 350 feet, or as required by the Galion Fire Department.

(b) Water lines should be located within the street right-of-way, except under special circumstances, when this requirement may be waived by the Planning Commission.

(c) The standard minimum size of water mains shall be eight inches (8"). If larger line sizes are required to accommodate future growth, or to provide for fire flows in excess of those required for the proposed development, the City may participate in costs for the size increase, in accordance with the procedures of Chapter 1191 of this Ordinance.

(d) Minimum cover for water lines shall be forty-eight inches (48"). Water mains shall be laid so that at least ten feet (10') of horizontal distance and eighteen inches (18") vertical distance is maintained between the water main and any sanitary or storm water sewer line. In cases where ten feet (10') of horizontal distance cannot be maintained, such as a crossing, the vertical distance shall be maintained and such sewer lines shall be constructed of water line material. At crossings, one full length of water pipe should be used so both joints will be as far away from the sewer line as possible.

(Ord. 2009-85. Passed 12-8-09.)

1193.11 UNDERGROUND UTILITIES AND STREET LIGHTING.

(a) Underground utilities shall be required for all subdivisions within the City of Galion. Unless specific approval is granted by the Planning

Commission, all utility boxes shall be located in side or rear yards

(b) Street lights shall be required for all subdivisions within the City of Galion. Street lights and all appurtenances shall be installed by the Owner/Developer, and shall be of a type acceptable for cost-effective service by the electric utility providing service to the City. The City shall have the authority to assess costs associated with the operation and maintenance of the system to the lots within the subdivision.

(c) Illumination for street lights shall be uniform and shall follow the recommendations of the current Illuminating Engineering Society (IES) Handbook. Generally, street lights shall be located not less than 200 feet nor more than 350 feet apart. Lights shall be placed within 200 feet from the closed end of each cul-de-sac, and at each street intersection.

(d) The location of all street lights shall be shown on the street construction plans. The Owner/Developer shall develop a structure for assessing the future costs of street lighting to property owners in the subdivision.

(Ord. 2009-85. Passed 12-8-09.)

1193.12 STREET TREES.

(a) Street trees shall not be planted in the right-of-way of any street designated as an arterial roadway, unless specific approval is granted by the Planning Commission.

(b) Trees planted in the right-of-way of any other street shall not be planted in any location where the City Engineer determines that such placement would create a safety hazard. In no case shall a street tree be planted within fifty feet (50') from an intersection, within thirty feet (30') from any alley approach, or ten feet (10') from any driveway approach.

(c) The trees as specified in Section 1177.04(b) of this Ordinance shall be considered undesirable species and shall not be used as street trees within the City:

(d) Any portion of any tree that extends over the curb line shall be maintained to a minimum of fifteen feet (15') from the top of limb to the highest point of the curb, and a minimum of eight feet (8') from the sidewalk to the lowest portion of the tree extending over such sidewalk.

(Ord. 2009-85. Passed 12-8-09.)

1193.13 PUBLIC SITES AND OPEN SPACE.

(a) Required Dedication or Reservation. Where a proposed park or school site, as shown on a comprehensive plan as adopted by City Council, is located in whole or in part within a proposed subdivision, the Planning Commission may require the following:

(1) The dedication to the public of part or all of the proposed site and/or

(2) Reservation of the site for a period of up to three (3) years to enable acquisition by the appropriate agency or entity.

(b) Minimum Dedication Requirements. In all subdivisions or developments which result in additional dwelling units within the City, the Owner/Developer shall be required to dedicate land to public sites and open space without compensation, or to pay an amount equal to the value as defined in Section subsection (d) below, to the City of Galion for the purpose of developing public sites and open space of benefit to the residents of said subdivision. The amount of land to be dedicated by the Owner/Developer shall be determined according to the following formula:

$$\text{Acres of Land for Dedication} = \text{Total Population} \times .005$$

The total population of a subdivision will be calculated by determining a population factor for each dwelling unit in the subdivision (see below) and adding all population factors for dwelling units in the subdivision

The population for each dwelling unit shall be as follows:

Single-Family Dwelling 3.0

One Bedroom Multiple Family 1.5

Two Bedroom Multiple Family 2.0

Three Bedroom Multiple Family 3.0

(c) Modifications to Requirements. The Planning Commission, in conjunction with the Parks and Recreation Committee of City Council may modify the requirements as specified above when the Owner/Developer has shown that at least one of the following conditions exist:

(1) The development will house a population substantially lower than that established above.

(2) The development will have an uncommon low need for parks and recreation services.

(3) The unique or special characteristics of the project that justify modification of these requirements can be reasonably expected to continue for the life of the project.

(d) Fee in Lieu of Dedication. The Planning Commission shall determine if land proposed for public sites and/or open space is suitable and desirable for such purpose. If it is determined that the land is not suitable for such purposes, the Owner/Developer shall pay a fee-in-lieu of land dedication to the City, for the express purposes of developing other sites or open spaces of benefit to the future residents of the subdivision. The amount of such fee shall be \$200 for each dwelling unit within the subdivision.

(e) Private Recreational Areas. In lieu of the requirements of subsection (b) and (d) above, the Owner/Developer may devote not less than the acreage required in subsection (b) above to a private recreation area for the use of the occupants of the subdivision. The recreation area must be of suitable size for recreational purposes, as determined by the Planning Commission. The Owner/Developer must present a plan for development and perpetual maintenance of the site proposed, and such plan must be reviewed and approved by the Planning Commission. The Owner/Developer shall also provide security to ensure development and maintenance of the site in the form of a bond, deposit of funds or other form satisfactory to the Planning Commission.

(Ord. 2009-85. Passed 12-8-09.)

1193.14 MONUMENTS.

(a) General Requirements. All research, investigation, monumentation, measurement specifications, plats of survey, descriptions, and subdivision plats shall conform to the Minimum Standards for Boundary Surveys in the State of Ohio, Section 4733-37-03 (Administrative Code) Ohio Revised Code. These standards are intended as a minimum requirement, and where the surveying profession requires or recommends a higher level of standards, the higher or most restrictive of such standards shall apply. Additional standards for monumentation may be found in the City Standard Plans and Specifications.

(b) Location. Monuments shall be placed at all angle points on the outside boundary of the subdivision. Iron pins shall be placed at all corners of all lots, intersections of the centerlines of streets, and at the beginning and end points of each curved street section centerline. In those cases where sanitary sewer manholes prevent the setting of monuments, such monuments shall be offset five feet (5') in each direction along the street centerline. Monuments are to be tied to existing City of Galion monumentation and reported in Ohio State Plane North Zone NAD83 (Horizontal) and NAVD88 (Vertical).

(c) When Set. Monuments in the street centerlines shall be placed upon the completion of paving of the streets. All other monuments are to be set upon completion of the street, water, sanitary sewer improvements, and over lot grading and before acceptance of improvements by the City of Galion. Iron pins designating lots shall be set after grading of lots, but prior to pouring of sidewalks.

(d) Materials. Monuments to consist of, at a minimum, 36" 5/8" rebar set in concrete with a cap of bronze, aluminum or similar material of equal or greater permanence, as approved by the City Engineer. Iron pins shall be as per the standards cited above in subsection (a) above.

(e) Flood Plains. When all or part of a proposed subdivision is located within land subject to flooding, as defined in Chapter 1103, the

Owner/Developer shall direct and cause the surveyor to place at least one benchmark tied to NAVD88 elevation data.

(f) Reference to State Plane Coordinate System. The Owner/Developer shall direct and cause the surveyor to place and set at least one (1) intervisible pair of NGS Class C monuments referenced to Ohio State Plane Coordinate System (North Zone NAD83). (Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1195

Site Improvements

1195.01 **General.**

1195.02 **Streets.**

1195.03 **Sanitary sewers.**

1195.04 **Water systems.**

1195.05 **Certification of improvements.**

1195.06 **Responsibility and liability during construction.**

1195.01 GENERAL.

The improvements required by these subdivision regulations shall conform to the City Standard Plans and Specifications and other applicable portions of the Codified Ordinances of the City, as may be subsequently amended. All site improvements shall be designed, furnished and installed by the Owner/Developer of the subdivision. The Owner/Developer shall be responsible for the costs of all tests required by the City Engineer to establish that the materials and methods utilized in construction of the improvements meets the specifications. Subdivisions shall be provided with the same improvements whether the streets are public or private, except in special situations as approved by the Planning Commission. (Ord. 2009-85. Passed 12-8-09.)

1195.02 STREETS.

(a) Street Grading. No street grading shall be permitted until the final construction plans have been approved by the City Engineer and inspection fees have been paid. No street grading shall be commenced without a forty-eight (48) working hour notice to the City Engineer.

(b) Street Subgrade. All streets shall be graded to their full width, including side slopes. No obstructions shall be placed or allowed to remain in the street right-of-way. The subgrade shall be free of sod and/or vegetative or organic matter. Soft clay and other unsuitable material shall be cleared to a depth as determined by the City Engineer. The subgrade shall be shaped and compacted subject to the requirements of the City Engineer, and no fill shall be placed until said subgrade has been inspected and approved.

(c) Pavement Application. No pavement shall be placed until the prepared subgrade has been inspected and approved. The finish pavement course shall not be placed over the base course until a period of time as specified by the City Engineer has elapsed. All failures in the base course must be repaired prior to installation of the finish course.

(d) Street Signs. The Owner/Developer shall provide all traffic control, street name and parking signs at intersections and other locations as designated by the City. Such signs shall be purchased from the City. The City shall be responsible for the installations and maintenance of all such signs.

(Ord. 2009-85. Passed 12-8-09.)

1195.03 SANITARY SEWERS.

(a) Concrete Encasement. Concrete encasement shall be used when required for the sanitary sewer to withstand trench loadings, when rock is encountered in the trench bottom, when the cover is less than two-and-one-half (2 ½) feet, or when such sewer line crosses a stream with year-round flow.

(b) Testing. Leakage and deflection tests are required for all sanitary sewers except building sewers. Vacuum tests are required for all manholes.

(c) Private Sanitary Sewers. All private sanitary sewer laterals shall be six inches (6") minimum diameter PVC plastic conforming to ASTM D-3034 SDR 35 with flexible gaskets conforming to ASTM D-3212, unless otherwise specifically approved by the City Engineer. Before any building sewer is constructed, a tap permit must be obtained from the City. Installation of building sewers shall conform to applicable regulations of the City. An "S" shall be stamped into the face of the curb at the location of any building sewer tap. (Ord. 2009-85. Passed 12-8-09.)

1195.04 WATER SYSTEMS.

(a) Water Service Lines. Water service lines shall be installed consistent with Ten State Standards. All water service lines shall be either HDPE 200 PSI (CTS) or Type K copper. All water service lines shall be protected from freezing and frost penetration, but in no case shall be installed less than forty-eight inches (48") below the ground or pavement surface. Services shall be constructed after the street is rough graded and prior to the installation of paved surfaces and curbs. A "W" shall be stamped on the face of the curb at the location of any water service tap.

(b) Curb Boxes and Meter Pits. Curb boxes shall be located within the tree lawn not less than two feet (2') behind the back of the curb. All curb boxes shall be adjusted to the finished ground surface. The City Engineer may require an alternative location of curb stops and/or meter pits. (Ord. 2009-85. Passed 12-8-09.)

1195.05 CERTIFICATION OF IMPROVEMENTS.

Upon the completion of construction, and prior to acceptance by the City, the Owner/Developer shall provide the City with a letter certifying that the construction is in conformance with the approved Construction Plans and the City Standard Plans and Specifications. (Ord. 2009-85. Passed 12-8-09.)

1195.06 RESPONSIBILITY AND LIABILITY DURING CONSTRUCTION .

No streets or public improvements shall be the responsibility of any public entity prior to formal acceptance. Until such time as improvements have been approved and accepted, the Owner/Developer shall assume full responsibility and liability for all areas dedicated to the public, and improvements thereon. The Owner/Developer shall agree to indemnify and hold harmless the City of Galion until such time as the improvements are accepted.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1197

Nonresidential Subdivisions

1197.01 **General.**

1197.02 **Standards.**

1197.01 GENERAL.

If a proposed subdivision or development includes land that is zoned for commercial or industrial uses, the proposed subdivision or development

shall be subject to the submittal and approval of a separate site plan by the Planning Commission. In reviewing such site plan, the Planning Commission shall have the authority to modify and/or reduce the requirements of this Ordinance when, on the basis of evidence submitted by the Owner/Developer, it is determined that such modification is warranted.

(Ord. 2009-85. Passed 12-8-09.)

1197.02 STANDARDS.

The Owner/Developer of a commercial and/or industrial subdivision shall provide evidence that the following standards shall be met, and the Planning Commission shall consider such evidence in evaluating the site development plan, as required in Section 1197.01 above:

(a) The proposed industrial/commercial parcels shall be suitable in area and dimensions to the types of industrial or commercial development proposed.

(b) Street rights-of-way and standards shall be adequate to accommodate the type and volume of traffic anticipated to be generated by the development.

(c) Accommodation shall be made for special requirements for street, curb, gutter and sidewalk design and construction, and installation of public utilities, including water, sewer and storm drainage.

(d) Adverse impacts to any adjacent residential areas are identified, and measures are employed to protect adjacent residential areas from such adverse impacts.

(e) Streets carrying nonresidential traffic shall not normally be extended to the boundaries of existing residential areas, or areas proposed for residential use in any land use or comprehensive plan for the City, as adopted by City Council.

(Ord. 2009-85. Passed 12-8-09.)

CHAPTER 1199

Reserved for Future Use

APPENDIX A

Street and Roadway Classification System

APPENDIX A

STREET AND ROADWAY CLASSIFICATION SYSTEM

STREET CLASS	ADT RANGE	MINIMUM R.O.W.(FT.)	PAVEMENT WIDTH (FT.)	MAXIMUM GRADE	MINIMUM GRADE
Arterial	5,000+	90	(See Note 2)	6%	5%
Collector					
(Major)	2,000-5,000	70	36	6%	.5%
(Minor)	500-2,000	70	36	6%	.5%
Local	under 500	60	30	6%	.5%
Cul-de-Sac	under 500	60	30	6%	.5%
Industrial	NA	60	40	6%	.5%

NOTES: 1. Pavement width is measured from face of curb to face of curb. Required pavement width may be increased if on-street parking is allowed.

2. Pavement width on Arterial Streets to be determined on a case-by-case basis by the Planning Commission.

(Ord. 2009-85. Passed 12-8-09.)

CODIFIED ORDINANCES OF GALION

PART THIRTEEN - BUILDING CODE

TITLE ONE - General Standards

- Chap. 1301. Residential Building Code.
- Chap. 1305. Commercial Building Code.
- Chap. 1311. Design Review.
- Chap. 1315. International Property Maintenance Code.

TITLE THREE - Local Provisions

- Chap. 1331. Dangerous Buildings.
- Chap. 1333. Moving of Buildings.
- Chap. 1335. Flood Damage Prevention.
- Chap. 1337. Demolition.
- Chap. 1339. Exterior Property Litter Control.
- Chap. 1341. Swimming Pools.
- Chap. 1345. Fences.
- Chap. 1349. Exterior Lighting.
- Chap. 1353. Signs. (Repealed)
- Chap. 1357. Dumping.
- Chap. 1361. Solid Waste.
- Chap.1365. Smoke and Carbon Monoxide Detectors.

CODIFIED ORDINANCES OF GALION

PART THIRTEEN - BUILDING CODE

TITLE ONE - General Standards

- Chap. 1301. Residential Building Code.
- Chap. 1305. Commercial Building Code.
- Chap. 1311. Design Review.
- Chap. 1315. International Property Maintenance Code.

CHAPTER 1301

Residential Building Code

- 1301.01 **Adoption.**
- 1301.02 **Definitions.**
- 1301.03 **Enforcement.**
- 1301.04 **Interpretations.**
- 1301.05 **Moving of buildings.**
- 1301.06 **Lot line markers.**
- 1301.10 **Permit required.**
- 1301.12 **Permit expiration.**
- 1301.14 **Violations and orders.**
- 1301.16 **Certificate of occupancy.**
- 1301.20 **Appeals.**
- 1301.99 **Penalty.**

CROSS REFERENCES

Adoption by reference - see Ohio R.C. 731.231

1301.01 ADOPTION.

Pursuant to Ohio Revised Code 731.231, The City of Galion hereby adopts the following codes and their subsequent versions which shall be incorporated herein:

- (a) "2013 Residential Code of Ohio" for one, two, and three family dwellings as adopted by the Ohio Board of Building Standards and published by the International Code Council,
- (b) "2011 National Electric Code", NFPA-70, as published by the National Fire Protection Association.
(Ord. 2013-21. Passed 4-9-13.)

1301.02 DEFINITIONS.

As used in this chapter:

- (a) "Code Official" means the Residential Building Official of the City of Galion Building and Zoning Department, and/or the Chief Building Inspector of the Galion Building and Zoning Department.
- (b) "Approval" means the confirmation from the Residential Building Official that the construction documents which have been submitted, either whole or in part, meet the requirement of the Residential Code of Ohio.
- (c) "Permit" means the document given to the owner or authorized party indicating they, either whole or in part, have met the requirement of the Ohio Revised Code, the Ohio Building Code, the Residential Code of Ohio, and the Galion Codified Ordinances as they relate to their project.
- (d) "Residential Building Official" means the individual who is certified and responsible for enforcement of the rules of the Ohio Board of Building Standards as they relate to the Residential Code of Ohio within the City of Galion.
- (e) "Chief Building Inspector" means the individual who is responsible for the administration of the Galion Building and Zoning Department.
- (f) "Authority Having Jurisdiction" means the individual or entity responsible for administration of other federal, state or local regulations related to residential construction which may include but are not limited to; Planning and Zoning; Flood Damage Prevention; Design Review; Storm Water Management; Municipal Utilities; etc.
(Ord. 2013-21. Passed 4-9-13.)

1301.03 ENFORCEMENT.

The Code Official is responsible for interpretation and enforcement of the provisions of this chapter.

(Ord. 2013-21. Passed 4-9-13.)

1301.04 INTERPRETATIONS.

Where provisions of the various codes conflict, the Code Official shall enforce the code providing the greatest safety to the owner and/or occupant.

(Ord. 2013-21. Passed 4-9-13.)

1301.05 MOVING OF BUILDINGS.

Any building moved to, or within the City of Galion shall be brought into full compliance with the provisions of this chapter for new construction.

(Ord. 2013-21. Passed 4-9-13.)

1301.06 LOT LINE MARKERS.

Before any work is commenced in the addition to, or construction of a residential building or structure, all property lines shall be clearly marked by a state registered surveyor, if so required by the Code Official. (Ord. 2013-21. Passed 4-9-13.)

1301.10 PERMIT REQUIRED.

(a) Any owner, occupant, tenant, contractor, or authorized party who intends to construct, enlarge, alter, repair, move, or change the occupancy of a residential building or structure, or portion thereof, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, plumbing system, other residential building service equipment, or piping system, the installation of which is regulated by this chapter, or to cause any such work to be done, shall first make application to the Code Official and obtain the required permit prior to the start of construction.

(b) Upon approval of the submitted construction documents by the Residential Building Official and the Authority Having Jurisdiction, the Code Official will issue a permit for the project. After the collection of the appropriate fees the permit will be released to the owner or authorized party.

(c) Permit documents shall be posted on site in a conspicuous place near the front of the premises. Permit documents shall be preserved and remain posted for the duration of the project. (Ord. 2013-21. Passed 4-9-13.)

1301.12 PERMIT EXPIRATION.

(a) A permit will be considered invalid if work has not started within twelve (12) months of the date of issuance.

(1) At the request of the applicant, a permit may be renewed for an additional twelve (12) month period if requested at least 10 days prior to expiration, and upon collection of the appropriate fee.

(b) A permit will be considered invalid if work is delayed or suspended for more than six (6) months.

(1) At the request of the applicant, a permit may be renewed twice for an additional six (6) month period if requested at least 10 days prior to expiration, and upon collection of the appropriate fee.

(Ord. 2013-21. Passed 4-9-13.)

1301.14 VIOLATIONS AND ORDERS.

(a) When an owner, occupant, tenant, contractor, or authorized party fails to obtain a permit prior to the start of construction, the code official may issue an Adjudication Order to the owner and/or authorized party, informing them of the violation, a remedy for the violation, penalty for non-compliance, and their right of appeal.

(b) When the Code Official finds work or equipment contrary to the approved construction documents, an Adjudication Order may be issued to the owner and/or authorized party stating in what respect the work or equipment does not conform to the approved construction documents, a remedy for the violation, penalty for non-compliance, and their right of appeal.

(c) When an owner, occupant, tenant, contractor, or authorized party fails to obtain the inspections required by this chapter, the code official may issue an Adjudication Order to the owner and/or authorized party informing them of the violation, a remedy for the violation, penalty for non-compliance, and their right of appeal. (Ord. 2013-21. Passed 4-9-13.)

1301.16 CERTIFICATE OF OCCUPANCY.

A Certificate of Occupancy, as required by the Residential Code of Ohio, once issued by the Residential Building Official, may not be released by the Chief Building Inspector until the owner or authorized party demonstrates compliance with all applicable laws and ordinances related to their project. (Ord. 2013-21. Passed 4-9-13.)

1301.20 APPEALS.

Any person, firm, or corporation aggrieved by a decision of the Code Official regarding the provisions of this chapter, may appeal such decision to the Board of Zoning Appeals within thirty (30) calendar days of the receipt of an Adjudication Order. Applications for appeal can be obtained at the Galion Building and Zoning Department, 301 Harding Way East, Galion, Ohio, 44833. (Ord. 2013-21. Passed 4-9-13.)

1301.99 PENALTY.

Any owner, occupant, tenant, contractor, or authorized party who fails to comply with the provisions of this chapter or an Adjudication Order issued by the Code Official, may be prosecuted and subject to a fine of not more than five hundred dollars (\$500.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. 2013-21. Passed 4-9-13.)

CHAPTER 1305

Commercial Building Code

1305.01 **Adoption.**

1305.02 **Definitions.**

1305.03 **Enforcement.**

1305.04 **Interpretations.**

1305.05 **Moving of buildings.**

1305.06 **Lot line markers.**

1305.10 **Permit required.**

1305.12 **Permit expiration.**

1305.14 **Violations and orders.**

1305.16 **Certificate of occupancy.**

1305.20 **Appeals.**

1305.99 **Penalty.**

CROSS REFERENCES

See sectional histories for similar State law

Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261

Power to enact further and additional regulations - see Ohio R.C. 3781.01

Authorization by Board of Building Standards - see Ohio R.C. 3781.12

Enforcement - see Ohio R.C. 3781.03, 3781.031, 3781.10(E), 3781.102, 3781.19

Final jurisdiction - see Ohio R.C. 3781.04

Application - see Ohio R.C. 3781.06, 3781.10(E), 3781.11(A)

Submission of plans - see Ohio R.C. 3791.04

Dead bolt locks in apartment buildings - see Ohio R.C. 3781.103

Smoke detection system for apartments and condominiums - see Ohio R.C. 3781.104;

OAC Ch. 4101:2-9

Automatic sprinkler systems - see Ohio R.C. 3781.105, 3791.041 et seq.

Fire suppression systems - see Ohio R.C. 3781.108

Use of public buildings by handicapped persons - see Ohio R.C. 3781.111

Energy conservation - see Ohio R.C. 3781.181, 3781.182, 3781.21; OAC Art. 4101:2-13

Abandoned service stations - see Ohio R.C. 3791.11 et seq.

Safety standards for refuse containers - see Ohio R.C. 3791.21; OAC Ch. 4101:2-88

1305.01 ADOPTION.

Pursuant to Ohio Revised Code 731.231, The City of Galion hereby adopts the following codes and their subsequent versions which shall be incorporated herein:

(a) "2011 Ohio Building Code" as adopted by the Ohio Board of Building Standards as published by the International Code Council.

(b) "2009 International Fuel Gas Code" as published by the International Code Council.

(c) "2009 International Energy Conservation Code" as published by the International Code Council.

(d) "2011 National Electric Code", NFPA 70, as published by the National Fire Protection Association.

(Ord. 2013-22. Passed 4-9-13.)

1305.02 DEFINITIONS.

As used in this chapter:

(a) "Code Official" means the Commercial Building Official of the City of Galion Building and Zoning Department, and/or the Chief Building Inspector of the Galion Building and Zoning Department.

- (b) "Approval" means the confirmation from the Commercial Building Official that the construction documents which have been submitted, either whole or in part, meet the requirement of the Ohio Building Code.
- (c) "Permit" means the document given to the owner or authorized party indicating they, either whole or in part, have met the requirements of the Ohio Revised Code, the Ohio Building Code, and the Galion Codified Ordinances as they relate to their project.
- (d) "Commercial Building Official" means the individual who is certified and responsible for enforcement of the rules of the Ohio Board of Building Standards as they relate to the Ohio Building Code within the City of Galion.
- (e) "Chief Building Inspector" means the individual who is responsible for the administration of the Galion Building and Zoning Department.
- (f) "Authority Having Jurisdiction" means the individual or entity responsible for administration of other federal, state or local regulations related to residential construction which may include but are not limited to; Planning and Zoning; Flood Damage Prevention; Design Review; Storm Water Management; Municipal Utilities; etc.

(Ord. 2013-22. Passed 4-9-13.)

1305.03 ENFORCEMENT.

The Code Official is responsible for interpretation and enforcement of the provisions of this chapter.

(Ord. 2013-22. Passed 4-9-13.)

1305.04 INTERPRETATIONS.

Where the provisions of the various codes conflict, the code official shall enforce the code providing the greatest safety to the owner and/or occupant.

(Ord. 2013-22. Passed 4-9-13.)

1305.05 MOVING OF BUILDINGS.

Any building moved to, or within the City of Galion shall be brought into full compliance with the provisions of this chapter for new construction.

(Ord. 2013-22. Passed 4-9-13.)

1305.06 LOT LINE MARKERS.

Before any work is commenced in the addition to, or construction of a commercial building or structure, all property lines shall be clearly marked by a state registered surveyor, if so required by the code official. (Ord. 2013-22. Passed 4-9-13.)

1305.10 PERMIT REQUIRED.

(a) Any owner, occupant, tenant, contractor, or authorized party who intends to construct, enlarge, alter, repair, move, or change the occupancy of a residential building or structure, or portion thereof, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, plumbing system, other residential building service equipment, or piping system, the installation of which is regulated by this chapter, or to cause any such work to be done, shall first make application to the Code Official and obtain the required permit prior to the start of construction.

(b) Upon approval of the submitted construction documents by the Commercial Building Official and the Authority Having Jurisdiction, the Code Official will issue a permit for the project. After the collection of the appropriate fees the permit will be released to the owner or authorized party.

(c) Permit documents shall be posted on site in a conspicuous place near the front of the premises. Permit documents shall be preserved and remain posted for the duration of the project. (Ord. 2013-22. Passed 4-9-13.)

1305.12 PERMIT EXPIRATION.

(a) A permit will be considered invalid if work has not started within twelve (12) months of the date of issuance.

(1) At the request of the applicant, a permit may be renewed for an additional twelve (12) month period if requested at least 10 days prior to expiration, and upon collection of the appropriate fee.

(b) A permit will be considered invalid if work is delayed or suspended for more than six (6) months.

(1) At the request of the applicant, a permit may be renewed twice for an additional six (6) month period if requested at least 10 days prior to expiration, and upon collection of the appropriate fee.

(Ord. 2013-22. Passed 4-9-13.)

1305.14 VIOLATIONS AND ORDERS.

(a) When an owner, occupant, tenant, contractor, or authorized party fails to obtain a permit prior to the start of construction, the code official may issue an Adjudication Order to the owner and/or authorized party, informing them of the violation, a remedy for the violation, penalty for non-compliance, and their right of appeal.

(b) When the Code Official finds work or equipment contrary to the approved construction documents, an Adjudication Order may be issued to the owner and/or authorized party stating in what respect the work or equipment does not conform to the approved construction documents, a remedy for the violation, penalty for non-compliance, and their right of appeal.

(c) When an owner, occupant, tenant, contractor, or authorized party fails to obtain the inspections required by this chapter, the code official may issue an Adjudication Order to the owner and/or authorized party informing them of the violation, a remedy for the violation, penalty for non-compliance, and their right of appeal.

(Ord. 2013-22. Passed 4-9-13.)

1305.16 CERTIFICATE OF OCCUPANCY.

A Certificate of Occupancy, as required by the Ohio Building Code, once issued by the Commercial Building Official, may not be released by the Chief Building Inspector until the owner or authorized party demonstrates compliance with all applicable laws and ordinances related to their project. (Ord. 2013-22. Passed 4-9-13.)

1305.20 APPEALS.

Any person, firm, or corporation aggrieved by a decision of the Code Official regarding the provisions of this chapter, may appeal such decision to the Board of Zoning Appeals within thirty (30) calendar days of the receipt of an Adjudication Order. Applications for appeal can be obtained at the Galion Building and Zoning Department, 301 Harding Way East, Galion, Ohio, 44833. (Ord. 2013-22. Passed 4-9-13.)

1305.99 PENALTY.

Any owner, occupant, tenant, contractor, or authorized party who fails to comply with the provisions of this chapter or an Adjudication Order issued by the Code Official, may be prosecuted and subject to a fine of not more than five hundred dollars (\$500.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. 2013-22. Passed 4-9-13.)

Design Review

- 1311.01 Purpose.
- 1311.02 Definitions.
- 1311.03 Establishment of Design Review Districts.
- 1311.04 Establishment of Design Review Board(s).
- 1311.05 Powers and duties of Boards.
- 1311.06 Organization of Design Review Board(s).
- 1311.07 Certificate of Appropriateness required.
- 1311.08 Procedure for certificate of Appropriateness.
- 1311.09 Criteria of evaluation of application for certificate of design appropriateness.
- 1311.10 Additional design criteria.
- 1311.11 Demolition of structures.
- 1311.12 Maintenance.
- 1311.13 Sign regulations.
- 1311.14 Appeals.
- 1311.15 Severability.
- 1311.16 Remedies.
- 1311.99 Penalty.

CROSS REFERENCES

Power to regulate building erection - see Ohio R.C. 715.26, 715.29, 737.28, 737.37

1311.01 PURPOSE.

(a) The City of Galion contains areas with unique and valuable historic, architectural and/or cultural resources. The preservation of these resources is directly linked to the economic, social, and cultural well-being of the community. The purpose of this Chapter is to protect and preserve these resources and to prevent intrusions and alterations within the established district(s) which would be incompatible with their established character. It is further the intent of this Chapter to encourage infill development and property improvement that respects the context of the existing built environment, to stabilize and enhance property values, to reduce conflicts between new construction and existing development, and to promote local design quality.

(b) The standards of this Chapter are requirements which must be met in addition to the established requirements and standards of the zoning district over which the Design Review District is placed, and other lawfully adopted regulations.

(Ord. 2003-39. Passed 4-22-03.)

1311.02 DEFINITIONS.

As used in this Chapter, the following words shall be defined as follows:

(a) "Alteration" means any action to change, modify, reconstruct, remove or demolish any exterior features of an existing structure or site within any Design Review District. For the purpose of this item, ordinary maintenance to correct any deterioration, decay or damage to a structure or premises and to restore the structure as nearly as practicable, is excluded from the definition of "alteration," provided such work does not involve a change in type of building materials.

(b) "Architectural Character" means the style, design, and general arrangement of the exterior of a building or other structure, including the type of lighting fixtures, signs and other appurtenant fixtures. In the case of an outdoor advertising sign, "exterior features" means the style, material, size and location of the sign.

(c) "Applicant" means any person, persons, association, organization, partnership, unit of government, public body, corporation or other entity who applies for a Certificate of Appropriateness in order to undertake an environmental change within the District.

(d) "Board" means any of the Design Review Boards for the City of Galion as established by this Chapter.

(e) "Certificate of Appropriateness" means a certificate authorizing any environmental change within any designated Design Review District.

(f) "City" means the City of Galion, Ohio.

(g) "Contributing Structure" means a structure, site or object that, as determined by the Design Review Board, adds to the historic or architectural value of an established District because it was present during the period of historic significance and/or it preserves such historic integrity that it yields important information about such District.

(h) "District" means a designated Design Review District.

(i) "Environmental Change" means the construction, exterior alteration, demolition or removal of any structure, site or object subject to the provisions of this Chapter, but shall not include the installation, maintenance or removal of any plants or landscape material.

(j) "Notcontributing Structure" means a structure, site or object within an established District that, in the determination of the Design Review Board for such District, does not meet the criteria cited in 1311.02 (g) above.

(k) "Preserve" or "Preservation" means the process, including maintenance, of treating an existing building to arrest or slow future deterioration, stabilize the structure and provide structural safety, without changing or adversely affecting the character or appearance of the structure.

(l) "Owner" shall mean the owner of record, and the term shall include the plural as well as the singular.

(Ord. 2003-39. Passed 4-22-03.)

1311.03 ESTABLISHMENT OF DESIGN REVIEW DISTRICTS.

(a) Except as otherwise indicated in this Chapter, all property located in the following designated Design Review Districts shall be subject to the design review criteria and standards of this Chapter and additional guidelines as may be applicable in each district. The following Design Review Districts are hereby established:

- (1) Design Review District #1 (Uptowne). The Uptowne Design Review District is described as follows: All lots and parcels of real estate having frontage on the north side of Harding Way between Gill Avenue and East Street, together with Inlots 32 and 34 located on Union Street, all lots and parcels of real estate having frontage on the south side of Harding Way between Zimmerman Court and East Street; all lots and parcels of real estate having frontage on the west side of Union Street from Inlot 32 to Walnut Street together with Inlot 267 located at the southwest corner of the intersection of Union Street and Walnut Street and the east side of Union Street between Church Street and Walnut Street; all lots and parcels of real estate having frontage on the east and west sides of Market Street from Church Street, including the South Part of Inlot 332 and Inlot 333, to Atwood Street, including Inlots 115, 117 and the North Part of Inlot 119; all lots and parcels of real estate having frontage on east and west sides of Columbus Street between Church Street and Walnut Street including the north part

of Inlot 91; and all lots and parcels of real estate having frontage on the east and west sides of Liberty Street between Church Street and Walnut Street.

- (2) Design Review District #2 (Historic West Main Street). The Historic West Main Street Design Review District is described as follows: All lots and parcels of real estate having frontage on the north side of Harding Way West between Gill Avenue and Jefferson Street, and all lots and parcels of real estate having frontage on the south side of Harding Way West from Zimmerman Court to Jefferson Street.
- (3) Design Review District #3 (Harding Way West). The Harding Way West Design Review District is described as follows: All lots and parcels of real estate having frontage on the north and south sides of Harding Way West from Jefferson Street to Portland Way.

(b) Additional Design Review Districts may be established and designated by City Council under separate Ordinance. The designation of such areas shall be made by the Council after obtaining a recommendation from any existing Design Review Board, and holding a public hearing. Prior to that hearing, notification shall be given to all property owners within the proposed district.

(c) City Council may expand any Design Review District upon receipt of a petition by any adjacent property owner requesting inclusion in such District, and recommendation for same by the respective Design Review Board. Such expansion by petition of the affected property owners may occur without the public hearing as referenced above.

(Ord. 2018-5. Passed 3-13-18.)

1311.04 ESTABLISHMENT OF DESIGN REVIEW BOARD(S).

There is hereby established two Design Review Boards as established herein or by future action:

- (a) Each Design Review Board shall consist of the required number of members as appointed by City Council, and shall serve without compensation. Except as indicated elsewhere in this section, all members shall be residents of the City. In appointing members, the City Council shall make good faith effort to appoint persons with training in the fields of architecture, design, historic preservation, planning or related disciplines. Any one (1) individual may serve on more than one Board, provided other qualifications are met. City Council shall have the authority to appoint alternate members to any respective Board upon request of each Board, as may be determined appropriate by Council.
- (b) All members shall be appointed to three (3) year terms, and such terms shall be staggered according to the following schedule:
 - (1) The first three (3) members shall be appointed to serve for an initial term of one (1) year.
 - (2) The fourth and fifth members shall be appointed for a term of two (2) years.
 - (3) The remaining members of the City of Galion Design Review Board shall be appointed for an initial term of three (3) years.

All terms shall begin on January 1 of the applicable year. Appointed members shall be subject to removal for cause by the Mayor. Vacancies for the remainder of an unexpired term shall be filled by the Mayor within sixty (60) days from the date of vacancy.

- (c) Design Review Districts #1 and #2 (Uptowne and Historic West Main). The City of Galion Design Review Board shall consist of nine (9) voting members and shall have jurisdiction for granting Certificates of Appropriateness for Design Review Districts #1 and #2. At least two (2) of the members shall be owners of property within each of these Districts or owners of businesses located within these Districts or a designated representative of such business, and not more than two (2) members may be non-city resident owners of properties in either District. Five (5) members shall constitute a quorum, and a concurring majority vote of members present shall be necessary for official action. One member of the City of Galion Design Review Board shall be a current, sitting member of City Council, and one member of the same Board shall also be a member of the Board of Zoning Appeals.

At the time that this ordinance becomes effective, the nine (9) current members of the formerly existing Uptowne Design Review Board and the Historic West Main Design Review Boards shall automatically be considered members of the new City of Galion Design Review Board and shall continue through the remainder of the term to which each has previously been appointed.

- (d) Design Review District #3 (Harding Way West). The Harding Way West Design Review Board shall consist of five (5) voting members. All of the members shall be owners of property within the District; however, in the event an insufficient number of property owners can be found to serve on the Board, City Council may appoint not more than two (2) members of this Board who are not owners of property, provided such candidates receive the unanimous recommendation of the remaining members of the Board. Council shall attempt to appoint at least three (3) members of this Board who are also residents of this designated District. Three (3) members shall constitute a quorum, and a concurring majority vote by members present shall be necessary for official action.
- (e) Within the first three (3) months of each year, the City of Galion at its cost shall use its best efforts to provide training to the members of the Design Review Boards relating to their duties to be performed under this Chapter.

(Ord. 2018-5. Passed 3-13-18.)

1311.05 POWERS AND DUTIES OF BOARDS.

Each Design Review Board established in Section 1311.04 above is hereby vested with the following powers and authority:

- (a) Hear, evaluate and take action on applications for Certificates of Appropriateness, as authorized by Section 1311.07 of this Chapter.
- (b) Maintain a record of the historic, architectural and cultural resources within the City and the designated Design Review District in particular, as well as significant alterations thereto. The individual Design Review Board shall maintain a list of noncontributing properties in the specific Design Review District over which it has jurisdiction.
- (c) Recommend to City Council the establishment of additional Design Review Districts.
- (d) Recommend to City Council the establishment of design standards and guidelines for the individual Design Review District(s), along with amendments as may be subsequently needed.
- (e) Make recommendations to City Council regarding actions which have or may have significant impacts on historic, architectural and/or cultural resources within the City. (Ord. 2003-39. Passed 4-22-03.)

1311.06 ORGANIZATION OF DESIGN REVIEW BOARD(S).

(a) Each Design Review Board shall establish its own or other procedural rules or guidelines. Each Design Review Board shall set a regular meeting time to conduct business as may be required, provided that the respective Board shall meet not less than once every calendar quarter. Meeting times, dates and locations shall be publicized as required by Section 107.02 of the Codified Ordinances, or by posting not less than one (1) week in advance. Notice of meeting times, dates and locations shall be sent at least one (1) week in advance of the meeting by first class mail to any owner whose real property is a matter before such Board.

(b) Each Design Review Board shall select a Chairman, Vice Chairman, and Secretary. The Chairman shall conduct the meetings of such Board, determine order of such meetings, and be generally responsible for the recording of such meetings. The Vice Chairman shall perform the duties of the Chairman in event of the Chairman's absence. The Secretary shall be responsible for maintaining adequate minutes and records of Board proceedings, as well as other administrative duties. The position of Secretary may be delegated to a non-voting non member, if such arrangement is approved by the Board.

(Ord. 2003-39. Passed 4-22-03.)

1311.07 CERTIFICATE OF APPROPRIATENESS REQUIRED.

No environmental change as defined above shall be made to any property within Design Review Districts #1 and #2 or to any non-residential property within Design Review District #3 until a Certificate of Appropriateness has been applied for, and issued by the respective Board. No Zoning Permit, Building Permit, or Certificate of Zoning Compliance shall be issued by the Zoning Inspector for any construction, reconstruction, alteration or demolition of any regulated structure now or hereinafter in any Design Review District or subject to the process as specified in this chapter, unless a Certificate of Appropriateness has been authorized by the applicable Board. (Ord. 2003-39. Passed 4-22-03.)

1311.08 PROCEDURE FOR CERTIFICATE OF APPROPRIATENESS.

(a) The application for a Certificate of Appropriateness shall be made on such forms as prescribed by the Zoning and Building Department, along with such plans, drawings, specifications and other materials as may be needed by the Board to make a determination. At a minimum, such information shall include the following:

- (1) A site plan showing building outlines, dimensions and landscaping.
- (2) A complete description of the proposed environmental change, including photographs as may be needed.
- (3) An explanation by the applicant as to how the proposed activity is consistent with the purposes and guidelines of this Chapter.

(b) Applications for a Certificate of Appropriateness shall be filed with the Secretary at least ten (10) days prior to the meeting of the Design Review District Review Board.

(c) The Board shall determine whether the proposed environmental change will be appropriate to the preservation of the historic, environmental, or architectural character of the Design Review District, pursuant to the criteria specified in Sections 1311.09 and 1311.10 below.

(d) In determining the appropriateness of a specific environmental change, the Board may conduct a separate public meeting on the project and/or solicit input from consultants to the City.

(e) If no action is taken by the Board within ninety (90) days from the date of submittal of the application, the Certificate of Appropriateness shall be issued as a matter of law. The tabling of an application due to incomplete information provided by the applicant shall not be considered as "no action" for the purposes of this Section.

(Ord. 2003-39. Passed 4-22-03.)

1311.09 CRITERIA OF EVALUATION OF APPLICATION FOR CERTIFICATE OF DESIGN APPROPRIATENESS.

In considering the appropriateness of any proposed environmental change, including landscaping or exterior signage, the respective Design Review Board shall consider the following:

(a) A property shall be used for its historic purpose, or placed in a new use that requires minimal change to the defining characteristics of the building and its site.

(b) The proposed change shall respect the visual and functional components of the building and its site, including but not limited to, building height, massing and proportion, roof shape and slope, landscape design, lighting, vehicular and pedestrian circulation, and signage.

(c) The distinguishing original qualities or character of a contributing building, structure, site and/or its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural or environmental features should be avoided when possible.

(d) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance inconsistent or inappropriate to the original integrity of the building shall be discouraged.

(e) If changes which may have taken place in the course of time within the history and development of a building, structure or site and/or its environment, and if these changes are deemed to have acquired significance, then this significance shall be recognized and respected.

(f) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be preserved where possible and treated with sensitivity.

(g) Significant architectural features which have deteriorated shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of architectural features should be based on accurate duplication of the feature, and if possible, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or availability of different architectural elements from other buildings or structures.

(h) The surface cleaning of masonry structures shall be undertaken with methods designed to minimize damage to historic building materials. Sandblasting and other cleaning methods that will damage the historic building materials should be avoided.

(i) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

(j) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the original structure would be unimpaired. Additions to the least significant and least visible of contributing properties should be given priority over other designs.

(Ord. 2003-39. Passed 4-22-03.)

1311.10 ADDITIONAL DESIGN CRITERIA.

(a) In addition to the design criteria adopted in 1311.09 hereof, each Design Review Board established under 1131.04 shall adopt specific guidelines for each district to put into effect the standards adopted in 1311.09 and which will be fully consistent with the same. Once duly adopted, such guidelines will have full force and effect to regulate the issuance of Certificates of Appropriateness under 1311.07.

(b) Each Board shall review its specific guidelines no less frequently than every four (4) years to consider changes in available materials, current federal or state review standards, and up-to-date techniques in building renovation and restoration.

(c) Until such time as the City of Galion Design Review Board and Harding Way West Design Review Board adopt guidelines for Design Review Districts #1, #2, and #3 pursuant to the authority given them under this ordinance, the Additional Design Criteria listed in the former 1311.10 shall continue in effect for any district in which such guidelines have not been so adopted.

(Ord. 2018-5. Passed 3-13-18.)

1311.11 DEMOLITION OF STRUCTURES.

(a) In cases where an applicant applies for a Certificate of Appropriateness to demolish a structure with the Design Review District, the Design Review Board shall grant the demolition and issue a Certificate of Appropriateness if the Board finds, based upon evidence submitted by the applicant, that the structure contains no features of architectural or historical significance to the character of individual District within which it is located.

(b) In cases where an applicant applies for a Certificate of Appropriateness to demolish a structure within the Design Review District which is listed on the National Register of Historic Places, the Design Review Board shall grant the demolition and issue a Certificate of Appropriateness only if the Board finds, based upon evidence submitted by the applicant and based upon a case-by-case determination, that the public interests in preserving a structure containing features of architectural and historical significance is outweighed by a substantial economic hardship to the

applicant.

(c) In cases where the applicant applies for a Certificate of Appropriateness to demolish a structure within the Design Review District which is not listed on the National Register of Historic Places, but contains features of architectural and historical significance to the character of the District within which it is located, the Board may deny such application only if the Board finds, based upon a case-by-case determination, that such structure satisfies all the eligibility requirements to be listed on the National Register of Historic Places and that the applicant will not suffer a substantial economic hardship by reason of such denial. However, prior to making any decision, the Board may impose a waiting period of at least thirty (30) days, but not to exceed three (3) months for the purposes described in (f) below.

(d) In cases where an applicant applies for a Certificate of Appropriateness to demolish a structure within the Design Review District which contains features of architectural and historical significance to the character of the District within which it is located, but the Design Review Board finds, based upon evidence submitted by the applicant, that structure fails to meet the eligibility requirements to be listed on the National Register of Historic Places, the Board shall grant such application. However, prior to making any decision, the Board may impose a waiting period of at least thirty (30) days, but not to exceed three (3) months, for the purposes described in (f) below.

(e) To establish the existence of a substantial economic hardship, an applicant has the burden of proving one or more of the following:

(1) Denial of a Certificate of Appropriateness to demolish the structure will result in a substantial reduction in the economic value of the property;

(2) No reasonable alternative exists consistent with the architectural standards and guidelines for the property; and/or

(3) The property is not able to be sold within the previous two (2) years as established by testimony and relevant documents showing any real estate broker or firm engaged to sell the property, the reasonableness of the price sought by the applicant, and any offers received.

(f) When a waiting period is imposed by the Design Review Board, the Board and the applicant shall meet as requested and undertake meaningful and continuing discussions in order to find a means of preserving the structure. During this period, the Board and the applicant shall investigate the feasibility of all means of preserving the structure and the applicant shall make every reasonable effort to find a demolition alternative for that structure. If the applicant or a representative fails to meet with the Board at the time specified, then the Board may deny a Certificate of Appropriateness to demolish the structure. During such period, the owner of such structure shall also maintain or mothball the structure to prevent further deterioration.

(Ord. 2003-39. Passed 4-22-03.)

1311.12 MAINTENANCE.

Nothing in this Chapter shall be construed to prevent ordinary maintenance or repair of any property within the Design Review District, provided such work involves no change in material, design, texture, color or exterior appearance; nor shall anything in this Chapter be construed to prevent any change, including the construction, reconstruction, alteration or demolition of any feature which by order of the Zoning and Building Department is required for the public safety because of an unsafe, insecure or dangerous condition.

(Ord. 2003-39. Passed 4-22-03.)

1311.13 SIGN REGULATIONS.

(a) Before any person or entity erects, constructs, reconstructs, replaces, or modifies any exterior sign on any building or structure in a Design Review District, said person or entity shall prepare and file an application with the City Building Inspector for review by the applicable Design Review Board, which application shall be accompanied by a full and accurate description of the size of such sign(s), the manner and method by which it will be affixed to the structure or building, the materials which make up said sign, the color and graphics of said sign(s), the method of illumination of such sign, if any, and any other items deemed necessary by the City Building Inspector or such Design Review Board to review said application.

(b) Such Design Review Board shall make its decision approving, denying or denying with proposed modifications, the application submitted to it within sixty (60) days after the application was first considered by the Board at a regular or special meeting. Any denial shall describe the basis for such finding and the person or entity aggrieved by the decision of such Design Review Board may appeal the decision to the Board of Zoning Appeals by giving ten (10) days written notice to such Design Review Board.

(c) No new sign(s), including replacements of existing signs, shall be permitted in any Design District except as follows:

(1) Wall signs. One principal wall sign shall be permitted on the business establishment which it represents. One secondary wall sign is permitted where a business has frontage on another street or where there is a rear or side entrance commonly used by the public. The wall sign shall be proportionate to the size of the face of the building upon which it is attached.

(2) Directory signs. Each building may have one directory sign, in addition to the above wall sign, that shall provide not more than two (2) square feet of area for each building occupant. Directory signs shall be mounted flat against the face of the building like a wall sign.

(3) Projecting signs - special exception. One projecting sign shall be allowed for each business establishment occupying a building subject to the following conditions:

A. Maximum size - ten (10) square feet

B. Minimum clearance to grade - eight (8) feet

C. Maximum horizontal projection from face of building - two (2) feet

D. May not project above the roof line of the building to which it is attached.

E. Each applicant must complete a statement holding the City harmless from any liability resulting from accident or injury caused by erection and maintenance of such sign(s) and must provide throughout the time that such sign(s) exist proof of insurance in the amount of Five Hundred Thousand Dollars (\$500,000.00).

(4) Awnings.

A. No awning or canopy may extend beyond two (2) feet back of the curb line.

B. All awnings and canopies shall be erected so that their lowest point is at least eight (8) feet above the sidewalk.

C. One double-faced nameplate may be suspended from an awning or canopy perpendicular to the store front, provided the requirements of subsection (3) above are met.

D. Each applicant must complete a statement holding the City harmless from any liability resulting from accident or injury caused by erection and maintenance of such sign(s) and must provide throughout the time that such sign(s) exist proof of insurance in the amount of Five Hundred Thousand Dollars (\$500,000.00).

(5) Incidental signs. Not to exceed four (4) square feet each and sixteen (16) square feet in total area for any business and which contain no advertising messages.

(6) Temporary signs on public sidewalks. One temporary sidewalk sign may be displayed by any business in any Design District, providing said temporary sign conforms to the following criteria:

A. Maximum sign area dimension: three (3) feet wide and four (4) feet high for any free standing sign.

B. Temporary sign may be used by a new business, a business changing location or to advertise a special sale.

C. Temporary sign may not be used for longer than two (2) weeks.

D. Temporary sign may not be used more than four (4) times each year per business.

E. Each applicant must complete a statement holding the City harmless from any liability resulting from accident or injury caused by erection and maintenance of such sign(s) and must provide throughout the time that such sign(s) exist proof of insurance in the amount of Five Hundred Thousand Dollars (\$500,000.00).

F. All temporary mobile or portable banners, pennants, streamers and balloons shall be considered temporary sidewalk signs, and shall be subject to the restrictions of subsection (6) above, except for those contained in paragraphs a. and e. thereof.

(7) Prohibited signs. All animated signs, all mobile or portable banners, pennants, streamers and balloons, all signs that interpret movement of any kind and all off-premises signs which identify or provide information related to a good, service or event that is not located on the property where the sign is located are prohibited.

(Ord. 2003-39. Passed 4-22-03.)

1311.14 APPEALS.

Any applicant aggrieved by any decision of any Design Review Board may appeal the decision to the Board of Zoning Appeals. Such appeal shall be taken by filing a written statement, setting forth the grounds for the appeal, with the appropriate Design Review Board within thirty (30) days of its decision. The Board of Zoning Appeals may reverse, remand, or modify such decision and shall state the reasons therefor. Any appeal from the decision of the Board of Zoning Appeals may be filed with the Common Pleas Court of Crawford County, Ohio under R. C. Chapter 2506.

(Ord. 2003-39. Passed 4-22-03.)

1311.15 SEVERABILITY.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect the other provisions or applications of the provision or related provisions which can be given effect without the invalid provision or application, and to this end are severable.

(Ord. 2003-39. Passed 4-22-03.)

1311.16 REMEDIES.

In the event any environmental change occurs that is contrary to and in violation with any of the provisions of this chapter, then, in addition to and not in lieu of other action as may be provided in this Chapter, the Mayor, his/her agent, or other proper authority of the City, may institute injunction, mandamus or other legal proceedings as may be necessary to abate such violation and/or to cause the correction of such illegal action.

(Ord. 2003-39. Passed 4-22-03.)

1311.99 PENALTY.

Whoever violates any provision of this Chapter shall be fined not more than One Thousand Dollars (\$1,000.00). When a partnership or a corporation violates any of the provisions of this Chapter, the members of the partnership responsible for such violation and/or the managing officers of the corporation responsible for such violation, or who directs same to be done, shall be punished in the same manner as the punishment described for herein. Each and every day that the violation of this Chapter continues shall constitute a separate and distinct violation.

(Ord. 2003-39. Passed 4-22-03.)

CHAPTER 1315

International Property Maintenance Code

1315.01 Adoption.

1315.02 Revisions.

1315.03 Conflict.

1315.04 Copies.

1315.05 Inspections.

1315.06 Appeals.

1315.07 Legislative intent.

1315.99 Penalties.

CROSS REFERENCES

Adoption by reference - see Ohio R.C. 731.231

1315.01 ADOPTION.

Pursuant to Ohio R.C. 731.231, the "2006 International Property Maintenance Code" as published by The International Code Council, Inc., be, and the same is hereby, adopted as the "Property Maintenance Code" of the City of Galion, Ohio for the control of property, buildings, and structures as provided therein; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted, and made a part hereof, as if fully set forth in this chapter, and with additions, insertions, deletions and changes, if any, prescribed in Section 1315.02 hereof.

(Ord. 2009-6. Passed 1-13-09.)

1315.02 REVISIONS.

The following sections of the "2006 International Property Maintenance Code" are hereby revised:

(a) Section 101.1 Insert: "City of Galion."

(b) Section 103.2 Insert: Appointment. The code official shall be the supervisor of the City of Galion Building and Zoning Department and/or the designee of the Mayor who holds a current ICC property maintenance and housing inspector certification.

(c) Section 103.3 Insert: Deputies. The code official shall have the authority to appoint a deputy code official, other related technical officers, inspectors and other employees.

(d) Section 106.4 Insert: Violation penalties. Any person who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be fined not more than two hundred fifty dollars (\$250.00) for a first offense, and shall be fined not more than five hundred dollars (\$500.00) for any subsequent offense occurring within a period of two years of a prior violation. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(e) Section 111 Delete in its entirety.

(f) Section 302.4 Insert: "8 inches".

(g) Section 302.8 Delete in its entirety.

(h) Section 304.4 Insert: April 1 to November 1.

(i) Section 602.3 Insert: October 1 to May 1.

(j) Section 602.4 Insert: October 1 to May 1.
(Ord. 2009-6. Passed 1-13-09.)

1315.03 CONFLICT.

The adoption herein of the "2006 International Property Maintenance Code" for governing certain conditions and maintenance of all property, buildings and structures within the City of Galion, replaces and supersedes use of the "The International Property Maintenance Code, First Edition, 1998" and any subsequent revisions thereto, as heretofore adopted by the City of Galion.
(Ord. 2009-6. Passed 1-13-09.)

1315.04 COPIES.

A complete copy of the "2006 International Property Maintenance Code" as adopted as the Property Maintenance Code of the City of Galion is now on file with the Clerk of City Council for inspection by the public, with copies available for distribution to the public at cost, and on file in the Crawford County Law Library.
(Ord. 2009-6. Passed 1-13-09.)

1315.05 INSPECTIONS.

The code official shall perform or cause to be performed, inspections of all commercial buildings and properties within the City of Galion to ascertain compliance with the Property Maintenance Code. An inspection of each commercial building and property shall be performed at intervals to be determined by the code official.
(Ord. 2009-6. Passed 1-13-09.)

1315.06 APPEALS.

Any person, firm or corporation, aggrieved by a decision of the code official regarding the provisions of the Property Maintenance Code may appeal such decision to the Board of Zoning Appeals within thirty (30) calendar days after the receipt of a notice. Applications for appeal can be obtained at the Department of Building and Zoning, 301 Harding Way East, Galion, Ohio.
(Ord. 2009-6. Passed 1-13-09.)

1315.07 LEGISLATIVE INTENT.

Nothing in the chapter or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action required or existing under "The International Property Maintenance Code, First Edition, 1998," or any other regulation of the City of Galion, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.
(Ord. 2009-6. Passed 1-13-09.)

1315.99 PENALTIES.

Any person, firm, or corporation who does not permit the inspections required by Section 1315.05 of this chapter shall be fined not more than two hundred fifty dollars (\$250.00) for a first offense, and shall be fined not more than five hundred dollars (\$500.00) for any subsequent offense occurring within a period of three (3) years of a prior violation. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
(Ord. 2009-6. Passed 1-13-09.)

TITLE THREE - Local Provisions

Chap. 1331. Dangerous Buildings.
Chap. 1333. Moving of Buildings.
Chap. 1335. Flood Damage Prevention.
Chap. 1337. Demolition.
Chap. 1339. Exterior Property Litter Control.
Chap. 1341. Swimming Pools.
Chap. 1345. Fences.
Chap. 1349. Exterior Lighting.
Chap. 1353. Signs. (Repealed)
Chap. 1357. Dumping.
Chap. 1361. Solid Waste.
Chap. 1365. Smoke and Carbon Monoxide Detectors.

CHAPTER 1331

Dangerous Buildings

1331.01 Code established.
1331.02 Definitions.
1331.03 Public nuisance declared.
1331.04 Inspection; right of entry.
1331.05 Standards for repair, vacation or demolition.
1331.06 Notice to vacate, repair or demolish.
1331.07 Appeals.
1331.08 Time for compliance.
1331.09 Action by City.
1331.99 Penalty.

CROSS REFERENCES

Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261
Power to regulate sanitary condition of buildings - see Ohio R.C. 715.26(A), 715.29
Power to abate nuisance and prevent injury - see Ohio R.C. 715.44
Right to examine buildings for fire hazards - see Ohio R.C. 737.34 et seq., 3737.14
Nuisances - see Ohio R.C. 3767.01 et seq.
Prohibitions against nuisances - see Ohio R.C. 3767.13 et seq.
Mayor's Court - see ADM. Ch. 171
Demolition permit - see BLDG. Ch. 1337

1331.01 CODE ESTABLISHED.

There is hereby adopted and established a code relating to dangerous buildings and the vacating, repairing and demolishing thereof, and the penalizing of certain acts in relation thereto.

(Ord. 71-4333. Passed 7-20-71.)

1331.02 DEFINITIONS.

As used in this chapter, "dangerous buildings" means:

- (a) Buildings whose walls, floors, foundations or other structural parts are so out of plumb, level or original position as to be unable to satisfactorily perform their intended structural function;
- (b) Buildings which are so dilapidated, decayed or overloaded as to be unable to provide the basic elements of shelter or safety required for human habitation;
- (c) Buildings which constitute a fire hazard because of their construction, exposure or lack of maintenance;
- (d) Buildings which are so unsanitary as to constitute a health hazard to their occupants or to the public;
- (e) Buildings which have been damaged to an extent of fifty percent (50%) or more of their replacement value.

(Ord. 71-4333. Passed 7-20-71.)

1331.03 PUBLIC NUISANCE DECLARED.

All dangerous buildings as defined in Section 1331.02 are hereby declared to be public nuisances and shall be vacated, repaired or demolished as provided in this chapter.

(Ord. 71-4333. Passed 7-20-71.)

1331.04 INSPECTION; RIGHT OF ENTRY.

The Mayor or his assistants are authorized and directed to make inspection of any building within the City to determine whether it is a dangerous building within the terms of Section 1331.02. For the purpose of making such inspection and upon showing appropriate identification, the Mayor or his assistants are authorized to enter, examine and survey at any reasonable hour all buildings existing in the City. The owner, occupant or person in charge of any building, upon being shown proper identification, shall give the Mayor or his assistants free access to the building at any reasonable hour for the purpose of inspection.

(Ord. 71-4333. Passed 7-20-71.)

1331.05 STANDARDS FOR REPAIR, VACATION OR DEMOLITION.

The following standards shall be followed in substance by the Mayor in ordering repair, vacation or demolition of a dangerous building:

- (a) If the building is in such condition as to make it dangerous to the health or safety of its occupants, it shall be ordered to be immediately vacated.
- (b) If the building can reasonably be repaired so it will no longer violate the terms of this chapter, it shall be ordered repaired.
- (c) The building shall be ordered demolished if:
 - (1) It is fifty percent or more damaged or decayed or deteriorated from its original structure;
 - (2) It cannot be repaired so that it no longer violates the terms of this chapter; or
 - (3) It is a fire hazard existing or erected in violation of the terms of this chapter or any other chapter of these Codified Ordinances.

(Ord. 71-4333. Passed 7-20-71.)

1331.06 NOTICE TO VACATE, REPAIR OR DEMOLISH.

When a building is found to be a dangerous building the Mayor shall notify, in writing, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the property, as shown by County records, as to what action is required to be taken under Section 1331.05. The notice shall set forth a description of the building, a statement of the particulars which make it a dangerous building and, if it is to be repaired, what repairs are required to render it fit for occupancy.

(Ord. 71-4333. Passed 7-20-71.)

1331.07 APPEALS.

Appeals of the decision of the Mayor shall be made to the Board of Appeals.

1331.08 TIME FOR COMPLIANCE.

If the notice provided in Section 1331.06 requires the building to be vacated, such vacation shall occur within thirty days after service of the notice is completed unless there is immediate danger of failure or collapse, in which case the building shall be vacated forthwith. If the notice requires repair, correction or demolition, such shall be accomplished within sixty days after service of notice is completed.

(Ord. 71-4333. Passed 7-20-71.)

1331.09 ACTION BY CITY.

- (a) If the owner or occupant of a dangerous building fails or refuses to vacate it after notice is served and within the time for compliance, the Mayor shall institute proceedings against the owner or operator through the Law Director.
- (b) If the owner fails or refuses to repair a dangerous building after notice and within the time for compliance, the Mayor shall post a notice at conspicuous places on and in the building stating that the building is a dangerous building and shall not be occupied or used for any purpose until it has been repaired and approved by the Mayor. Such notice may not thereafter be removed by anyone other than the Mayor or his authorized agent.
 - (1) If the owner of a dangerous building fails or refuses to demolish a dangerous building after notice and within the time for compliance, the Mayor is authorized to take the necessary measures for accomplishing its demolition and removal. He shall advertise for bids for a contract for such demolition for a period of two weeks in a newspaper of general circulation within the City and shall present such bids to Council for acceptance or rejection. Only the lowest and best bid may be accepted by the City.
 - (2) The cost incurred by the City in accomplishing the demolition and removal shall be paid from the City Treasury out of the proper fund as designated by the ordinance or resolution authorizing the contract for demolition. The City may appropriate to its own use any materials obtained in demolishing the building to compensate it for any part of the cost of demolition.
 - (3) The total cost of such demolition, whether such costs are incurred due to the use of employees, materials and equipment of the City or by contract for labor, materials and equipment or both, including the cost of service or publication of notice, together with a proper description of the premises, shall be certified by the Clerk of Council to the County Auditor to be placed by him on the tax duplicate as a lien upon such premises, to be collected as other taxes and returned to the City as provided in Ohio R.C. 715.261.

(Ord. 71-4333. Passed 7-20-71.)

1331.99 PENALTY.

- (a) The owner or occupant who fails to comply with an order to vacate a dangerous building shall be fined not more than two hundred dollars (\$200.00).

(b) The owner of a dangerous building who fails to comply with an order to repair, correct or demolish the building shall be fined not more than five hundred dollars (\$500.00).

(c) Any person, other than the Mayor or his authorized agent, who removes a notice posted in a dangerous building as provided in Section 1331.09(b) shall be fined not more than one hundred dollars (\$100.00).
(Ord. 71-4333. Passed 7-20-71.)

CHAPTER 1333

Moving of Buildings

- 1333.01 Permit required.**
- 1333.02 Permit application for moving over streets.**
- 1333.03 Permit application for moving onto same or abutting property.**
- 1333.04 Permit fee.**
- 1333.05 Bond.**
- 1333.06 Release of bond.**
- 1333.07 Forfeiture of part of bond for delay in moving.**
- 1333.08 Disposition of permit fees.**
- 1333.09 Inspector to be present at moving; compensation.**
- 1333.10 Duties of Building Inspector not impaired.**
- 1333.11 Obstructing or interfering with traffic.**
- 1333.12 Police escort fee; utility lines.**
- 1333.99 Penalty.**

CROSS REFERENCES

Slow-moving vehicles at grade crossings - see TRAF. 331.41
Permit for overweight vehicle to use streets - see TRAF. 339.02

1333.01 PERMIT REQUIRED.

No person shall move or remove any building over any public street or highway within the limits of the City unless a permit has been issued in accordance with the provisions of this chapter.

1333.02 PERMIT APPLICATION FOR MOVING OVER STREETS.

No person shall move any house or frame building structure over the streets of the City in the event such building or structure is of such nature or description as to have required a building permit at the time of its original construction, until the following procedure has been complied with:

(a) An application shall be made to the Building Department, which shall investigate the application and determine whether or not the building or structure, upon being moved to the proposed location, complies with the zoning laws and other regulations pertaining thereto. The Building Department shall then report its findings and recommendations to the City Engineer. For this investigation and report the applicant shall pay fifteen dollars (\$15.00) to the Building Department, payable in advance.

(b) Upon compliance with the provisions of this chapter, the City Engineer shall issue the moving permit.

1333.03 PERMIT APPLICATION FOR MOVING ONTO SAME OR ABUTTING PROPERTY.

No person shall move any building or frame structure already erected to a new location on the same premises or premises abutting thereto in the event a building permit should have been required at the time of its original construction, until the following provisions have been complied with:

(a) An application shall be made to the Building Department for such permission and shall contain a complete description of the size, type and construction of such building or structure which is to be moved, together with complete information showing the exact location on the premises to which such movement is proposed.

(b) The Building Department shall then investigate the application to determine whether or not after such movement there will be any violation of the zoning laws or other ordinances pertaining thereto.

(c) If the movement conforms thereto and is not in violation of any zoning ordinance or other ordinances, a permit to so move shall be issued.

(d) All applications shall be accompanied by the payment of a fee of fifteen dollars (\$15.00) which shall be retained by the Building Department to cover the cost of the investigation, whether a permit is granted or not.

1333.04 PERMIT FEE.

The fee for a permit to move a building shall be one hundred dollars (\$100.00). Such permit fee shall accompany the application for the permit.

1333.05 BOND.

The applicant for a permit to move a building shall post and deposit with the City a cash bond in the sum of one thousand dollars (\$1,000) conditioned upon the proper performance of such moving in accordance with the provisions of this chapter and to insure the representation of the applicant of the facts set forth in the application for the permit.

1333.06 RELEASE OF BOND.

The cash bond required to move a building shall not be released by the Zoning Inspector until he is satisfied that no damages have occurred by reason of such moving and that a satisfactory final inspection report has been received from the Plumbing Inspector, showing that the provisions of this chapter and all other ordinances of the City and the laws of the State relating to moving of buildings have been complied with.

1333.07 FORFEITURE OF PART OF BOND FOR DELAY IN MOVING.

The City shall retain the sum of one hundred dollars (\$100.00) from the cash bond for each twelve-hour period in which a building remains upon the public streets or thoroughfares in excess of the time requested in the application for a permit to move it.

1333.08 DISPOSITION OF PERMIT FEES.

All money received from permit fees, shall be applied to pay the cost and expense of an inspector to be provided by the City Engineer and for damage to the streets or highways or the property of any person.

1333.09 INSPECTOR TO BE PRESENT AT MOVING; COMPENSATION.

No movement of a building for which a permit has been issued under the terms of this chapter shall be started until an inspector appointed by the City Engineer is present. The duties of the inspector shall be determined by the City Engineer. The compensation of such inspector shall be one hundred twenty dollars (\$120.00) per day for each day or part of a day the movement is in progress.

1333.10 DUTIES OF BUILDING INSPECTOR NOT IMPAIRED.

Nothing in this chapter shall be construed to relieve the Building Inspector from the inspection of any building as required by the Building Code.

1333.11 OBSTRUCTING OR INTERFERING WITH TRAFFIC.

No person in moving a building shall obstruct or interfere with traffic upon any street or public highway beyond a reasonable time necessary for such movement.

1333.12 POLICE ESCORT FEE; UTILITY LINES.

The person moving any building or frame structure in the City shall pay the City one hundred dollars (\$100.00) per hour for a police escort and the mover must reimburse the City the cost of adjusting utility lines.

1333.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the fourth degree. Each day on which a violation occurs or continues shall be deemed a separate violation.

CHAPTER 1335

Flood Damage Prevention

1335.01 General provisions.

1335.02 Definitions.

1335.03 Administration.

1335.04 Use and development standards for flood hazard reduction.

1335.05 Appeals and variances.

1335.06 Enforcement.

CROSS REFERENCES

Basis of zoning districts - see Ohio R.C. 713.10

Levees - see Ohio R.C. 717.01

Marking flood areas - see Ohio R.C. 1525.01 et seq.

(FP) Flood Plain District (Overlay) - see P. & Z. Ch 1165

1335.01 GENERAL PROVISIONS.

(a) Statutory Authorization. Article XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the Council of the City of Galion, State of Ohio, does ordain as follows:

(b) Findings of Fact. The City of Galion has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(c) Statement of Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (10) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (12) Meet community participation requirements of the National Flood Insurance Program.

(d) Methods of Reducing Flood Loss. In order to accomplish its purposes, these regulations include methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood, waters or which may increase flood hazards in other areas.

(e) Lands to Which These Regulations Apply. These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Galion as identified in Section 1335.01(f), including any additional areas of special flood hazard annexed by the City of Galion. (Ord. 2008-68. Passed 10-28-08.)

(f) Basis for Establishing the Areas of Special Flood Hazard. For the purposes of these regulations, the following studies and/or maps are adopted:

- (1) Flood Insurance Study Crawford County and Incorporated Areas, and Flood Insurance Rate Map Crawford County and Incorporated Areas, both effective January 19, 2011.
- (2) Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard, include: None.
- (3) Any hydrologic and hydraulic engineering analysis authored by a Registered Professional Engineer in the State of Ohio which has been approved by the City of Galion as required by Section 1335.04(c) Subdivisions and Large Scale Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Office of the Mayor, 301 Harding Way East, Galion, Ohio. (Ord. 2010-63. Passed 12-14-10.)

(g) Abrogation and Greater Restrictions. These regulations are not intended to repeal any existing ordinances, including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by the regulations.

(h) Interpretation. In the interpretation and application of these regulations, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.

(i) Warning and Disclaimer of Liability. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Galion, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

(j) Severability. Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid. (Ord. 2008-68. Passed 10-28-08.)

1335.02 DEFINITIONS.

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

- (a) Accessory Structure: A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (b) Appeal: A request for review of the floodplain administrator's interpretation of any provision of these regulations or a request for a variance.
- (c) Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.
- (d) Base (100-Year) Flood Elevation (BFE): The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).
- (e) Basement: Any area of the building having its floor subgrade (below ground level) on all sides.
- (f) Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (g) Enclosure Below the Lowest Floor: See "Lowest Floor."
- (h) Executive Order 11988 (Floodplain Management): Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.
- (i) Federal Emergency Management Agency (FEMA): The agency with the overall responsibility for administering the National Flood Insurance Program.
- (j) Fill: A deposit of earth material placed by artificial means.
- (k) Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters, and/or
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (l) Flood Hazard Boundary Map (FHBM): Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.
- (m) Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.
- (n) Flood Insurance Risk Zones: Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:
 - (1) Zone A: Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.
 - (2) Zones A1-30 and Zone AE: Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.
 - (3) Zone AO: Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.
 - (4) Zone AH: Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.
 - (5) Zone A99: Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.
 - (6) Zone B and Zone X (shaded): Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.
 - (7) Zone C and Zone X (unshaded): Areas determined to be outside the 500-year floodplain.
- (o) Flood Insurance Study (FIS): The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.
(Ord. 2008-68. Passed 10-28-08.)
- (p) Flood Protection Elevation: The Flood Protection Elevation, or FPE, is the base flood elevation plus one foot of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator. (Ord. 2009-7. Passed 1-27-09.)
- (q) Floodway: A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the

cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

- (r) **Freeboard:** A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.
- (s) **Historic structure:** Any structure that is:
 - (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
 - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
 - (3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.
 - (4) Individually listed on the inventory of historic places maintained by the City of Galion's historic preservation program, which program is certified by the Ohio Historic Preservation Office.
- (t) **Hydrologic and hydraulic engineering analysis:** An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.
- (u) **Letter of Map Change (LOMC):** A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:
 - (1) **Letter of Map Amendment (LOMA):** A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.
 - (2) **Letter of Map Revision (LOMR):** A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.
 - (3) **Conditional Letter of Map Revision (CLOMR):** A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.
- (v) **Lowest floor:** The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.
- (w) **Manufactured home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.
- (x) **Manufactured home park:** As specified in the Ohio Administrative Code 3701-27-01, a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.
- (y) **National Flood Insurance Program (NFIP):** The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.
- (z) **New construction:** Structures for which the "start of construction" commenced on or after the initial effective date of the City of Galion Flood Insurance Rate Map, effective June 19, 1985, and includes any subsequent improvements to such structures.
- (aa) **Person:** Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Revised Code Section 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.
- (bb) **Recreational vehicle:** A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (cc) **Registered Professional Architect:** A person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the Revised Code.
- (dd) **Registered Professional Engineer:** A person registered as a professional engineer under Chapter 4733 of the Revised Code.
- (ee) **Registered Professional Surveyor:** A person registered as a professional surveyor under Chapter 4733 of the Revised Code.
- (ff) **Special Flood Hazard Area:** Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.
- (gg) **Start of construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction,

rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

(hh) Structure: A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

(ii) Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(jj) Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

(1) Any improvement to a structure that is considered "new construction,"

(2) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(3) Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure".

(kk) Variance: A grant of relief from the standards of these regulations consistent with the variance conditions herein.

(ll) Violation: The failure of a structure or other development to be fully compliant with these regulations. (Ord. 2008-68. Passed 10-28-08.)

1335.03 ADMINISTRATION.

(a) Designation of the Floodplain Administrator. The Building Inspector of the City of Galion is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

(b) Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

(1) Evaluate applications for permits to develop in special flood hazard areas.

(2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.

(3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.

(4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.

(5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.

(6) Enforce the provisions of these regulations.

(7) Provide information, testimony, or other evidence as needed during variance hearings.

(8) Coordinate map maintenance activities and FEMA follow-up.

(9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

(c) Floodplain Development Permits. It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1335.01(f), until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

(Ord. 2008-68. Passed 10-28-08.)

(d) Application Required. An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall be accompanied by floodplain development application fees set forth from time to time in the Fee Schedule as adopted by City Council, and include, but not be limited to:

(1) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

(2) Elevation of the existing, natural ground where structures are proposed.

(3) Elevation of the lowest floor, including basement, of all proposed structures.

(4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.

(5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:

A. Floodproofing certification for non-residential floodproofed structure as required in Section 1335.04(e).

B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1335.04(d)(5) are designed to automatically equalize hydrostatic flood forces.

C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1335.04(i)(3).

D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood

elevations but no floodway as required by Section 1335.04(i)(2).

- E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1335.04(i)(1).
- F. Generation of base flood elevation(s) for subdivision and large-scale developments as required by Section 1335.04(c). (Ord. 2010-63. Passed 12-14-10.)
- (e) Review and Approval of a Floodplain Development Permit Application.
- (1) Review.
- A. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 1335.03(d) has been received by the Floodplain Administrator.
- B. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.
- (2) Approval. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.
- (f) Inspections. The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.
- (g) Post-Construction Certifications Required. The following as-built certifications are required after a floodplain development permit has been issued:
- (1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
- (2) For all development activities subject to the standards of Section 1335.03(j)(1), a Letter of Map Revision.
- (h) Revoking a Floodplain Development Permit. A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 1335.05 of these regulations.
- (i) Exemption from Filing a Development Permit. An application for a floodplain development permit shall not be required for:
- (1) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.
- (2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.
- (3) Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
- (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
- (5) Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.
- Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.
- (j) Map Maintenance Activities. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Galion's flood maps, studies and other data identified in Section 1335.01(f) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:
- (1) Requirement to submit new technical data.
- A. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 1335.04(c).
- B. It is the responsibility of the applicant to have technical data, required in accordance with Section 1335.03(j)(1), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- C. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
1. Proposed floodway encroachments that increase the base flood elevation; and
 2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- D. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 1335.03(j)(1)A.
- (2) Right to submit new technical data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the City of Galion, and may be submitted at any time.
- (3) Annexation/Detachment. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Galion have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Galion's

Flood Insurance Rate Map accurately represent the City of Galion boundaries, include within such notification a copy of a map of the City of Galion suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Galion has assumed or relinquished floodplain management regulatory authority.

(k) Data Use and Flood Map Interpretation. The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

- (1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
- (2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
- (3) When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:
 - A. Upon the issuance of a Letter of Final Determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.
 - B. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.
- (4) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1335.05, Appeals and Variances.
- (5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.
- (l) Substantial Damage Determinations. Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:
 - (1) Determine whether damaged structures are located in special flood hazard areas;
 - (2) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
 - (3) Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

(Ord. 2008-68. Passed 10-28-08.)

1335.04 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1335.01(f) or 1335.03(k)(1):

(a) Use Regulations.

- (1) Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the City of Galion are allowed provided they meet the provisions of these regulations.
- (2) Prohibited Uses.
 - A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio Revised Code.
 - B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.

(b) Water and Wastewater Systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
- (2) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

(c) Subdivisions and Large Developments.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
- (5) The applicant shall meet the requirement to submit technical data to FEMA in Section 1335.03(j)(1)A.4. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1335.04(c)(4).

(d) Residential Structures.

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring (1335.04(d)(1)) and construction materials resistant to flood damage (1335.04(d)(2)) are satisfied.
- (2) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
- (3) New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

- (4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
- (5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:
 - A. Be used only for the parking of vehicles, building access, or storage; and
 - B. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
 - C. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (6) Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (7) Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section 1335.04(d).
- (e) Nonresidential Structures.
 - (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 1335.04(d)(1) through (3) and (5)–(7).
 - (2) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
 - A. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
 - B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - C. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 1335.04(e) (2)A and B.
- (f) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:
 - (1) They shall not be used for human habitation;
 - (2) They shall be constructed of flood resistant materials;
 - (3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
 - (4) They shall be firmly anchored to prevent flotation;
 - (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
 - (6) They shall meet the opening requirements of Section 1335.04(d)(5)C;
- (g) Recreational Vehicles. Recreational vehicles must meet at least one of the following standards:
 - (1) They shall not be located on sites in special flood hazard areas for more than 180 days, or
 - (2) They must be fully licensed and ready for highway use, or
 - (3) They must meet all standards of Section 1335.04(d).
- (h) Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (i) Assurance of Flood Carrying Capacity. Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:
 - (1) Development in Floodways.
 - A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
 - B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - 1. Meet the requirements to submit technical data in Section 1335.03(j)(1);
 - 2. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 - 3. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
 - 4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
 - 5. Concurrence of the Mayor of the City of Galion and the Chief Executive Officer of any other communities impacted by the proposed actions.
 - (2) Development in Riverine Areas with Base Flood Elevations but No Floodways.
 - A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
 - B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - 1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why

these alternatives are not feasible;

2. Section 1335.04(i)(1)A, items 1 and 3 through 5.

- (3) Alterations of a Watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:
- A. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
 - B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
 - C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the City of Galion specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
 - D. The applicant shall meet the requirements to submit technical data in Section 1335.03(j)(1)A.3. when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.
- (Ord. 2008-68. Passed 10-28-08.)

1335.05 APPEALS AND VARIANCES.

(a) Appeals Board Established.

- (1) The Council hereby appoints the Galion Board of Zoning Appeals as the Appeals Board to hear and decide appeals and requests for variances arising under this Ordinance.
- (2) A chairperson shall be elected by the members of the Appeals Board. Meetings of the Appeals Board shall be held as needed and shall be held at the call of the Chairperson, or in his absence, the Acting Chairperson. All meetings of the Appeals Board shall be open to the public except that the Board may deliberate in executive sessions as part of quasi-judicial hearings in accordance with law. The Appeals Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of all official actions. Records of the Appeals Board shall be kept and filed in Building and Zoning Department

(b) Powers and Duties.

- (1) The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
- (2) Authorize variances in accordance with Section 1335.05(d) of these regulations.

(c) Appeals.

- (1) Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within twenty-one (21) days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.
 - (2) Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.
- (d) Variances. Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship. (Ord. 2008-68. Passed 10-28-08.)

(1) Application for a Variance.

- A. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance application shall transmit it to the Appeals Board.
- B. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; locations of the floodplain; description of the variance sought; and reason for the variance request.
- C. All applications for a variance shall be accompanied by a variance application fee set forth from time to time in the Fee Schedule as adopted by Council. (Ord. 2010-63. Passed 12-14-10.)

- (2) Notice for Public Hearing. The Appeals Board shall schedule and hold a public hearing within thirty (30) days after the receipt of an application for a variance from the Floodplain Administrator. Prior to the hearing, a notice of such hearing shall be given in one (1) or more newspapers of general circulation in the community at least ten (10) days before the date of the hearing.

- (3) Public Hearing. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

- A. The danger that materials may be swept onto other lands to the injury of others.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- D. The importance of the services provided by the proposed facility to the community.
- E. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
- F. The necessity to the facility of a waterfront location, where applicable.
- G. The compatibility of the proposed use with existing and anticipated development.
- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- I. The safety of access to the property in times of flood for ordinary and emergency vehicles.

- J. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Variances shall only be issued upon:

- A. A showing of good and sufficient cause.
- B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
- D. A determination that the structure or other development is protected by methods to minimize flood damages.
- E. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

(4) Other conditions for variances.

- A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 1335.05(d)(3)A through K have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- C. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(e) Procedure at Hearings.

- (1) All testimony shall be given under oath.
- (2) A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
- (3) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
- (4) The administrator may present evidence or testimony in opposition to the appeal or variance.
- (5) All witnesses shall be subject to cross-examination by the adverse party or their counsel.
- (6) Evidence that is not admitted may be proffered and shall become part of the record for appeal.
- (7) The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
- (8) The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

(f) Appeal to the Court. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Crawford Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code. (Ord. 2008-68. Passed 10-28-08.)

1335.06 ENFORCEMENT.

(a) Compliance Required.

- (1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1335.03(i).
- (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1335.06(c).
- (3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 1335.06(c).

(b) Notice of Violation. Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these regulations;
- (3) Specify a reasonable time for performance;
- (4) Advise the owner, operator, or occupant of the right to appeal;
- (5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(c) Violations and Penalties. Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a misdemeanor of the first degree. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Galion. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Galion from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Galion shall prosecute any violation of these regulations in accordance with the penalties stated herein.

(Ord. 2009-07. Passed 1-27-09.)

CHAPTER 1337

Demolition

1337.01 Purpose.

- 1337.02 **Definitions.**
- 1337.03 **Permit required.**
- 1337.04 **Permit application.**
- 1337.05 **Permit fee.**
- 1337.06 **Requirements.**
- 1337.07 **Enforcement.**
- 1337.08 **Violations.**
- 1337.09 **Appeal.**
- 1337.10 **Failure to comply.**
 - 1337.99 **Penalty.**

CROSS REFERENCES

Notice to owner - see Ohio R.C. 715.26(B)
 Removal of dangerous buildings - see Ohio R.C. 715.26(B)
 Cost of - see Ohio R.C. 715.261
 Dangerous buildings - see BLDG. Ch. 1331

1337.01 PURPOSE.

The purpose of this Chapter is to regulate the destruction and removal of buildings and structures within the City of Galion.
 (Ord. 2010-18. Passed 6-22-10.)

1337.02 DEFINITIONS.

As used in the Chapter:

“Code Official” means the supervisor of the Galion Building and Zoning Department and/or the designee of the Mayor.

(Ord. 2010-18. Passed 6-22-10.)

1337.03 PERMIT REQUIRED.

No person shall demolish any building or structure without first making application to the City of Galion Building and Zoning Department and obtaining the required permit.

(Ord. 2010-18. Passed 6-22-10.)

1337.04 PERMIT APPLICATION.

The application for the permit required under Section 1337.03 shall be submitted by the authorized agent of or the owner of the property on which the building(s) or structure(s) to be demolished are located and shall consist of the following:

- (a) Application form as prescribed by the Galion Building and Zoning Department,
- (b) Copy of the most recent deed for the property.
- (c) Copy of the current tax record for the property, and
- (d) Copy of the approval from the Ohio EPA for demolition of commercial and industrial structures, if applicable,
- (e) A certificate of liability insurance in the amount of not less than one hundred thousand dollars (\$100,000) per person or three hundred thousand dollars (\$300,000) per occurrence for bodily injury, including death, and fifty thousand dollars (\$50,000) per accident for property damage. (Demolition contractors only).
- (f) A deposit in the form of a cashier’s check for the following sum to ensure that the site is in proper and safe condition after completion of the demolition:
 - (1) Residential building \$300.00
 - (2) Commercial or industrial building \$600.00

Upon the satisfactory completion of the demolition and the fulfillment of the requirements of this Chapter, the check shall be returned to the applicant.

(Ord. 2010-18. Passed 6-22-10.)

1337.05 PERMIT FEE.

A monetary fee, as listed in the City of Galion Fee Schedule, shall be collected at the time the permit is issued.

(Ord. 2010-18. Passed 6-22-10.)

1337.06 REQUIREMENTS.

By obtaining a permit the property owner agrees to the following requirements as they relate to the demolition of the building(s) or structure(s) and the final site conditions at the completion of the project:

- (a) All demolition and site work is to be completed within thirty (30) days of obtaining the permit. At the request of the property owner or his authorized agent, and at the discretion of the Code Official, an additional thirty (30) days may be granted for the completion of larger commercial or industrial projects.
- (b) All portions of the building(s) or structure(s) and associated systems above and below grade shall be removed, including but not limited to roof, walls, floors, slabs, footers, equipment, piping and cables.
- (c) All debris shall be removed from the site and disposed of in accordance with applicable federal, state and local laws.
- (d) All utility connections shall be disconnected at their point of supply to the property and shall be capped, plugged or terminated in accordance with all local utility procedures and requirements.
- (e) All excavations shall be backfilled with clean fill and compacted.
- (f) The site shall be graded for proper drainage and seeded to prevent soil erosion.

(Ord. 2010-18. Passed 6-22-10.)

1337.07 ENFORCEMENT.

The Code Official is responsible for interpretation and enforcement of the provisions of this Chapter. By obtaining the permit required by Section 1337.03, the applicant and/or the owner authorizes the Code Official to enter upon the property and perform periodic inspections of the demolition site to ascertain compliance with the provisions of this chapter.

(Ord. 2010-18. Passed 6-22-10.)

1337.08 VIOLATIONS.

- (a) The failure to perform and complete any demolition in the City in compliance with this Chapter 1337 is hereby deemed to be a nuisance.

(b) Any owner who fails to comply with any of the requirements listed in Section 1337.06 shall be issued a Notice of Violation by certified mail, by personal delivery or by posting of the property. The Notice of Violation shall inform the owner of all the issues of noncompliance, assign a reasonable time in which to comply with the listed violations, and a means of appeal.

(c) If the owner fails to comply with the Notice of Violation, the Code Official may issue an order(s) for the immediate remedy of all violations. (Ord. 2010-18. Passed 6-22-10.)

1337.09 APPEAL.

Any owner who is aggrieved by a decision of the Code Official may appeal his decision to the Board of Zoning Appeals within twenty (20) calendar days from the mailing, delivery or posting of the Notice, as applicable. An application for a hearing before the Board of Zoning Appeals can be obtained at the Galion Building and Zoning Department.

(Ord. 2010-18. Passed 6-22-10.)

1337.10 FAILURE TO COMPLY.

(a) If the owner fails to comply with a Notice of Violation and either fails to file an appeal or loses his appeal, the Code Official may cause the violations to be corrected, and for such purposes, he may, with the approval of the Mayor, hire necessary labor and equipment or use City forces and equipment to carry out and complete such demolition project in compliance with this Chapter. The cost of any such work shall be deducted from the deposit described in Section 1337.04(f). If any amount is left from such deposit after the City has performed the work, such balance shall be returned to the person who deposited it. If the cost of the work exceeds the collected deposit amount, the balance shall be charged to the owner or the applicant and/or the owner of the property.

(b) If the deposit amount is insufficient to pay for the cost of the work, the owner of the property shall be notified in writing of the expenses incurred by the City to correct the violations and complete the demolition project in compliance with this Chapter. The notifications shall be sent by ordinary U.S. mail addressed to the owner at the address listed in the Crawford County tax records.

(c) The expenses of correcting any violations and completing the demolition in compliance with this Chapter shall include, without limitation, the following costs to the City:

- (1) Administration and supervision,
- (2) Transportation of equipment,
- (3) Equipment rental,
- (4) Equipment operation, and,
- (5) Incidental labor.

(d) In the event the owner of the property fails to pay such expenses within thirty (30) days of notification, such expenses shall be certified by the Mayor to the County Auditor and shall be entered upon the tax duplicate as a lien upon such property and shall be collected as other taxes and assessments and returned to the General Fund of the City.

(e) The authority provided by this section for the Code Official or his designee to enter upon private property, together with the labor and equipment necessary to correct any violations and complete the demolition project in compliance with this Chapter and to cause the cost thereof to be certified to the County Auditor as a lien upon such property shall be in addition to the penalty provided in Section 1337.99.

(Ord. 2010-18. Passed 6-22-10.)

1337.99 PENALTY.

Whoever violates any provision of this Chapter shall be fined not more than one thousand dollars (\$1,000). Each day during which a violation occurs or continues after due notice shall be deemed a separate offense. (Ord. 2010-18. Passed 6-22-10.)

CHAPTER 1339

Exterior Property Litter Control

- 1339.01 Title and scope.**
- 1339.02 Purpose.**
- 1339.03 Definitions.**
- 1339.04 Findings; declaration of policy.**
- 1339.05 Applicability.**
- 1339.06 Conflict of laws.**
- 1339.07 Appeals Board.**
- 1339.08 Enforcement.**
- 1339.09 Maintenance responsibility.**
- 1339.10 General exterior maintenance requirements.**
- 1339.11 Exterior surfaces.**
- 1339.12 Foundations.**
- 1339.13 Roofs, gutters, downspouts, and chimneys.**
- 1339.14 Yard area maintenance. (Repealed)**
- 1339.15 Trimming of trees required.**
- 1339.16 Cutting of weeds and grass required.**
- 1339.17 Carolina or Lombardy poplars.**
- 1339.18 Appurtenant structures.**
- 1339.19 Automobile parking.**
- 1339.20 Ground surface hazards.**
- 1339.21 Abandoned structures and unoccupied lots.**
- 1339.99 Penalty.**

CROSS REFERENCES

Health, safety and sanitation regulations - see GEN. OFF. Ch. 521

1339.01 TITLE AND SCOPE.

This chapter shall be known as the Exterior Property Litter Control Code of the City. It is strictly limited to the establishment of minimum standards for the maintenance of exterior surfaces and exterior functioning units of all structures and buildings within the City, including yard areas immediately contiguous thereto. No provisions of this chapter shall, in any way, directly or indirectly, be interpreted to interfere with, or to limit the right of, any owner or resident to inhabit real property owned or leased by them in such manner and form as they may determine appropriate, consonant with other applicable provisions of law. This chapter is directed to obvious visual problems which may occasion incipient blighting

conditions within the City. All matters of the interior use, occupancy or habitation of any structure or building within the City are specifically excluded from the provisions of this chapter.

(Ord. 87-5636. Passed 7-9-87.)

1339.02 PURPOSE.

The purpose of this chapter is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance, and exterior conditions of all premises throughout the City; to fix certain responsibilities and duties upon owners, residents and managers of the same as to both separate and correlative responsibilities and duties; to authorize and establish procedures for the exterior inspection of such premises; to fix penalties for violations of this chapter; and to provide for the repair, demolition or vacation of premises unfit for human habitation, occupancy or use. This chapter is hereby declared to be remedial and essential for the public interest, and it is intended that this chapter be construed and interpreted to effectuate the purposes as stated herein.

(Ord. 87-5636. Passed 7-9-87.)

1339.03 DEFINITIONS.

(a) "Deterioration" means the condition or appearance characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect or lack of maintenance.

(b) "Mixed occupancy" means any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to nondwelling uses.

(c) "Nuisance" means:

- (1) Any public nuisance known at common law or in equity jurisprudence, or as provided by the statutes of the State or ordinances of the City;
- (2) Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist;
- (3) Unsanitary conditions or anything offensive to the senses or dangerous to health, in violation of this chapter; and
- (4) Fire hazards.

(d) "Owner" means any person who, alone or jointly or severally with others, has legal or equitable title to any premises, with or without accompanying actual possession thereof, or has charge, care or control of any dwelling or dwelling unit, as an owner or an agent of the owner, or as a fiduciary, including, but not limited to, the executor, the administrator, the trustee, the receiver or the guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained.

Any real estate company, firm, corporation, broker or salesman having a listing agreement with the owner of real property for the purpose of the sale of the same, and not having an additional contractual agreement, oral or written, to manage or maintain the same during the continuance of such listing agreement, is specifically exempted from this definition, and does not fall within the purview of Section 1339.03 establishing maintenance responsibility.

(e) "Premises" means a lot, plot or parcel of land, including the buildings or structures thereon.

(f) "Refuse" means all putrescible and nonputrescible solid waste, except body waste, including, but not limited to, garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial wastes.

(g) "Abandoned" means that to which an owner has relinquished all right, title, claim, and possession, with intention of not reclaiming it or resuming its ownership, possession or enjoyment.

(Ord. 87-5636. Passed 7-9-87.)

1339.04 FINDINGS; DECLARATION OF POLICY.

It is hereby found and declared that there exists in the City various and several structures, including yard areas immediately contiguous thereto, which are, or may become in the future, deteriorated or defective with respect to exterior maintenance, or further, that such condition, including but not limited to, structural deterioration, lack of maintenance and appearance of exterior of premises, existence of exterior fire hazards and unsanitary conditions, constitute an immediate threat to the health, safety, welfare and reasonable comfort of the residents and inhabitants of the City. It is further found and declared that, by reason of lack of maintenance and progressive deterioration, the exterior appearance of certain properties have the further effect of creating blighting conditions and initiating depressed neighborhood groupings, and that if the same are not curtailed and corrected, the conditions are likely to grow and spread and necessitate, in time, the expenditure of large amounts of public funds to correct and eliminate the same, and that by reason of timely regulations and restrictions as herein contained, the growth of such blight may be prevented and the immediate neighborhood and property values thereby maintained.

(Ord. 87-5636. Passed 7-9-87.)

1339.05 APPLICABILITY.

Every residential, nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, commercial business or industrial occupancy shall comply with the provisions of this chapter, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this chapter, and without regard to any permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this chapter. This chapter establishes minimum standards for the initial and continued occupancy and use of all such structures and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the building. Where there is a mixed occupancy, residential or nonresidential use therein shall be nevertheless regulated by and subject to the provisions of this chapter.

(Ord. 87-5636. Passed 7-9-87.)

1339.06 CONFLICT OF LAWS.

In any case where a provision of this chapter imposes a higher standard than that set forth in any other chapter by the City or law of the State, then the standard set forth herein shall prevail, but if a provision of this chapter imposes a lower standard than that imposed by any other ordinance of the City or law of the State, then the higher standard contained in any such other ordinance or law shall prevail.

(Ord. 87-5636. Passed 7-9-87.)

1339.07 APPEALS BOARD.

The Zoning Board of Appeals will hear all appeals on the administration of this chapter.

(Ord. 87-5636. Passed 7-9-87.)

1339.08 ENFORCEMENT.

The enforcement of any and all provisions of this chapter is placed with the Mayor and/or his designee, and such person(s), shall carry out and effectuate all of the provisions herein.

(a) Inspection. All buildings and premises within the City are subject to exterior inspections from time to time by the Mayor and/or his designee.

(b) Notice and Appeal.

(1) Where a violation of any provision of this chapter is found to exist, the Mayor and/or his designee shall cause a written notice of such violation to be served upon the person responsible for the correction thereof. The notice shall specify the violation committed and shall provide for a reasonable period of time, not more than sixty days, to correct or abate the violation. In the event that weather is a major consideration in correcting or abating a violation, the Mayor and/or his designee may extend the time set out herein to not more than sixty days immediately following the occurrence of appropriate weather conditions.

(2) Notice may be served personally or by certified mail addressed to the last known address of the person to be served or by leaving a copy thereof at the usual residence of the person to be served. If the last known address cannot be ascertained, the notice shall be posted on the outside front entrance of the structure in alleged violation.

(3) In the absence of an appeal, as provided below, the completion of notice, and failure to comply, shall constitute a Final Order as to these administrative proceedings.

(c) Appeal.

(1) Within ten days of the date of service of notice, any person affected by the notice may request a hearing thereon before the Zoning Board of Appeals by filing a written request with the Chairman of the Board. The Chairman of the Board, upon receipt of the request, shall, within thirty days therefrom, and upon five days notice to the party and the Mayor and/or his designee, set the matter down for hearing. The Board may sustain, modify or dismiss, in whole or in part, any action required to correct or abate the violation set forth in the notice and shall issue an order incorporating its determinations, and such order shall be a Final Order as to these administrative proceedings, provided, however, that any order of modification or dismissal shall be effective for two years following the date of issuance of such order, and thereafter, the subject matter of such order of modification or dismissal may be amendable to further inspection, notice and appeal as set forth herein.

(2) The Zoning Board of Appeals shall consider only the following in determining appropriate action to be taken, to wit:

- A. That any modification of the original order of the Mayor and/or his designee shall not, in any material way, alter the standards of this chapter, and shall not affect detrimentally the health or safety of occupants, or the health, safety and welfare of the occupants or owners of adjacent premises or of the immediate neighborhood; and
- B. That strict enforcement would constitute an undue and unnecessary hardship on the owner, manager or resident, by reason of compelling an expenditure for repair of the premises which would be substantially disproportionate to any benefit to health, safety or welfare of the community that might be derived therefrom.

No license or permit or other certification of compliance with this chapter shall constitute a defense against any violation of any other local ordinance applicable to any structure or premises, nor shall any provision herein relieve any owner, manager or resident from complying with any such other provision, nor any official of the City from enforcing any such other provision.

(Ord. 87-5636. Passed 7-9-87.)

1339.09 MAINTENANCE RESPONSIBILITY.

(a) The owner and/or manager of every structure within the City shall be responsible for maintaining the exterior surfaces of the same in conformance with the provisions of this chapter.

(b) The owner and manager of every structure within the City shall be responsible for maintaining the yard area immediately contiguous thereto in conformance with the provisions of Sections 1339.14 through 1339.17.

(c) Unless expressly provided to the contrary in this chapter, the respective obligations and responsibilities imposed herein upon the owner and manager, as differentiates from those of the tenants, shall not be altered or affected by an agreement or contract by and between any of the aforesaid, or between them and other parties.

(Ord. 87-5636. Passed 7-9-87.)

1339.10 GENERAL EXTERIOR MAINTENANCE REQUIREMENTS.

(a) The exterior surfaces of all structures within the City, be the same functional or aesthetic, shall be maintained in good repair. Any exterior part or feature thereof having functional use shall be capable of performing the use for which such part or feature was designed.

(b) The entire yard area contiguous to all structures within the City, and extending up to and including the lot line in all directions, shall be maintained in a safe, clean and sanitary condition.

(Ord. 87-5636. Passed 7-9-87.)

(c) Any sign in any of the City's zones which becomes obsolete due to the discontinuance of a business, moving of a business, or which becomes dangerous to the public safety, or any other event occurs which negates the usefulness of such sign, shall be removed by the owner within thirty days from the time it becomes obsolete or dangerous. If such obsolete, dangerous, or otherwise abandoned sign is not removed within the thirty day period, the City shall remove the sign and dispose of it with the cost thereof being added to the property tax duplicate.

(Ord. 87-5636. Passed 7-9-87.)

1339.11 EXTERIOR SURFACES.

(a) All exterior surfaces of every structure within the City shall be maintained so as to resist decay or deterioration from any naturally-occurring cause. All exterior surfaces shall be covered with paint, finish or other surface-coating so as to prevent such decay or deterioration. An exterior wall segment, facing or other distinguishable surface area determined by the Mayor and/or his designee to have more than twenty-five percent (25%) of its total area bare, peeling, flaking, pitted, corroded, or otherwise deteriorated shall be surface-coated in its entirety. If the surface to be coated is a portion of a larger structure, such surface coating shall be compatible in color, texture and design with the entire structure. If the entire exterior surface of a structure is to be surface-coated, such surface coating shall be compatible in color, texture and design with similar structures in the immediate neighborhood.

(b) All deteriorated or decayed exterior walls, doors, porches, floors, steps, railings or parts or features thereof, shall be repaired or replaced.

(c) All damaged or broken windows, and deteriorated or decayed sills, sash, molding, lintel, frame or trim thereof shall be repaired or replaced.

(Ord. 87-5636. Passed 7-9-87.)

1339.12 FOUNDATIONS.

(a) The foundation of every structure within the City shall be maintained in such condition and repair as to prevent damage to the structural integrity of the same.

(b) The foundation exterior of every structure within the City shall be free of damaged, loose or missing blocks, bricks, tile or other deteriorated foundation material. All loose, missing or deteriorated mortar shall be repaired or replaced.

(Ord. 87-5636. Passed 7-9-87.)

1339.13 ROOFS, GUTTERS, DOWNSPOUTS, AND CHIMNEYS.

(a) The roof of every structure within the City shall be maintained weather-tight. All missing shingles, or other roofing materials, shall be replaced with materials of similar kind, nature, design and color as the original thereof. Any roof, or distinguishable portion thereof, determined by the Mayor and/or his designee to have more than twenty-five percent (25%) of its total area comprised of missing or deteriorated shingles, or other roofing materials, shall be replaced in its entirety.

(b) Any structure within the City having gutters and/or downspouts in place shall be maintained in such manner as to keep such gutters and/or downspouts free of exterior rust and corrosion. Such rust and corrosion as may develop in the course of ordinary use of the same shall be removed, painted, or otherwise surface-coated so as to keep such gutters and/or downspouts free of visible rust or corrosion.

(c) The chimney of every structure within the City shall be maintained structurally sound and in good repair, free of loose, missing or deteriorated mortar and bricks, or other chimney building materials. Any such loose, missing, or deteriorated mortar or bricks shall be refitted, replaced or repaired.

(Ord. 87-5636. Passed 7-9-87.)

1339.14 YARD AREA MAINTENANCE. (REPEALED)

(EDITOR'S NOTE: Former Section 1339.14 was repealed by Ordinance 2006-46, passed July 11, 2006.)

1339.15 TRIMMING OF TREES REQUIRED.

(a) No person, being the owner or agent of the owner of any lot or parcel of land fronting on any street, avenue or public ground of the City, in front of which trees are planted and growing, shall fail to keep such trees so trimmed as not to obstruct the passage of light from any street lamp in the vicinity thereof. No such owner or agent shall fail to keep all trees in front of his lots and lands so trimmed that all branches overhanging streets and pavements are clear, not less than eight feet above the surface of such streets, avenues or public grounds, nor shall such branches be permitted to extend over any street or highway in the City in such manner as to obstruct the free use of the same, nor to the annoyance and inconvenience of any resident. If any such owner or agent, after being notified by the Mayor and/or his designee to trim such trees, refuses or neglects to do the same as ordered within five days, the same shall be done or caused to be done by the Mayor and/or his designee and he shall certify the cost and expense thereof and the same together with a penalty of twenty-five percent (25%) of the cost and expense shall be assessed against the lots or lands. Such remedy shall be in addition to the penalty provided in subsection (b) hereof.

(b) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor.

(c) Those tree limbs interfering with electric/Continental cable lines will be trimmed by the City at no expense to property owners.

(Ord. 87-5636. Passed 7-9-87.)

1339.16 CUTTING OF WEEDS AND GRASS REQUIRED.

(a) No owner of any lot or parcel of land of three acres or less within this City shall fail to keep the weeds and grass cut and trimmed upon the property, including the public right of way upon which such property abuts. The owner shall cut such weeds and grass so that height of weeds and grass shall not exceed six inches at any time of year.

(b) If any owner fails to keep the grass and weeds on such property cut and trimmed as provided in subsection (a) hereof, the Mayor and/or his designee shall notify, in writing, the owner of such property that the grass and weeds thereon must be cut within five days and in case such notice is not complied with it shall be the duty of the Mayor and/or his designee to cause such grass and weeds to be cut and trimmed and the expense thereof shall be charged to the owner of such property and in default of payment thereof the same together with a penalty of twenty-five percent (25%) of such costs and expense shall be assessed and certified to the County Auditor for collection as special taxes and assessments. Such remedy shall be in addition to the penalty provided in subsection (c) hereof.

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

(Ord. 87-5636. Passed 7-9-87.)

1339.17 CAROLINA OR LOMBARDY POPLARS.

(a) No person shall plant or set out upon or near any street, alley or sidewalk of the City any tree of the variety commonly known as Carolina or Lombardy poplar.

(b) If the owner of any Lombardy or Carolina poplar, after being notified by the Mayor and/or his designee to cut down and destroy the same, refuses or neglects to do so within five days of the notification, then such trees shall be caused to be cut down and destroyed by the Mayor and/or his designee. Such remedy shall be in addition to the penalty provided in subsection (c) hereof.

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

(Ord. 87-5636. Passed 7-9-87.)

1339.18 APPURTENANT STRUCTURES.

(a) All structures located in the yard area contiguous to any residential and commercial structure within the City, such as sheds, barns, garages, bins and the like, shall be maintained in good repair in conformance with other provisions of this chapter having regard to foundations, roofs and exterior surfaces.

(b) Any broken, deteriorated or decayed fence, yard enclosure or other device or structure located in the yard area contiguous to any residential or commercial structure within the City shall be repaired or removed.

(Ord. 87-5636. Passed 7-9-87.)

1339.19 AUTOMOBILE PARKING.

(a) No motor vehicle or trailer shall be parked in any part of the yard area contiguous to a residential or commercial structure within the City, other than that area designated by custom and use as the driveway or parking lot, for a cumulative amount of time greater than six hours in any forty-eight hour period.

(b) Other than as is provided in subsection (a) hereof, the parking and storage of all motor vehicles, trailers and other equipment shall be in accordance with the provisions of the Traffic Code and the Ohio Revised Code.

(Ord. 87-5636. Passed 7-9-87.)

1339.20 GROUND SURFACE HAZARDS.

Holes, cracks, excavations, breaks, projections and obstructions at any place on the premises which, in the opinion of the City Manager and/or his designee, are a hazard to persons using the premises shall not be permitted.

(Ord. 87-5636. Passed 7-9-87.)

1339.21 ABANDONED STRUCTURES AND UNOCCUPIED LOTS.

(a) If any structure shall become abandoned, such structure shall be presumed to be a nuisance affecting or endangering surrounding property values and to be detrimental to the public health, safety, convenience, comfort, property or general welfare of the community and shall be abated.

(b) Whenever the Mayor and/or his designee shall find any structure to be abandoned within the meaning of Section 1339.21, he shall give notice in the same manner as service of summons in civil cases or by certified mail addressed to the owner of record of the premises at his last known address or to the address to which tax bills are sent, or by a combination of the foregoing methods, to abate such abandoned condition within thirty days either by placing the structure in operation in accordance with this section, adapting and using the structure for another use, or by razing the structure, removing all debris, any signs, goods, supplies and equipment, and filling depressions to the grade level of the lot, provided, however, that if the structure is in use at the time notice is given and remains in operation for ninety consecutive days, the provisions of this section

shall not apply.

(c) Upon the failure, neglect or refusal of any owner to comply with the notice to abate such abandonment, the Mayor and/or his designee, shall advise the Director of Law of all the facts and the Director of Law shall proceed to exercise on behalf of the City any remedy which shall then be available to it to secure an abatement of such abandonment, including any that pertains to the abatement of a public nuisance, and to recover any damages or enforce any penalties which may be recovered or imposed by the City.

(d) Unoccupied or inoperative structures, whether or not abandoned, the lot upon which any such structure is located, with any other unoccupied lot, shall be maintained in accordance with the provisions of this chapter. Any such lot shall be provided with grass or other appropriate ground cover or landscaping material so as to assure absorption of rainfall and prevent erosion and rapid run-off of surface water. The owner shall cut and maintain all grass or other ground cover and remove all rubbish and weeds from the premises. The parking of motor vehicles upon such premises shall be prohibited, and the Mayor and/or his designee may order the owner of the premises to install fencing approved by the Mayor and/or his designee which will be sufficient to block motor vehicles access to the property.

(Ord. 87-5636. Passed 7-9-87.)

1339.99 PENALTY.

(a) Whenever the person charged herein with the maintenance of a structure or premises fails to comply with any Final Order as provided in this chapter, the Director of Law shall institute appropriate action at law.

(b) Whoever fails to comply with any Final Order issued for a violation of this chapter shall be, upon conviction of the same, guilty of a minor misdemeanor. A separate offense shall be deemed committed each day on which a violation or noncompliance occurs or continues.

(c) Whoever, within two years of a prior conviction under this chapter, fails to comply with any Final Order issued for a violation of this chapter, shall be, upon such subsequent conviction within two years, guilty of a misdemeanor of the fourth degree. A separate offense on such subsequent failure to comply within two years shall be deemed committed each day for which noncompliance occurs or continues.

(Ord. 90-6001. Passed 1-26-93.)

CHAPTER 1341

Swimming Pools

1341.01 Private outdoor swimming pools.

1341.02 Public, community or club swimming pool.

CROSS REFERENCES

Authority to establish and maintain a Municipal swimming pool - see Ohio R.C. 717.01, 755.12

1341.01 PRIVATE OUTDOOR SWIMMING POOLS.

A private swimming pool is any pool, lake or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than .5 meters (1 foot). No such swimming pools, exclusive of portable swimming pools with a diameter less than 3.7 meters (12 feet) or with an area of less than 9.3 square meters (100 square feet), shall be allowed in any commercial or residential district except as an accessory use and unless it complies with the following additional requirements:

(a) The pool is intended and is to be used solely by the occupants and guests of the principal use of the property on which it is located;

(b) It may not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than 3 meters (10 feet) to any property line of the property on which located;

(c) The pool, or the entire property on which it is located, shall be so walled or fenced so as to prevent uncontrolled access by children from the street or from adjacent properties. Such fences or wall shall be at least 1.5 meters (5 feet) in height and maintained in good condition, with a gate and lock.

1341.02 PUBLIC, COMMUNITY OR CLUB SWIMMING POOL.

A public, community or club swimming pool is any pool constructed by the City, an association of property owners, or by a private club for use by the general public or by members of the association or club and their families. Public, community and club swimming pools are permitted in all districts, but shall comply with the following conditions and requirements:

(a) The pool is intended solely for the use of the general public or the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated;

(b) The pool and accessory structures thereto, including the unenclosed areas used by the bathers, shall not be closer than 30.5 meters (100 feet) to any property line of the property on which it is located;

(c) The pool and all of the area used by the bathers shall be so walled or fenced as to prevent uncontrolled access by children from the street or from adjacent properties. Such fence or wall shall be 1.8 meters (6 feet) in height and maintained in good condition, with a gate and lock.

CHAPTER 1345

Fences

1345.01 Scope.

1345.02 Definitions.

1345.03 Standards for Residential Districts.

1345.04 Standards for Commercial Districts.

1345.05 Standards for Industrial Districts.

1345.06 General conditions for all fences.

1345.07 Shrubbery and hedges.

1345.08 Administration.

CROSS REFERENCES

Barbed wire; electrical - see GEN. OFF. 521.07

Broken, repairing of - see BLDG. 1339.18(b)

Pool - see BLDG. 1341.01, 1341.02

1345.01 SCOPE.

(a) This section sets forth regulations pertaining to the location, installation and standards for new fences in all zoning districts in the City.

(b) Any fence erected prior to the date of the adoption of this section which does not comply with these regulations shall be nonconforming. However, the Zoning Inspector may order appropriate remedial measures to alleviate any hazardous conditions related to any fence, whether newly constructed following adoption of this section, or constructed prior to the adoption of this section, and whether conforming or nonconforming, when the Zoning Inspector determines that such condition, without immediate remedial measures jeopardizes the health and safety of nearby residents or occupants.

(Ord. 93-6004. Passed 2-9-93.)

1345.02 DEFINITIONS.

(a) "Fence" means any structure composed of wood, iron, steel, masonry, stone or other material and erected in such a manner and in such location as to enclose, secure, partially enclose or secure, provide privacy, decorate, define or enhance all or any part of any premises.

(b) "Privacy fence" means a fence more than three feet six inches high to a maximum of eight feet intended to inhibit public view and provide seclusion, and when viewed at right angles has less than sixty-six percent (66%) of its area open to light and air. Examples of privacy fences include, but are not limited to:

(1) Basketweave or woven fences. Made of interwoven strips or slats of flexible or semi-flexible material in which the pattern has the appearance of a "basketweave".

(2) Louver or ventilating fences. Made of a series of slats placed at an angle or positioned so as to provide air but to deflect light perpendicular to its vertical plane.

(3) Board-on-board fences. Made of vertical wood planks supported by horizontal framing with the vertical planks usually mounted on alternating sides of the framing. The planks may or may not be placed with a space between.

(4) Masonry walls.

(c) "Ornamental fence" means a fence not exceeding three feet six inches in height constructed as a landscape or design feature to enhance a property by defining driveways, walkways or gardens, or intended for site decoration. Such ornamental fence shall not be intended to provide enclosure or security. Examples of ornamental fences include, but are not limited to:

(1) Rail or split rail. Constructed of narrow or whole split wooden timbers placed horizontally between upright supporting poles.

(2) Picket fences. Made of upright pales or slats.

(3) Decorative masonry walls.

(d) "Open fence" means a fence more than three feet six inches in height for decoration or to provide secure enclosure (such as to contain children or pets, or to prevent intrusion or trespassing) and has an open area greater than sixty-six percent (66%). Examples of open fences include, but are not limited to:

(1) Chain link fence. Usually made of metal consisting of loops and wires interconnected in a series of joined links.

(2) Rail, split rail, picket fences or wrought iron fences. Shown as examples in subsection (c) above when they satisfy the definition of "open fences".

(e) "Fence open area" means the percentage of the surface area which is open to light and air. Any required open area shall apply to any reasonable segment of the fence surface (approximately any one or two square feet) along any portion of the lengths or height of a fence.

(f) "Temporary fences" means fences erected for a specific function and limited duration. For the purposes of these regulations, temporary fences are limited to "snow fence" in place no longer than from November 1 - April 15, and "construction fences" which enclose a construction site for the duration of the construction period.

(g) "Wrought iron fence" means a decorative fence, including gates and posts, made of wrought iron or similar materials which reflect period architecture and design. Said fences, exclusive of gates and posts, shall not exceed four feet in height. (Ord. 97-6257. Passed 4-22-97.)

1345.03 STANDARDS FOR RESIDENTIAL DISTRICTS.

(a) Front Yards.

(1) Any ornamental fence may be permitted in a front yard provided that:

A. They are located in the front yard between the house and the right-of-way property line, or in the event there is a sidewalk parallel to the street located outside the public right-of-way, then between the house and the edge of the sidewalk farthest from the street.

B. They are erected in conjunction with appropriate landscaping, and are in scale with, harmonious and compatible with the residence on the property.

(b) Side and Rear Yards. The following fences only shall be permitted:

(1) Ornamental fences or wrought iron fences.

(2) Open fences to a maximum height of five feet provided that such fences may be constructed to a maximum height of eight feet when the property line abuts property in a commercial or industrial district.

(3) Privacy fences to a maximum height of eight feet.

(c) As used in this section:

(1) "Residential districts" shall mean and include the R-1A, R-1B, R-1C, RO and ROR districts established by the Zoning Ordinance, also known as Ordinance No. 91-5897.

(2) "Front yard" means the area extending between the side lot lines across the portion of a lot adjacent to a street and having a depth from the public right-of-way property line to front facade of the house.

(Ord. 97-6257. Passed 4-22-97.)

1345.04 STANDARDS FOR COMMERCIAL DISTRICTS.

In any Commercial District only ornamental fences or wrought iron fences as defined in this chapter shall be erected between the street line and the building setback line. No fence in a Commercial District shall exceed a height of eight feet. Fences proposed on a site in any Commercial District shall be reviewed by the Zoning Inspector and approved if he determines that the proposal is consistent with any previously approved plan, is compatible with the current site development if there is no approved plan; and will have a minimum adverse impact on the surrounding area. (Ord. 97-6257. Passed 4-22-97.)

1345.05 STANDARDS FOR INDUSTRIAL DISTRICTS.

In any Industrial District no fence shall be erected between the street line and the building setback line. No fence in an Industrial District shall exceed a height of ten feet. Fences proposed on a site in any Industrial District shall be reviewed by the Zoning Inspector and approved if he determines that the proposal is consistent with any previously approved plan, is compatible with the current site development if there is no approved plan; and will have a minimum adverse impact on the surrounding area.

(Ord. 93-6004. Passed 2-9-93.)

1345.06 GENERAL CONDITIONS FOR ALL FENCES.

(a) No privacy fences shall be permitted within twenty feet in any direction from a point where a driveway intersects with a sidewalk, or a front

property line if there is no sidewalk.

(b) No barbed wire fence shall be constructed, erected or maintained in any district except when being used as part of a security fence in a Commercial or Industrial District, provided that it is a minimum of seven feet above natural grade.

(c) No electrically-charged fence shall be constructed, erected or maintained in any district.

(d) All fences shall be maintained in good condition, be structurally sound and attractively finished at all times. Any ground between the fence and property line shall be well maintained.

(e) No chain link or mesh wire fence shall be constructed in any residential district unless the unfinished and sharp edges on the fence are pointing toward the ground. The top edges of all metal fences constructed, erected or maintained in any residential district shall be of a smooth finish with no protruding sharp edges.

(f) In order for a fence to be constructed adjacent to, or in proximity with a property line, the property owner proposing the fence shall:

(1) Construct the fence of maintenance-free materials as determined by the Zoning Inspector.

(2) Construct the fence so it can be easily dismantled from its owner's side for the purpose of maintaining it entirely within the owner's property; or

(3) Enter into a written agreement with the neighboring property owner stating that the owner of the fence has free access to the neighboring property for the purpose of maintaining the fence and land beneath. A copy of this agreement must be submitted with the application for a fence permit.

If at least one of these conditions is not met, the fence shall be placed a minimum of three feet from the neighboring property line.

(g) At all street intersections, the intersections of private driveways and public rights of way, and the intersections of two private driveways, and twenty feet in any direction therefrom, there shall be no fence or dense vegetation above a height of three feet above the grade which would impede the clear vision between vehicles and pedestrians at such intersections.

(h) All fences on a parcel shall have a unified style along a single plane and for all fence segments visible, from off the premises, from any single direction.

(i) All swimming pools shall be fenced so as to prevent uncontrolled access by children from the street or from adjacent properties. Such fences must be a minimum of five feet in height; all openings, doorways and entrances into the pool area shall be equipped with gates of equal height with the fence, which gates shall be provided with latches and locks.

(Ord. 93-6004. Passed 2-9-63.)

1345.07 SHRUBBERY AND HEDGES.

No shrubbery or hedge shall be planted beyond the property lines. It shall be the duty of the owner or occupant of realty on which there is shrubbery or hedges so located as to affect the vision of drivers on the public streets, to keep the same trimmed to a maximum of three feet in order to avoid creating traffic hazards. Where this is not done within ten days after notice by the Zoning Inspector, it shall be lawful for the employees of the City to enter upon such property and trim the shrubbery or hedge at the expense of the property owner. Any shrub or hedge found to be located upon public property may be removed by the City at any time.

(Ord. 93-6004. Passed 2-9-93.)

1345.08 ADMINISTRATION.

(a) Permit. No fence shall be constructed, altered or reconstructed without a permit from the Zoning Inspector after an application for same has been approved. The fee for a fence permit shall be ten dollars (\$10.00). No permit or fee shall be required for repairs or maintenance of a fence.

(b) Inspection. It shall be the duty of each property owner to determine property lines and to ascertain that the fence thus constructed does not deviate from the plans as approved by the City, and such fence does not encroach upon another lot or parcel of land. The City shall furnish such inspection as is deemed necessary to determine that the fence is constructed in accordance with plans submitted for permit, provided, however, that the issuance of the permit by the City shall not be construed to mean the City has determined the fence is not encroaching upon another lot, nor shall it relieve the property owner of the duty imposed upon him herein.

(c) Approval Forms. The Zoning Inspector shall provide suitable forms which a property owner shall use when securing approval of an abutting property owner for erection of a fence pursuant to these regulations.

(d) Appeals.

(1) On appeal from a decision of the Zoning Inspector, the Board of Zoning Appeals may permit variances from these regulations in cases where exceptional physical conditions exist or the established regulations or standards of this section are inappropriate or inapplicable, and the requested variances will not adversely affect adjoining property.

(2) Failure to follow the above course of appeal shall cause dismissal of appellant's case.

(e) Penalty. Whoever violates any provision of this section, and upon conviction thereof, shall be guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00). Each day that such violation continues shall constitute a separate offense.

(Ord. 93-6004. Passed 2-9-93.)

CHAPTER 1349

Exterior Lighting

1349.01 Purpose.

1349.02 General restriction.

1349.03 Violation notice.

1349.04 Exceptions.

1349.99 Penalty.

1349.01 PURPOSE.

The purpose of this chapter is to promote the health, safety, and convenience of residents of the City by prohibiting and eliminating the installation and operation of exterior lighting which shines, glares, reflects, or is directed in such manner or with such degree of brightness as to be detrimental, disturbing or distracting to the owners of residential properties and the operators of vehicles upon public streets and alleys. The violation of the restrictions contained in this chapter is hereby declared to be a nuisance. (Ord. 2000-60. Passed 9-12-00.)

1349.02 GENERAL RESTRICTION.

No owner or occupant of property shall install or operate, or permit the installation or operation of, exterior lighting upon any building, sign or property owned, occupied or used by him unless such exterior lighting is designed and placed in such a manner as to confine the illumination to the property upon which it is operated and is shielded, shaded or otherwise arranged so as to prevent glare and the reflection of light upon adjacent residential districts and adjacent residences, and public streets and alleys. (Ord. 2000-60. Passed 9-12-00.)

1349.03 VIOLATION NOTICE.

Prior to charging any person with a violation of this chapter, the City of Galion shall serve upon the owner or occupant of the property by personal service, regular U.S. Mail, or by posting a notice in a conspicuous place upon the property advising the owner or occupant of the alleged violation of this chapter and granting such owner or occupant fourteen days within which to comply with this chapter. If the owner or occupant fails to bring the property into such compliance within the fourteen day period, a complaint may be issued.

(Ord. 2000-60. Passed 9-12-00.)

1349.04 EXCEPTIONS.

The following are exempt from the restrictions described in 1349.01:

- (a) Exterior residential lights when the initial lumen output does not exceed 2,850 lumens (150 watt incandescent A lamp)
- (b) Street lights.
- (c) Outdoor light fixtures producing light directly from fossil fuel, such as kerosene lanterns or gas lamps.
- (d) All low voltage lighting and holiday lighting.
- (e) Illumination for flag poles and monuments for governmental entities and institutions. (Ord. 2000-60. Passed 9-12-00.)

1349.99 PENALTY.

Whoever violates this chapter shall be fined not more than one hundred dollars (\$100.00) for a first offense, and shall be fined not more than two hundred fifty dollars (\$250.00) for any subsequent offense occurring within a period of two years of a prior violation. Each day the violation continues shall be deemed a separate offense.

(Ord. 2000-60. Passed 9-12-00.)

CHAPTER 1353

Signs (Repealed)

EDITOR'S NOTE: Former Chapter 1353 was repealed by Ordinance 2013-39.

CHAPTER 1357

Dumping

1357.01 Dumping prohibited.

1357.02 Dumping permit.

1357.03 Enforcement.

1357.04 Interpretation.

1357.99 Penalty.

1357.01 DUMPING PROHIBITED.

No person shall dump, cause to be dumped or permit to be dumped on any property within the City any earth, stone, bricks, broken concrete, broken asphalt or any similar nonorganic materials unless there has been a permit issued to the owner of the property where the dumping is to occur. Such permit shall remain in full force and effect as provided by this chapter.

(Ord. 2005-39. Passed 5-10-05.)

1357.02 DUMPING PERMIT.

Any person desiring to dump or to allow dumping upon any property owned by them shall first apply for and obtain a permit from the Zoning Department. Such permit shall be issued only in accordance with the following terms and conditions:

- (a) The application shall contain the name and address of the property owner and a complete description of the property where the dumping is to occur.
- (b) No materials other than those specified above shall be dumped or placed on such property.
- (c) The property owner shall file a finished grade plan approved by the City Engineer and in accordance with the Stormwater Management Regulations of the City, including without limitation subsections 923.06(b)(2), (4), (5) and (7) thereof.
- (d) The property owner shall solely be responsible for the type of material placed or dumped upon his property and shall immediately remove any material not permitted in Section 1357.01.
- (e) The property owner shall deposit with the City a surety bond, certified check or cashier's check or cash in the amount of one thousand dollars (\$1,000.00) as a guarantee for the faithful performance of his responsibility under this section. In the event the property owner fails to comply with the duties and responsibilities of this section, the City may perform the same and the costs thereof shall be charged against such bond. Upon completion or upon expiration of the dumping permit, the bond or portion remaining thereof shall be returned to the property owner.
- (f) A permit under this section shall be in force and valid for a period of one year from the date of issuance, unless the permit is revoked for violations of this section.
- (g) The fee for each permit issued under this section shall be fifty dollars (\$50.00).

(Ord. 2005-39. Passed 5-10-05.)

1357.03 ENFORCEMENT.

Should the City determine that any of the provisions of a dumping permit are being violated, notice shall be given to the permit holder to correct the same. Should the permit holder fail to correct the noted violations within five (5) workdays, the permit shall be revoked and the bond or portion thereof shall be forfeited.

(Ord. 2005-39. Passed 5-10-05.)

1357.04 INTERPRETATION.

This chapter shall apply only to dumping which is intended to raise the elevation of the ground and shall not apply to any filling or dumping incidental or agricultural or landscaping purposes that does not result in a significant change in the topography of the property.

(Ord. 2005-39. Passed 5-10-05.)

1357.99 PENALTY.

Whoever violates any provisions of this chapter is guilty of a misdemeanor of the fourth degree for the first offense and a misdemeanor of the third degree for each subsequent offense. Each day of violation shall constitute a separate offense.

(Ord. 2005-39. Passed 5-10-05.)

CHAPTER 1361

Solid Waste

- 1361.01 Definitions.**
- 1361.02 Premise sanitation.**
- 1361.03 Notice to remove solid waste/abate nuisance.**
- 1361.04 Failure to remove solid waste/abate nuisance.**
- 1361.05 Exceptions.**
- 1361.06 Disposal of garbage or refuse in public containers prohibited. (Repealed)**
- 1361.07 Storage of junk tires.**
- 1361.08 Yard maintenance area.**
- 1361.99 Penalty.**

CROSS REFERENCES

Collection of garbage, solid waste and other discarded materials - see BUS. REG. Ch.

719

1361.01 DEFINITIONS.

As used in this chapter:

- (a) "Composting" means the controlled biological decomposition of organic solid waste under aerobic conditions.
- (b) "Construction and demolition debris" means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways. "Construction and demolition debris" does not include materials identified or listed as solid wastes or hazardous wastes in this chapter.
- (c) "Garbage" means any putrescible animal or vegetable waste resulting from the handling, processing, preparation, cooking, and service of food.
- (d) "Hazardous waste" means any waste or combination of wastes in solid, liquid, semisolid, or contained gaseous form that in the determination of the Director, because of its quantity, concentration, or physical or chemical characteristics, may do either of the following:
 - (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;
 - (2) Post a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of, or otherwise managed.
 Hazardous waste includes any substance identified by regulation as hazardous waste under the "Resource Conservation and Recovery Act of 1976 (RCRA)", 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and does not include any substance that is subject to the "Atomic Energy Act of 1954", 68 Stat. 919, 42 U.S.C.A. 2011, as amended.
- (e) "Infectious waste" as defined by Section 3734.01 of the Ohio Revised Code.
- (f) "Licensed solid waste hauler" means any person engaged in commercial collection activities within the City of Galion, Ohio, who has been issued a license by the Galion City Board of Health to engage in said activity.
- (g) "Nuisance" means any condition or use of premises, building, structure, or exterior, or any substance or material(s) which are or may become noxious, injurious, or dangerous to public health or safety.
- (h) "Person" means any individual, firm, corporation, association, partnership, political subdivision, or other entity.
- (i) "Premises" means any land, building, or structure on or in which solid waste may be placed, deposited, kept, accumulated, and/or stored.
- (j) "Solid waste" means such unwanted residual solid or semisolid material as results from residential, industrial, commercial, agricultural, and community operations, and includes, but is not limited to: putrescible animal or vegetable wastes, resulting from the handling, processing, preparation, cooking, or serving of food; litter, garbage, junk, ashes, crockery, glass, plastics, textiles, old or discarded clothing, wood, cardboard, paper, and other wood pulp products, rubber, leather, old or scrap ferrous and nonferrous metals (aluminum, brass, copper, iron, steel, tin), wire, automobile parts, tires, batteries, household appliances, electronics, household furnishings, bedding, mattresses, carpet, padding, rugs, shingles, debris, street dirt, or anything else of an unsightly or unsanitary nature, regardless of being combustible or noncombustible material. Solid waste shall not include earth or material from construction, mining, or demolition operations, or other waste materials of a type that would normally be included in demolition debris, nontoxic fly ash, spent nontoxic foundry sand, and slag, and other substances that are not harmful or inimical to public health, and any material that is an infectious waste or a hazardous waste.
- (k) "Vector" means any insect or arthropod, rodent, or other animal of public health significance capable of harboring or transmitting the causative agents of disease to humans.
- (l) "Yard waste" means such materials as grass clippings, leaves, shrub trimmings, branches, herbaceous waste, branches, and other plant waste that is generated as a result of gardening, landscaping, or similar activities. Yard waste does not include industrial or agricultural processing waste. Yard waste is a solid waste.

(Ord. 2006-46. Passed 7-11-06.)

1361.02 PREMISE SANITATION.

(a) Every occupant of a business building, multiple dwelling, dwelling, or dwelling unit shall store and dispose of all garbage and solid waste in a clean, sanitary and safe manner.

(b) Every owner of a business building and every owner of a dwelling containing three or more dwelling units shall provide and maintain adequate garbage and solid waste receptacles for the sanitary and safe storage and/or disposal of garbage and solid waste. In the case of a building containing one or two unit dwellings, it shall be the responsibility of each occupant to provide and maintain adequate garbage and solid waste storage and disposal receptacles. The total capacity of all provided garbage and solid waste storage receptacles shall be adequate to meet the needs of the occupants of the business building, multiple dwelling, dwelling or dwelling unit, as the case may be.

(c) All garbage and solid waste receptacles shall be vermin-proof, watertight, structurally strong to withstand handling stress, easily filled, emptied and cleaned, shall be provided with tight-fitting covers or similar closures, and shall be maintained at all times in a clean and sanitary condition. Receptacles shall be covered with tight-fitting lids at all times, except as may be necessary for the deposit of garbage or solid waste. Plastic bags may be used as garbage and solid waste receptacles liners, but shall not be used without the receptacle for on-site storage thereof.

(d) It shall be the responsibility of the owner of any garbage or solid waste receptacles to clean and maintain same in a nuisance-free condition. An undue accumulation of material on the sides or bottom of the receptacle will constitute a violation of this section. If a bulk receptacle is leased, it shall be the responsibility of the lessor to clean and maintain the receptacle in a nuisance-free condition.

(e) Solid waste shall be removed from all residential buildings and premises at least weekly to prevent odors, harborage of vector organisms and nuisance conditions. Solid waste shall be removed from any building and premises operated for commercial and/or industrial uses at such frequency as the Health Commissioner may determine based upon a review of the types and quantities of solid waste produced.

(f) No person owning, leasing, occupying, or having charge of any lot or premises, shall maintain or keep any nuisance resulting from the

improper storage or disposal of solid waste. This includes, but is not limited to, the keeping or deposition on, or the scattering over the premises, of any of the following:

- (1) Lumber, building materials, firewood, or construction and demolition debris, scattered or kept in a manner which creates a condition that permits vector harborage or other public health hazard. Lumber, building material and/or firewood should be stored 8-12 inches above ground level.
 - (2) Any compost pile which is in such a condition as to spread disease, emit noxious odor(s) or harmful gas, or attract or harbor vector organisms. However, the presence of earthworms in a compost pile does not constitute a nuisance.
 - (g) No person shall place or dispose in any manner, upon any public property or upon the premises of another, any solid waste substance, solid waste, garbage, refuse or material which may become noxious, offensive, injurious, or dangerous to public health or safety.
 - (h) All solid waste shall be properly disposed at a licensed solid waste facility or an approved recycling center.
 - (i) Infectious and hazardous waste will be collected, stored, transported, and disposed in accordance with Ohio R.C. 3734.05 through 3734.22.
- (Ord. 2006-46. Passed 7-11-06.)

1361.03 NOTICE TO REMOVE SOLID WASTE/ABATE NUISANCE.

(a) Upon receipt of information of violation(s) of Section 1361.02, the Health Commissioner or his/her designee shall issue a written Notice of Violation to the owner, lessee, agent or tenant having charge of, or responsibility for, the maintenance of such lots, lands or premises. Such Notice shall state that the solid waste must be collected and removed within seven days after service of the notice. The Notice shall be served by delivering it personally to such person or by sending it by certified mail, return receipt requested, to such person addressed to his or her usual place of residence or to the address listed in the Crawford County tax records. If such Notice is sent by certified mail, and such service has been refused or is unclaimed by the addressee, said Notice may then be served by sending it by regular U.S. Mail. If the address of the owner, lessee, agent or tenant having charge of, or responsibility for, the maintenance of such lots, lands, or premises is unknown, it is sufficient to publish the Notice once in a newspaper of general circulation in the City.

(b) Every Notice to remove the solid waste and abate the nuisance shall state that if the Notice is not complied with within the time limit provided therein, in addition to the penalty provided in Section 1361.99, any and all costs incurred by the City in the removal of solid waste and the abatement of the nuisance shall be entered upon the tax duplicate and shall be a lien upon such lands.

(c) When a written Notice of Violation has been issued in accordance with the provisions of this section, such Notice shall constitute adequate and effective notice for all enforcement purposes under this chapter with respect to continuing or repeat violations of Section 1361.02 for a period of one year following the date such initial Notice was served.

(Ord. 2006-46. Passed 7-11-06.)

1361.04 FAILURE TO REMOVE SOLID WASTE/ABATE NUISANCE.

(a) If the owner, lessee, agent or tenant having charge of, or responsibility for, the maintenance of the lots or lands fails to comply with the written notice described in Section 1361.03, the Mayor or his designee shall thereupon cause the removal of solid waste and the abatement of the nuisance, and for such purposes he may, at his discretion, hire the necessary labor and equipment or use City forces and equipment to carry out the provisions of this section. All expenses incurred shall, when approved by the Mayor, be paid out of municipal funds not otherwise appropriated.

(b) The owner of such lot or land shall be notified in writing of expenses incurred by the Mayor or his designee to remove the solid waste and abate the nuisance. The notification shall be sent by ordinary U.S. Mail addressed to the owner at the address listed in the Crawford County tax records.

(c) In the event the owner of such lot or land shall fail to pay such expenses within fourteen days of notification, such expenses shall be certified by the Mayor to the County Auditor and shall be entered upon the tax duplicate as a lien upon such lot or lands and shall be collected as other taxes and assessments and returned to the General Fund of the City.

(d) The expenses of the removal of solid waste and the abatement of the nuisance shall include the following costs to the City:

- (1) Administration and supervision;
- (2) Transportation of equipment;
- (3) Equipment rental;
- (4) Equipment operation;
- (5) Incidental labor.

(e) The authority provided by the section for the Mayor or his designee to enter upon private property to remove the solid waste and abate the nuisance, and cause the cost thereof to be certified to the County Auditor as a lien upon such lot or lands shall be in addition to the penalty provided in Section 1361.99.

(Ord. 2006-46. Passed 7-11-06.)

1361.05 EXCEPTIONS.

Sections 1361.02 through 1361.04 do not apply to land being used under a municipal building or construction permit or license to land upon which a junkyard, scrap metal processing facility, recycling center or similar business is being operated as a use permitted under the City Zoning Ordinance, or to land being used under a permit or license issued pursuant to Ohio R.C. Chapter 3734, Ohio R.C. 4737.05 to 4737.12, or Ohio R.C. Chapter 6111.

(Ord. 2006-46. Passed 7-11-06.)

1361.06 DISPOSAL OF GARBAGE OR REFUSE IN PUBLIC CONTAINERS PROHIBITED. (REPEALED)

(EDITOR'S NOTE: Former Section 1361.06 was repealed by Ordinance 2018-26, passed May 22, 2018. See Section 521.14 for relevant provisions.)

1361.07 STORAGE OF JUNK TIRES.

(a) No person shall store tires outside of a building unless the owner of the building operates a business therein dealing with tires.

(b) Any person who operates a business dealing with tires and stores tires on the exterior of his or her building shall do the following:

- (1) Remove the tires on a regular basis not less than once every ten days.
- (2) Store the tires no closer than twenty-five feet from the building.
- (3) Cover the tires with a tarp or other similar means in order to prevent the accumulation of stagnant water.

(Ord. 2006-46. Passed 7-11-06.)

1361.08 YARD MAINTENANCE AREA.

(a) No solid waste shall be placed or stored in any yard area contiguous to any structure within the City over a period in excess of twenty-four hours, provided however, that such of the items of solid waste as are set forth herein which are usually and ordinarily placed for removal and hauling may be so placed for a period of time not to exceed the next regularly scheduled solid waste hauling date.

(b) Exterior property areas of all premises shall be kept free of debris, objects, materials, solid waste or conditions that constitute a health, accident or fire hazard, are a public nuisance, or constitute a blighting or deteriorating influence on the neighborhood.

(Ord. 2006-46. Passed 7-11-06.)

1361.99 PENALTY.

Whoever violates any provision of this chapter, unless otherwise noted, shall be guilty of an unclassified misdemeanor and fined not more than two hundred fifty dollars (\$250.00) for a first offense, fined not more than five hundred dollars (\$500.00) for a second offense within a period of two years, and fined not more than one thousand dollars (\$1,000) for a third and subsequent offense(s) within a period of two years.

(Ord. 2006-46. Passed 7-11-06.)

CHAPTER 1365

Smoke and Carbon Monoxide Detectors

1365.01 **Requirement.**

1365.02 **Definitions.**

1365.03 **Criteria.**

1365.04 **Equipment and installation.**

1365.05 **Permits and fees; supplemental standards.**

1365.06 **Enforcement, regulations, and tampering.**

1365.07 **Tenant responsibilities.**

1365.99 **Penalty.**

1365.01 REQUIREMENT.

The owner of all existing and future non-owner occupied dwelling units located in the City of Galion shall install and maintain smoke detectors and carbon monoxide (CO) detectors as provided in this chapter.

(Ord. 2015-7. Passed 5-26-15.)

1365.02 DEFINITIONS.

For purposes of this chapter, the following terms are defined as follows:

- (a) "Smoke detector" means a device which is designed to detect the visible and invisible products of combustion and which is designed to emit an alarm upon such detection.
- (b) "Carbon monoxide detector" means a device, which is designed to be capable of sensing the presence of carbon monoxide.
- (c) "Sleeping area" is defined as the area or areas of the family living unit in which the bedrooms or sleeping rooms are located. Where bedrooms or rooms ordinarily used for sleeping are separated by other use areas, such as kitchens or living rooms, but not bathrooms or closets, they shall be considered as separate sleeping areas for the purposes of this section.

(Ord. 2015-7. Passed 5-26-15.)

1365.03 CRITERIA.

(a) Criteria for Smoke Detectors.

- (1) The location and number of smoke detectors required shall be based upon NFPA 74-1975 as now existing and as from time to time amended hereafter, captioned "standard for the installation, maintenance and use of household fire warning systems".
- (2) There shall be a smoke detector installed:
 - A. Within each story of each required family living unit, including basements but excluding crawl spaces and unfinished attics;
 - B. Within the immediate vicinity of all sleeping areas. At least one of these detectors on any floor with sleeping areas shall be of a tamperproof, enclosed battery variety.
- (3) No smoke detector shall satisfy the requirements herein unless it shall bear the label of a nationally recognized testing laboratory.
- (4) All detectors shall be sensitive to both visible and invisible products of combustion and shall not be acceptable if such smoke detectors are sensitive to heat only.

(b) Criteria for Carbon Monoxide Detectors.

- (1) At least one carbon monoxide (CO) detector shall be installed in the immediate vicinity of the sleeping area, as per manufacturer's specifications, in any applicable dwelling unit that is heated by fossil fuel without a detached garage.
- (2) The carbon monoxide (CO) detectors shall be approved by a recognized testing agency by the State of Ohio or NFPA and shall be capable of sensing the presence of carbon monoxide gas and providing a suitable alarm thereof when current applicable standards for low-level threshold concentrations of the gas are reached.
- (3) When bedroom or sleeping areas are not fully enclosed or separated from other living areas within a living or sleeping unit, the smoke detector and carbon monoxide (CO) detector shall be installed nearest the area designated for sleeping, as per the manufacturer's specifications.

(c) Alternate Systems.

- (1) As an alternate to self-contained smoke detectors, an approved fire detection system may be installed. Each fire detection system shall be individually approved by the Fire Chief. Where a carbon monoxide (CO) detector is required, a combination smoke detector / carbon monoxide (CO) detector may be used provided the unit meets all current codes and standards for each application and that the detector be tamper-proof in which a long-life battery pack, if so powered, is sealed within the detector. Such combination detectors shall be individually approved by the Fire Chief.

(Ord. 2015-7. Passed 5-26-15.)

1365.04 EQUIPMENT AND INSTALLATION.

(a) Equipment and Installation.

- (1) All devices, combinations of devices and equipment required herein are to be installed in conformance with the Building Codes adopted by the City and this section and shall be of a type approved by the Fire Chief. A suitable type detector, specifically designed and marketed for the hearing impaired, which is equipped with an additional strobe-light alarm feature, shall be provided for residents so impaired, as required herein. For the purpose of installation and maintenance only, the applicable sections of the most current edition, NFPA 72, National Fire Alarm Code, shall be considered accepted engineering practice.
- (2) In new residential buildings and existing residential buildings where major renovations are performed (major renovations is defined as renovations exceeding more than twenty five (25%) percent of the value of the structure at the time of renovation), smoke detectors and carbon monoxide (CO) detectors, if required, shall be wired directly (hard-wired) to the building's power supply. In existing dwellings, it is preferred that smoke detectors and carbon monoxide (CO) detectors, if required, be wired directly to the power supply. However, smoke detectors may be powered by a self-monitoring battery or operated in a plug-in outlet provided the outlet is not controlled by any switch other than the main power supply. Any battery powered smoke

detectors required and installed after the effective date of this section shall be of the tamper-proof type in which the long-life battery packs are sealed within the detector. Carbon monoxide (CO) detectors, which are not wired directly to the building's power supply must be operated in a plug-in outlet provided the outlet is not controlled by any switch other than the main power supply. Carbon monoxide (CO) detectors with a digital read out are preferred. Single use, battery-powered carbon monoxide (CO) detectors are not acceptable.

(Ord. 2015-7. Passed 5-26-15.)

1365.05 PERMITS AND FEES; SUPPLEMENTAL STANDARDS.

(a) No smoke detector, carbon monoxide (CO) detector or alternative system shall be directly connected (permanently wired) to the electrical system of the structure unless an electrical permit shall have been first obtained and any applicable fee paid.

(b) This chapter is intended to be used with and supplemented by the applicable provisions of the most current edition of NFPA 72, National Fire Alarm Code, which are hereby incorporated herein. However, if there shall be any conflict between this chapter and the supplemental standards, this chapter and any rules and regulations adopted pursuant thereto shall prevail.

(Ord. 2015-7. Passed 5-26-15.)

1365.06 ENFORCEMENT, REGULATIONS, AND TAMPERING.

(a) Enforcement. The Fire Chief, or his designee, shall have concurrent jurisdiction to inspect the installation of any smoke detector and/or carbon monoxide (CO) detector required to be installed by this chapter and any violations found to exist shall subject the property owners to the penalties set forth herein. Any owner shall have no less than fourteen (14) days notice to correct any deficiency before action may be taken.

(b) Regulations.

- (1) No reconnection of electric service shall take place unless smoke detectors as required herein have been installed in proper locations and have been demonstrated to be properly operating.
- (2) Compliance with this section shall be the responsibility of the owner of the dwelling unit who may designate the name and address of an authorized agent for this purpose in writing to the Building Inspector.
- (3) The Fire Chief or his designee shall be charged with the responsibility of enforcing this section only when otherwise lawfully in the premises, or when specifically or actually informed of a violation of this section. Neither the City of Galion nor any of its employees shall be held responsible for any death, personal injury or property damages suffered by reason of any failure to comply with this section.
- (4) This section shall not be construed to relieve any person, firm or corporation from any obligation otherwise imposed by it or other ordinances, regulations or statutes including, but not limited to, building and/or fire codes applicable to any structure.

(c) Tampering Prohibited.

- (1) No person shall, including any landlord or tenant, without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a smoke detector or carbon monoxide (CO) detector required to be installed pursuant to the provisions of this chapter so as to destroy or diminish its effectiveness or availability for its intended purpose.
- (2) Any smoke detector, which is missing a battery or has an inoperable replacement battery shall be replaced by the offending party with a tamper-proof smoke detector with a sealed battery.

(Ord. 2015-7. Passed 5-26-15.)

1365.07 TENANT RESPONSIBILITIES.

(a) The tenant shall be responsible for:

- (1) Maintaining and testing, in accordance with the manufacturer's instructions, smoke alarms that are within the dwelling unit during the term of the tenancy.
- (2) Notifying the owner in writing if a smoke alarm becomes inoperable. The owner shall have five days from receipt of such written notice to repair and replace the inoperable alarm(s). Any smoke alarms which are powered with standard batteries which are found to be inoperable shall be replaced by the owner with smoke alarms meeting the requirements set forth above.

(b) Landlords may have a tenant complete the following statement at the commencement of a lease. Should it be completed, it may be introduced as evidence in any proceeding resulting from an alleged violation of tenant responsibilities under this chapter.

TENANT STATEMENT

All tenants shall be responsible for:

- (1) Maintaining and testing, in accordance with the manufacturer's instructions, smoke alarms that are within the dwelling unit during the term of the tenancy.
- (2) Notifying the owner in writing if a smoke alarm becomes inoperable. The owner shall have five days from receipt of such written notice to repair and replace the inoperable alarm(s). Any smoke alarms which are powered with standard batteries which are found to be inoperable shall be replaced by the owner with smoke alarms meeting the requirements set forth above.

NOTE: ANY PERSON WHO VIOLATES ANY PROVISION OF THIS ORDINANCE SHALL BE SUBJECT TO THE PENALTIES OUTLINED IN SECTION 1301.99 OF THE CITY OF GALION CODIFIED ORDINANCES.

By signing this I state that I have read this document and understand:

1. That the required alarms are installed and operating in accordance with this section.
2. It is a violation to tamper with, remove, alter, damage or otherwise render any smoke alarm inoperable, including removing batteries.
3. My responsibilities for the maintenance and testing of smoke alarms as outlined in Section Seven of Ordinance 2015-7.
4. The penalties for rendering smoke alarms inoperable or otherwise affecting the performance of the alarm.

The following have been provided by the landlord and are in operable condition:

	Smoke Detectors	Tamper-Proof Smoke Detectors	CO Detector	Combination Detector	Not Applicable
Basement					
1st Floor					
2nd Floor					
Attic/Other					

Signed _____
Tenant _____

(Ord. 2015-7. Passed 5-26-15.)

1365.99 PENALTY.

Any person, firm, or corporation who violates any section of this Ordinance shall be subject to the penalties as set forth in Section 1301.99 of the City of Galion Codified Ordinances.

(Ord. 2015-7. Passed 5-26-15.)

CODIFIED ORDINANCES OF GALION

PART FIFTEEN - FIRE PREVENTION CODE

Chap. 1503 . Storage of Liquefied Petroleum Gas.

Chap. 1511 . Open Burning.

Chap. 1513. Insurance Proceeds on Fire Damaged Structures.

Chap. 1515. Temporary Power Distribution.

CHAPTER 1503

Storage of Liquefied Petroleum Gas

- 1503.01 Regulations established.**
- 1503.02 Containers holding less than 125 gallons.**
- 1503.03 Containers holding more than 125 gallons; permit.**
- 1503.04 Prohibited storage area.**
- 1503.05 Appeals.**
- 1503.06 Permit revocation.**
- 1503.07 Other applicable laws.**
- 1503.99 Penalty.**

CROSS REFERENCES

Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261

Power to regulate explosives - see Ohio R.C. 715.60 et seq.

Fire limits - see Ohio R.C. 737.28

Inspection of buildings for fire and safety - see Ohio R.C. 737.34

Petroleum liquids and gases - see Ohio R.C. 3737.17 et seq.

Fire prevention - see Ohio R.C. Ch. 3743

1503.01 REGULATIONS ESTABLISHED.

Rules, regulations and permit requirements governing the installation and maintenance of liquefied petroleum gas tanks and containers are hereby established for the City.

(Ord. 72-4451. Passed 2-20-73.)

1503.02 CONTAINERS HOLDING LESS THAN 125 GALLONS.

Tanks or containers for liquefied petroleum gas of less than 125 gallons capacity shall be installed on a stable base and anchored by at least one-eighths inch chain or cable or comparable fasteners.

(Ord. 72-4451. Passed 2-20-73.)

1503.03 CONTAINERS HOLDING MORE THAN 125 GALLONS; PERMIT.

Tanks and containers for liquefied petroleum gas of 125 gallons or more capacity shall be subject to the following rules and regulations:

(a) All such tanks and other containers, together with piping, tubing and hoses shall be tested for leaks at operating pressures after assembly and installation;

(b) All such tanks and containers shall have safety valves as required by law;

(c) All above ground tanks and containers shall be kept properly painted;

(d) All such tanks and containers shall be enclosed with an industrial type fence no less than six feet in height, which has at least one means of emergency exit and is at no point nearer than three feet to the tank or container;

(e) All such tanks and containers shall be installed on a cement or other approved foundation and containers shall be mounted on saddles which permit expansion and contraction;

(f) The area between the tank or container and the fence surrounding it shall be covered with a plastic or similar type material and shall then be covered with crushed stone to a depth of at least four inches;

(g) All installations shall have adequate provision for expansion, contraction, jarring, vibration and settling by making use of flexible connections or other approved means;

(h) No such tanks or containers shall be installed underground nor shall any such tanks or containers be installed on any roof or other locations determined by the Chief of the Fire Department to be hazardous or unsuitable;

(i) Anyone wishing to build, erect, install or construct such a tank or other container shall first apply to the Chief of the Fire Department for a permit authorizing such building, erection, installation or construction. Application shall be made upon forms made available and approved by the Chief and such application shall be accompanied by plans and drawings showing the proposed location of the bulk tank or container and indicating the distance of the tank or container from property lines, buildings and structures of any kind and from fence hereinbefore described.

(Ord. 72-4451. Passed 2-20-73.)

1503.04 PROHIBITED STORAGE AREA.

No tanks or containers for liquefied petroleum gas, regardless of capacity, shall be installed or permitted to remain within the area bounded by the center line of Pierce Street on the east; the center line of Walnut Street on the south; the center line of Boston Street, extending through the church property, on the west; and the center line of Church Street on the north. However, the Chief of the Fire Department may issue permits for the temporary use of propane within the foregoing area.

(Ord. 72-4451. Passed 2-20-73.)

1503.05 APPEALS.

Whenever the Chief of the Fire Department disapproves an application for a permit required by this chapter or when it is claimed that the provisions of this chapter do not apply or that the true intent and meaning of this chapter have been misconstrued or wrongly interpreted, the applicant may appeal the decision to the Board of Appeals.

(Ord. 72-4451. Passed 2-20-73.)

1503.06 PERMIT REVOCATION.

Permits which are issued under this chapter shall nevertheless be subject to revocation by the Chief of the Fire Department when it is determined that the holder of the permit is in violation of any provision of this chapter relating to the subject matter of the permit.

(Ord. 72-4451. Passed 2-20-73.)

1503.07 OTHER APPLICABLE LAWS.

This chapter shall not be construed to prevent, nor is it intended to prevent the enforcement of other ordinances, codes, statutes or regulations which prescribe more restrictive limitations or which require higher standards, nor shall the same be construed so as to permit or authorize the use, occupancy or operation prohibited by these Codified Ordinances.

(Ord. 72-4451. Passed 2-20-73.)

1503.99 PENALTY.

(a) Any person who violates any of the provisions of this chapter; fails to comply herewith; fails to obtain the permit herein required; violates or fails to comply with any order made hereunder; builds, constructs or erects any tank or container in violation of any provisions hereof or in violation of the plans submitted with the application for a permit, or any permit issued hereunder, and from which no appeal has been taken; or fails to comply with such an order as affirmed or modified by the Board of Appeals or by a Court of competent jurisdiction, shall severally be guilty of a misdemeanor and fined not more than one hundred dollars (\$100.00). The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

CHAPTER 1511

Open Burning

1511.01 Definitions.

1511.02 Relations to other prohibitions.

1511.03 Open burning in restricted areas.

1511.04 Permission from and notification to the Ohio EPA.

1511.05 Open burning; recreational fires; portable outdoor fireplaces.

1511.06 Citations by Fire Department.

1511.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Air pollution control - see Ohio R.C. Ch. 3704

Permit to burn construction debris - see Ohio R.C. 3704.11(C)

Spreading fire through negligence - see Ohio R.C. 3737.62

Open burning - see OAC Ch. 3745

1511.01 DEFINITIONS.

As used in Chapter 3745-19 of the Ohio Administrative Code and this chapter:

- (a) "Agricultural waste" means any waste material generated by crop, horticultural, or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials, and landscape wastes that are generated in agricultural activities, but does not include land clearing waste; buildings; garbage; dead animals; animal waste; motor vehicles and parts thereof; nor economic poisons and containers thereof, unless the manufacturer has identified open burning as a safe disposal procedure.
 - (b) "Economic poisons" include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliants.
 - (c) "Garbage" means any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.
 - (d) "Landscape waste" means any plant waste material, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings and crop residues.
 - (e) "Land clearing waste" means plant waste material which is removed from land, including plant waste material removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial, or industrial development. Land clearing waste also includes the plant waste material generated during the clearing of land for new agricultural development.
 - (f) "Ohio EPA" means the Ohio Environmental Protection Agency Director or agencies delegated authority by such Director pursuant to Ohio R.C. 3704.03 or the Chief of any Ohio Environmental Protection Agency district office.
 - (g) "Open burning" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any device not subject to or designed specifically to comply with the requirements of Ohio Administrative Code 3745-17-09 or 3745-17-10.
 - (h) "Residential waste" means any waste material, including landscape waste, generated on a one-, two- or three-family residence as a result of residential activities, but not including garbage.
 - (i) "Restricted area" means the area within the boundary of any municipal corporation established in accordance with the provisions of Title 7 of the Ohio Revised Code, plus a zone extending 1,000 feet beyond the boundaries of any such municipal corporation having a population of 1,000 to 10,000 persons and a zone extending one mile beyond any such municipal corporation having a population of 10,000 persons or more according to the latest federal census.
 - (j) "Unrestricted area" means all areas outside the boundaries of a restricted area as defined in subsection (i) hereof.
- (OAC 3745-19-01)

(k) "Bonfire" means an outdoor fire utilized for ceremonial purposes.

(l) "Recreational fire" means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

(OAC 1301:7-7-03)

1511.02 RELATIONS TO OTHER PROHIBITIONS.

(a) Notwithstanding any provision in Ohio Administrative Code Chapter 3745-19, no open burning shall be conducted in an area where an air alert, warning or emergency under Ohio Administrative Code Chapter 3745-25 is in effect.

(b) No provisions of Ohio Administrative Code Chapter 3745-19, permitting open burning, and no permission to open burn granted by the Ohio EPA, shall exempt any person from compliance with any section of the Ohio Revised Code, or any regulation of any State department, or any local ordinance or regulation dealing with open burning.

(OAC 3745-19-02)

1511.03 OPEN BURNING IN RESTRICTED AREAS.

(a) No person or property owner shall cause or allow open burning in a restricted area except as provided in subsections (b) to (d) hereof; in Ohio R.C. 3704.11 and in compliance with Section 1511.05 of this chapter.

(b) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA:

(1) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs.

(2) Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:

A. They are fueled with clean seasoned firewood, natural gas, or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood;

B. They are not used for waste disposal purposes; and

C. They shall have a total fuel area of three feet or less in diameter and two feet or less in height.

(3) Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to paragraph (D)(1)(d) of Rule 3745-50-45 of the Ohio Administrative Code.

(4) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.

Fires allowed by subsections (b)(1), (b)(2) and (b)(4) hereof shall not be used for waste disposal purposes and shall be of minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.

(c) Open burning shall be allowed for the following purposes with prior notification to the Ohio EPA in accordance with subsection (b) of Section 1511.04:

(1) Prevention or control of disease or pests, with written or verbal verification to the Ohio EPA from the local health department, cooperative extension service, Ohio Department of Agriculture, or U.S. Department of Agriculture, that open burning is the only appropriate disposal method.

(2) Bonfires or campfires used for ceremonial purposes that do not meet the requirements of subsection (b)(2) hereof, provided the following conditions are met:

A. They have a total fuel area no greater than five feet in diameter by five feet in height and burn no longer than three hours;

B. They are not to be used for waste disposal purposes; and

C. They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.

(3) Disposal of agricultural waste generated on the premises if the following conditions are observed:

A. The fire is set only when atmospheric conditions will readily dissipate contaminants;

B. The fire does not create a visibility hazard on the roadways, railroad tracks, or air fields;

C. The fire is located at a point on the premises no less than one thousand feet from any inhabited building not located on said premises;

D. The wastes are stacked and dried to provide the best practicable condition for efficient burning; and

E. No materials are burned which contain rubber, grease, asphalt or liquid petroleum products.

(d) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with subsection (a) of Section 1511.04, provided that any conditions specified in the permission are followed:

(1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in subsection (b)(3) hereof;

(2) Instruction in methods of fire fighting or for research in the control of fires as recognized by the State Fire Marshal Division of the Ohio Department of Commerce and the guidelines set forth in the National Fire Protection Association's (NFPA) publication 1403: "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures", provided that the application required in subsection (a)(1) of Section 1511.04 is submitted by the commercial or public entity responsible for the instruction;

(3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Director and performed as identified in the appendix to Rule 3745-19-03 of the Ohio Administrative Code. If deemed necessary, the open burning may be authorized with prior oral approval by the Director followed by the issuance of a written permission to open burn within seven working days of the oral approval;

(4) Recognized horticultural, silvicultural, range or wildlife management practices; and

(5) Fires and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television. (OAC 3745-19-03)

1511.04 PERMISSION FROM AND NOTIFICATION TO THE OHIO EPA.

(a) Permission.

(1) An application for permission to open burn shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday and legal holidays shall not be considered a working day. It shall be in such form and contain such information as required by the Ohio EPA.

(2) Except as provided in subsection (a)(6) and (a)(7) hereof, such applications shall contain, as a minimum, information regarding:

A. The purpose of the proposed burning;

B. The nature of quantities of material to be burned;

C. The date or dates when such burning will take place;

- D. The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields, and other pertinent landmarks; and
- E. The methods or actions which will be taken to reduce the emissions of air contaminants.
- (3) Permission to open burn shall not be granted unless the applicant demonstrates to the satisfaction of the Ohio EPA that open burning is necessary to the public interest; will be conducted in a time, place and manner as to minimize the emission of air contaminants; and will have no serious detrimental effect upon adjacent properties or the occupants thereof. The Ohio EPA may impose such conditions as may be necessary to accomplish the purpose of Chapter 3745-19 of the Ohio Administrative Code.
- (4) Except as provided in subsection (a)(6) hereof, permission to open burn must be obtained for each specific project. In emergencies where public health or environmental quality will be seriously threatened by delay while written permission is sought, the fire may be set with oral permission of the Ohio EPA.
- (5) Violations of any of the conditions set forth by the Ohio EPA in granting permission to open burn shall be grounds for revocation of such permission and refusal to grant future permission, as well as for the imposition of other sanctions provided by law.
- (6) The Ohio Department of Commerce, Division of State Fire Marshal, may request permission to open burn on an annual basis for the purpose of training firefighters on pre-flashover conditions using the Ohio fire academy's mobile training laboratory at either the academy or at other training sites in Ohio. The annual application required pursuant to subsection (a)(1) hereof shall contain information as required in paragraph (a)(2) of this rule, except the information required in subsections (a)(2)C. and (A)(2)D. hereof need not be provided unless it is available at the time of submittal of the application. The academy shall contact the appropriate Ohio EPA district office or local air agency at least five working days before each training session of the date or dates when the training session will take place and its location. Saturday, Sunday and legal holidays shall not be considered a working day.
- (7) For open burning defined under subsection (d)(2) of Section 1511.03, permission to open burn shall not be granted unless the applicant provides proof of written notice of intent to demolish receive by the appropriate Ohio EPA field office in accordance with Rule 3745-20-03 of the Ohio Administrative Code.
- (b) Notification.
- (1) Notification shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday and legal holidays shall not be considered a working day. It shall be in such form and contain such information as shall be required by the Ohio EPA.
- (2) Such notification shall inform the Ohio EPA regarding:
- A. The purpose of the proposed burning;
- B. The nature and quantities of materials to be burned;
- C. The date or dates when such burning will take place; and
- D. The location of the burning site.
- (3) The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under Chapter 3745-19 of the Administrative Code and the Ohio EPA shall notify the applicant to this effect.
- (OAC 3745-19-05)

1511.05 OPEN BURNING; RECREATIONAL FIRES; PORTABLE OUTDOOR FIREPLACES.

(a) General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this section.

(A.O.)

(b) Prohibited Open Burning. Open burning that is deemed offensive or objectionable by the Galion Fire Department because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

(Ord. 2020-47. Passed 7-14-20.)

(c) Permit Required. A permit shall be obtained from the Fire Code Official in accordance with Rule 1301:7-7-01 of the Ohio Fire Code prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.

(d) Authorization. Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.

(e) Extinguishment Authority. The Fire Code Official is authorized to order the extinguishment by the permit holder, another person responsible or the Fire Department of open burning that creates or adds to a hazardous or objectionable situation.

(f) Location. The location for open burning shall not be less than 50 feet (15,240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15,240 mm) of any structure.

(g) Exceptions.

(1) Fires in approved containers that are not less than 15 feet (4572 mm) from a structure.

(2) The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.

A. Bonfires. A bonfire shall not be conducted within 50 feet (15,240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which could cause a fire to spread within 50 feet (15,240 mm) of a structure shall be eliminated prior to ignition.

B. Recreational fires. Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.

C. Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

Exception: Portable outdoor fireplaces used at one- and two-family dwellings.

(h) Attendance. Open burning, bonfires, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with paragraph (F)(906) of rule 1301:7-7-09 of the Administrative Code with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization. (OAC 1301:7-7-03)

1511.06 CITATIONS BY FIRE DEPARTMENT.

A citation to any violation of the above sections may be issued on the site by any authorized law enforcement officer.

(Ord. 2020-47. Passed 7-14-20.)

1511.99 PENALTY.

(a) Whoever causes or allows open burning in violation of this chapter shall be fined not less than twenty-five dollars (\$25.00) nor more than

five hundred dollars (\$500.00) per day of burning plus the cost of proper disposal of the material burned.

(b) Whoever causes or allows open burning in a second or subsequent violation of this ordinance shall be fined not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000) per day of burning plus the cost of proper disposal of the materials burned.

(c) The cost of proper disposal of the materials burned shall be the amount it would have cost to dispose of the materials in a manner that is consistent with the air, water and solid waste laws, ordinances and regulations of the City of Galion and the State of Ohio.
(Ord. 87-5647. Passed 9-1-87.)

CHAPTER 1513

Insurance Proceeds on Fire Damaged Structures

1513.01 Fire damage; repair or removal fund.

1513.01 FIRE DAMAGE; REPAIR OR REMOVAL FUND.

The City is hereby authorized to utilize the procedure described in Ohio R. C. 3929.86 (C) and (D), whereby no insurance company doing business in the State shall pay a claim of a named insured for fire damage to a structure located within the City where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars (\$5,000) unless there is compliance with the following procedures:

(a) When the loss agreed to between the named insured or insureds and the company or companies equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or structure, the insurance company or companies in accordance with Ohio R.C. 715.26(F) shall transfer from the insurance proceeds to the Fire Chief in the aggregate two thousand dollars (\$2,000) for each fifteen thousand dollars (\$15,000), and each fraction of that amount, of a claim, or, if at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure shall transfer from the insurance proceeds the amount specified in the estimate. Such transfer of proceeds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the City shall be disbursed in accordance with the policy terms.

The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the designated officer shall return the amount of the fund in excess of the estimate to the named insurer or insureds, provided that the City has not commenced to remove, repair or secure the building or other structure.

(b) Upon receipt of the proceeds by the City as authorized by this section, the Fire Chief shall give the proceeds to the Auditor for deposit in the City Treasury in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by the City pursuant to Ohio R.C. 715.261.

When transferring the funds as required in subsection (a) hereof, an insurance company shall provide the City with the name and address of the named insured or insureds, whereupon the City shall contact the named insured or insureds, certify that the proceeds have been received by the City and notify them that the following procedures will be followed: The fund shall be returned to the named insured or insureds when repairs, or removal or securing of the building or other structure have been completed and the required proof received by the designated officer, if the City has not incurred any costs for such repairs, removal or securing. If the City has incurred any costs for repairs, removal or securing of the building or other structure, such costs shall be paid from the fund and if excess funds remain, the City shall transfer the remaining funds to the named insured or insureds. Nothing in this section shall be construed to limit the ability of a municipal corporation to recover any deficiency under Ohio R.C. 715.261. Nothing in this subsection shall be construed to prohibit the municipal corporation and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damage property has been negotiated.

(c) The Fire Chief of the City is hereby designated as the officer authorized to carry out the duties of this section. The Fire Chief shall file a certified copy of this section with the Superintendent of Insurance of the State.

(Ord. 96-6215. Passed 8-17-96.)

CHAPTER 1515

Temporary Power Distribution

1515.01 Purpose.

1515.02 Definitions.

1515.03 Temporary power connection prohibited.

1515.04 Exceptions.

1515.99 Penalty.

1515.01 PURPOSE.

The purpose of this chapter is to regulate the temporary distribution of electrical energy between structures/premises within the City of Galion in an effort to reduce the danger of fire resulting from the improper use of extension cords.

(Ord. 2012-39. Passed 6-12-12.)

1515.02 DEFINITIONS.

As used in this chapter:

(a) "Extension Cord" means any flexible cord or cable assembly intended to transfer electrical energy.

(b) "Fire Official" means any authorized law enforcement officer of the City of Galion Fire Department.

(Ord. 2012-39. Passed 6-12-12.)

1515.03 TEMPORARY POWER CONNECTION PROHIBITED.

(a) Extension cords shall not be used to transfer electrical energy from one structure or premises to the wiring system and/or to individual electrical appliances or equipment located in a structure or on the premises of a neighboring lot or parcel.

(b) Extension cords shall not be used to transfer electrical energy from one dwelling unit or premises to the wiring system and/or to individual electrical appliances or equipment to a neighboring dwelling unit or premises located within the same structure.

(Ord. 2012-39. Passed 6-12-12.)

1515.04 EXCEPTIONS.

(a) The provisions of this chapter shall not apply to a temporary power connection used to supply individual appliances and/or equipment in the event of a utility outage resulting from accident, storm, or act of God. The temporary power connection may be made to any functional utility supplied electrical service or portable generator.

(b) The provisions of this chapter shall not apply to a temporary power connection used to supply individual appliances and/or equipment for construction work associated with a lawfully permitted project. The temporary power connection may be made to any functional utility supplied electrical service or portable generator.

(Ord. 2012-39. Passed 6-12-12.)

1515.99 PENALTY.

Whoever violates any provision of this chapter may be fined not more than two hundred fifty dollars (\$250.00) for each offense.

(Ord. 2012-39. Passed 6-12-12.)