CODIFIED ORDINANCES OF THE CITY OF NEW PHILADELPHIA OHIO

Complete to June 9, 2016

CERTIFICATION

We, Joel B. Day, Mayor, and Julie Courtright, Council Clerk, of the City of New Philadelphia, Ohio, pursuant to Ohio Revised Code 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of New Philadelphia, 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 New Philadelphia, Ohio, 1973, as completed to June 9, 2016.

/s/ Joel B. Day
Mayor

/s/ Julie Courtright
Council Clerk

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

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CITY OF NEW PHILADELPHIA

ROSTER OF OFFICIALS

(2016)

COUNCIL

Sam R. Hitchcock	President
Cheryl Ramos	Ward I
John Zucal	Ward II
Darrin Lautenschleger	Ward III
Rob Maurer	Ward IV
Kelly Ricklic	At Large
Aimee May	At Large
Dean Holland	At Large
Julie Courtright	Council Clerk

OFFICIALS

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Ron McAbier	Service Director
Greg Popham	Safety Director
Marvin Fete	Law Director
Beth Gundy	Auditor
Edwin Thomas Gerber	Treasurer
Vicki Daniels	Income Tax Administrator
Nanette DeGarmo Von Allman	Municipal Court Judge

The publisher
expresses his appreciation

to

TREVOR K. BUEHLER
Director of Law

and all other officers and employees
who gave their time and counsel
to this 1973 codification and the
preparation of replacement pages

ORDINANCE NO. 35-73

AN ORDINANCE TO APPROVE, ADOPT AND ENACT THE CODIFIED 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 New Philadelphia, Ohio, has had the matter of recodification and general revision of the ordinances before it for some time, and

WHEREAS, Council 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of such ordinances, together with the new matter to be adopted, the matters to be amended and those to be repealed are before the Council,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 NEW PHILADELPHIA, OHIO, AS FOLLOWS:

SECTION 1. That the ordinances of the City of New Philadelphia, 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 New Philadelphia, Ohio, 1973.

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

SECTION 2. That the provisions of this ordinance, including all provisions of the Codified Ordinances, shall be in full force and effect from and immediately after passage of this ordinance and its approval by the Mayor. All ordinances and resolutions or parts thereof enacted prior to April 9, 1973, which are inconsistent 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 provision 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 modification.

(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 April 8, 1973.

SECTION 3. That the Clerk of Council, pursuant to Ohio R. C. 731.23, shall cause to be published in a manner required by law a summary of the new matter contained in the Codified Ordinances. All sections of the Codified Ordinances without a previous ordinance or resolution history at the end thereof indicate that the section contains new matter ordained by this Adopting Ordinance.

SECTION 4. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety and for the further reason that there exists an imperative necessity for the earliest publication and distribution of the Codified Ordinances to the officials and residents of the City, so as to facilitate administration, daily operation and avoid practical and legal entanglements.

SECTION 5. This ordinance shall take effect and be in force immediately upon its passage and approval.

PASSED: May 31, 1973

William L. Jenkins
PRESIDENT OF COUNCIL

ATTEST: Harold G. Wiggins
CLERK OF COUNCIL

APPROVED: May 31, 1973

Lloyd F. Dinger
MAYOR

Sponsored by Council

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EDITOR'S NOTE

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

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

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

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

GENERAL INDEX

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

(a) The Comparative Section Table, which indicates in the Codified Ordinances the disposition of the ordinances or resolutions integrated therein.

(b) The Table of Contents preceding each component code, and the sectional analysis preceding each chapter.

(c) The cross references to related material following the chapter analysis.

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21-99	5-24-99	1167.02
23-99	3-22-99	1161.02
33-99	6-14-99	331.35, 331.38, 335.031, 335.99, 373.14, 501.01, 501.05, 513.01, 513.03, 513.04, 513.09, 513.10, 513.12, 525.01, 525.11, 537.051, 537.10, 541.07, 545.01, 545.02, 545.05, 545.07, 545.14, 545.18
34-99	7-12-99	1307.01, 1307.02, 1307.99
45-99	6-14-99	155.08
53-99	9-13-99	155.01 to 155.07
72-99	11-22-99	723.04
74-99	11-22-99	159.07
75-99	11-22-99	131.02
83-99	12-13-99	1167.11
8-00	3-13-00	935.01, 935.02
23-00	3-27-00	931.10
28-00	5-8-00	902.01
29-00	5-8-00	141.03
34-00	5-22-00	143.02(d)
37-00	6-12-00	159.08

Ord. No.	Date	C.O. Section
51-2000	11-27-00	303.082, 303.083, 333.01, 333.031, 333.99, 335.07, 337.02, 337.18, 337.24, 337.30, 339.03, 351.04, 375.01 to 375.08, 501.01, 501.04, 501.07, 501.09, 505.01, 509.03, 509.05, 513.03, 513.05, 513.06, 513.08, 513.12, 525.03, 525.07, 525.12, 529.07, 533.03, 533.06, 537.02, 537.03, 537.051, 537.07, 541.07, 545.01, 545.02, 545.05, 545.06, 545.08, 545.10, 545.14, 545.15, 545.18, 545.21, 549.14, 553.01, 553.011 1519.02, 1519.03
1-2001	1-22-01	784.01 to 784.18, 784.99
6-2001	3-12-01	351.99(b)
8-2001	3-26-01	145.06
13-2001	4-9-01	505.16
19-2001	3-26-01	159.03(f)
30-2001	7-23-01	1335.01 to 1335.69, 1335.99
31-2001	7-31-01	166.01
33-2001	7-9-01	301.20, 335.09, 337.99, 501.06, 525.01, 525.15, 525.16, 529.07, 533.05, 537.03, 537.05, 537.051, 537.06, 537.16, 537.17
35-2001	8-13-01	351.99
41-2001	8-27-01	509.09
43-2001	9-10-01	937.02
16-2002	3-25-02	159.05
17-2002	3-25-02	1151.05
22-2002	4-8-02	946.01 to 946.06
23-2002	4-8-02	947.01 to 947.05, 947.99
26-2002	4-22-02	1309.01
31-2002	5-13-02	1163.02(a), 1163.10
37-2002	5-30-02	143.03
38-2002	5-13-02	1309.01
52-2002	7-22-02	335.08, 337.27, 375.08, 501.01, 509.03, 509.05, 513.01, 513.12, 517.01, 525.02, 525.08, 533.01, 533.02, 533.04, 537.051, 537.14, 537.16, 537.18, 549.07, 1519.02, 1519.03
64-2002	9-23-02	105.02 to 105.05
79-2002	10-28-02	1165.02(h)
80-2002	10-28-02	1165.04(j)
96-2002	1-27-03	371.03(f)
99-2002	1-27-03	107.01
100-2002	1-27-03	351.18
1-2003	2-10-03	1157.01 to 1157.11, 1157.99
12-2003	3-10-03	143.02(g)
20-2003	5-12-03	143.02(d)
31-2003	6-23-03	301.20, 301.51, 331.24, 333.01, 371.12, 371.99, 501.01, 501.99, 505.04, 505.071, 509.06, 509.07, 513.01, 517.01, 517.02, 517.04 to 517.14, 525.05, 525.08, 529.01, 529.02, 529.021, 529.07, 529.08, 533.05, 537.14, 541.10, 545.21, 553.04, 553.05, 1511.01, 1511.03 to 1511.05

Ord. No.	Date	C.O. Section
44-2003	9-22-03	1167.07
51-2003	12-22-03	191.01 to 191.19
54-2003	12-22-03	931.08, 1313.03
59-2003	12-22-03	Traffic Code
15-2004	5-10-04	1335.08
18-2004	5-10-04	1161.031
21-2004	4-26-04	903.09, 903.11
22-2004	4-26-04	549.12(a), (b)
23-2004	4-26-04	549.12(c), (d)
17-2004	5-24-04	1167.12
24-2004	5-24-04	121.01 Rule 13
25-2004	5-24-04	339.01(b)
32-2004	6-14-04	331.40, 333.03, 335.01, 513.02 to 513.08, 513.12, 529.021, 529.04, 529.07, 533.01, 533.02, 533.09, 533.11, 537.02, 537.03, 537.051, 537.07, 537.09, 537.14, 537.15, 541.05, 549.01, 549.02, 549.04, 549.10
36-2004	7-12-04	767.01 to 767.10, 767.99
42-2004	8-23-04	1167.13
50-2004	11-8-04	1131.03, 1141.02, 1141.04
51-2004	12-27-04	767.04(b)
57-2004	1-10-05	971.01 to 971.05, 971.99
1-2005	2-14-05	931.03, 933.031
8-2005	4-11-05	1161.02
3-2005	5-9-05	191.01, 191.03, 191.05, 191.07, 191.16
20-2005	7-11-05	301.201, 303.08, 313.11, 331.40, 333.01, 333.02, 333.07, 335.01, 335.03, 337.27, 337.28, 501.04, 501.99, 509.02, 509.05, 513.01, 513.06, 517.01, 517.06, 517.08, 517.09, 517.14, 525.01, 525.11,
20-2005 (Cont.)		525.25, 529.03, 529.05, 537.02, 537.021, 537.17, 541.04, 541.05, 545.01, 545.05, 545.06, 545.09
25-2006	5-22-06	1309.01
30-2006	7-10-06	331.38, 341.01 to 341.03, 341.05, 375.01, 501.05, 513.01, 513.03, 513.04, 513.08, 513.12, 525.02, 525.17, 533.06, 533.07, 545.21
31-2006	7-10-06	Repeals 747.01 to 747.05, 747.99
40-2006	12-11-06	971.06
Res. 10-2007	4-9-07	121.01 (Rule 14 (a)(1))
15-2007	5-31-07	Repeals Ch. 1307
16-2007	6-11-07	1511.01 to 1511.06, 1511.99
17-2007	8-13-07	331.01, 331.07, 331.14, 333.01, 333.04, 335.03, 335.031, 337.26, 337.29, 373.01, 373.02, 373.05, 373.06, 373.07, 501.01, 501.06, 513.12, 513.16, 525.02, 525.03, 525.15, 529.02, 529.07, 529.08, 533.01, 533.07, 537.02, 537.03, 537.07, 537.16, 545.01, 545.05, 549.02, 549.04, 549.13
31-2007	1-28-08	935.05
32-2007	1-28-08	931.02
23-2008	5-12-08	1161.18(f)(3)
47-2008	11-24-08	1519.06
2-2009	3-9-09	153.01 to 153.05
12-2009	4-27-09	973.01
13-2009	4-27-09	149.02
14-2009	4-13-09	786.01

Ord. No.	Date	C.O. Section
17-2009	5-28-09	971.06, 971.99
20-2009	6-22-09	753.01 to 753.10, 753.99
22-2009	6-8-09	947.06
31-2009	12-14-09	549.12
32-2009	12-28-09	143.02(d)(3)
2-2010	3-8-10	159.05
10-2010	6-14-10	1329.01 to 1329.06
15-2010	7-12-10	301.04, 301.321, 303.082, 331.38, 333.03, 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, 537.14, 537.15, 541.05, 549.04
19-2010	11-8-10	788.01 to 788.03, 788.99
25-2010	12-13-10	531.01, 531.02, 531.99
26-2010	11-22-10	191.03
10-2011	8-8-11	1169.09
11-2011	9-12-11	333.01, 335.01, 335.02, 335.07, 335.12, 335.13, 337.28, 337.29, 501.01, 501.14, 501.99, 517.01, 517.02, 517.06, 517.07, 529.07, 537.10, 537.11, 537.12, 1519.04
14-2011	12-12-11	141.04
5-2012	3-26-12	1167.05
12-2012	9-10-12	333.01, 335.01 to 335.14, 337.19 to 337.26, 351.04 to 351.12, 373.01 to 373.14, 501.01 to 501.05, 501.14, 501.99, 509.03 to 509.08, 513.01 to 513.03, 517.03, 517.04 to 517.06, 525.01 to 525.03, 529.05 to 529.09, 537.10 to 537.12, 541.01 to 541.04, 545.01 to 545.20, 549.02 to 549.11, 1515.01 to 1515.05, 1515.99
17-2012	1-14-13	947.01 to 947.11, 947.99
2-2013	7-22-13	195.01 to 195.07
11-2013	7-22-13	767.05
13-2013	9-9-13	1141.05
15-2013	9-23-13	301.031, 301.161, 301.17, 301.181, 301.26, 301.361, 301.45 to 301.47, 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, 339.03, 339.06 to 339.08, 341.05, 351.04, 501.11, 501.99, 505.001, 505.01, 505.13, 505.14, 513.03, 513.12, 513.121, 517.01, 517.02, 517.06 to 517.11, 517.13, 517.14, 529.021, 529.04, 533.08, 533.09
20-2013	12-23-13	143.06
22-2013	3-10-14	1141.05
11-2014	6-23-14	121.01

Ord. No.	Date	C.O. Section
13-2014	9-8-14	165.04
14-2014	8-11-14	902.01
18-2014	9-22-14	301.04, 301.161, 301.162, 303.04, 303.041, 313.03, 333.01, 333.03, 333.031, 337.16, 341.01, 341.03, 351.04, 373.02, 501.01, 505.071, 517.01, 517.02, 525.01, 525.02, 525.05, 529.01, 529.07, 537.03, 537.12, 537.16, 537.17, 545.01, 545.05, 545.18, 549.01, 549.02, 549.04, 549.10
31-2014	1-12-15	971.06
10-2015	5-28-15	505.17
12-2015	8-24-15	303.081, 303.082, 331.44, 335.072, 335.074, 337.17, 351.03, 501.07, 501.08, 521.08, 525.05, 533.09, 533.14, 537.05, 537.051, 537.06, 545.01, 545.02, 545.05, 545.15, 549.01, 553.03, 1511.01, 1511.03, 1511.04
17-2015	11-23-15	197.01 to 197.21, 197.97, 197.98, 197.99
19-2015	12-14-15	505.01, 505.141
4-2016	4-25-16	121.01

EXPLANATION OF TABLES OF SPECIAL ORDINANCES

The Codified Ordinances of New Philadelphia 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 of property, easement, purchase, sale, etc. In the following Tables A through I, all such ordinances are listed. These tables list ordinance chronologically by subject, and include both a citation to and a brief description of each ordinance.

TABLES OF SPECIAL ORDINANCES OF NEW PHILADELPHIA

TABLE A - Franchises
TABLE B - Easements
TABLE C - Vacating of Streets and Alleys
TABLE D - Dedication and Plat Approval
TABLE E - Acquisition and Disposal of Real Property
TABLE F - Lease of Real Property
TABLE G - Street Grade Levels and Change of Street Name
TABLE H - Annexation and Detachment of Territory
TABLE I - Zoning Map Changes

TABLE A - FRANCHISES

Ord. No.	Date	Description
Unno.	10-22-1874	To New Philadelphia Gas Light Co. to build and operate a gas system.
Unno.	3-16-1888	To Central District and Printing Telegraph Co. to establish a telephone system.
Unno.	11-6-1889	To Central Thomson-Houston Co. to establish an electric power system.
Unno.	2-20-1890	To Tuscarawas Electric Co. to build and operate a street railway.
Unno.	7-16-1890	To New Philadelpbia Gas Light Co. to build gas works.
Unno.	3-2-1892	To Tuscarawas Electric Co. to supply electric power.
Unno.	4-14-1893	To C. E. Mitchener to build and operate street railway.
Unno.	2-5-1896	To C. E. Mitchener to build and operate a street railway.
41	3-23-1898	To A. Beyer to build and operate an electric system.
74	9-22-1899	To G. J. Hoffman and C. L. Cassingham to build and operate a telephone system.
151	6-25-02	To L. E. Myers and W. H. Hoover to build and operate a street railway.
152	6-25-02	To W. R. Sharp to build and operate a heating plant.
214	6-17-04	To Tuscarawas Traction Co. to operate a street railway on Rt. 1.
215	6-17-04	To Canton-New Philadelphia Rwy. Co. to operate a street railway on Rt. 2.
453	11-26-09	To East Ohio Gas Co. to supply gas and regulating rates thereof to 1919.
478	6-28-10	To Tuscarawas County Electric Light Co. to supply electricity and regulating rates thereof to 1911.
752	5-21-15	To Ohio Service Co. to supply electricity and regulating rates thereof to 1920.
924	8-15-19	To East Ohio Gas Co. to supply gas and regulating rates therefor to 1924.
980	8-23-20	To Ohio Service Co. to supply steam heat and regulating rates therefor to 1921.
1013	7-8-21	To Ohio Service Co. to supply electricity and regulating rates therefor to 1931.
1026	9-16-21	To Ohio Service Co. to supply steam heat and regulating rates therefor to 1922.
1056	5-26-22	To Ohio Service Co. to supply steam heat and regulating rates therefor to 1923.
1098	6-15-23	To Northern Ohio Traction & Light Co. to extend its trackage.
1108	8-10-23	To Ohio Service Co. to supply steam heat and regulating rates therefor to 1924.
1163	7-14-24	To East Ohio Gas Co. to supply gas and regulating rates therefor to 1929.
1443	4-16-28	To Ohio Power & Light Co. to operate street railway and bus lines.
1636	3-20-31	To East Ohio Gas Co. to supply gas and regulating rates therefor to 1933.

TABLE A - FRANCHISES (Cont.)

Ord. No.	Date	Description
1748	3-17-33	To East Ohio Gas Co. to supply gas and regulating rates therefor to 1935.
1861	1-7-35	To East Ohio Gas Co. to supply gas and regulating rates therefor to 1938.
1867	3-4-35	To Dover-Phila Transit Co. to operate bus line.
2191	7-12-43	To East Ohio Gas Co. to supply gas and regulating rates therefor to 1945.
2230	4-23-45	To Dover-Phila Transit Co. to operate bus line.
2348	10-25-48	To Dover-Phila Transit Co. to operate bus line.
2495	5-12-52	To Dover-Phila Transit Co., changing fares.
2572	10-26-53	To East Ohio Gas Co. to supply gas and regulating rates therefor to 1955.
2704	4-9-56	To East Ohio Gas Co. to supply gas and regulating rates therefor to 1960.
2738	2-25-57	To Dover-Phila Transit Co., changing fares.
2818	1-12-59	To the Dover-Phila Transit Co. to operate and maintain a motor coach route for 10 yrs. and providing fare and schedule regulations therefor.
2826	8-24-59	Regulating rates that may be charged by the East Ohio Gas Co.
3029	3-22-65	To the TV Antenna System to operate and maintain a community television and other audio and visual systems.
3054	8-23-65	To Doyle Miller, d.b.a. Inter-City Transit to establish, maintain and operate motor bus transportation system.
3063	12-13-65	Amends Ord. 3029.
Res. 1966-11	9-26-66	Assignment and transfer of motor bus franchise granted by Ord. 3054 to the Dover-New Phila. Transit Co.
Res.1966-12	10-10-66	Authorizing increase in fares charged by Dover-New Phila. Transit Co.
3319	6-8-70	Authorizes Public Service Director to extend existing contract with Ohio Power Co. for lighting the streets for 6 mos.
3140	9-11-67	To P.L. Akers, d.b.a. Aker's Bus Line to establish, operate and maintain a motor bus transportation system and providing regulations therefor.
3326	9-27-70	Authorizes advertising for bids for street lighting.
46-75	9-13-76	To Tower Communications, Inc. for CATV renewal.
72-76	11-8-76	Regulating rates to be charged by Tower Communications, Inc. for CATV.
55-80	8-25-80	Regulating rates to be charged by Tower Communications, Inc. for CATV.
25-82	5-10-82	To Tower Communications, Inc. for CATV renewal.
44-84	9-10-84	Amending CATV agreement with Times Mirror Cable T.V., Inc., a successor to Tower Communications, Inc.

TABLE A - FRANCHISES (Cont.)

Ord. No.	Date	Description
21-87	5-11-87	Nonexclusive franchise to Times Mirror Television of Ohio to operate and maintain a cable television system.
23-87	6-8-87	Amends franchise fee for Times Mirror Television.
6-88	2-8-88	Frontier Power Co. the right to operate and maintain electric power lines throughout the City.
Res. 26-97	10-27-97	Consents to sale of Cable Television franchise from Coxcom, Inc., to Frontier Vision Operation Partners.

TABLE B- EASEMENTS

Ord. No.	Date	Description
Unno.	4-19-1872	To Lake Shore and Tuscarawas RR Co. to occupy certain streets.
Unno.	7-17-1895	To Brown and Bartles Co. to cross Ray and Third Sts. with RR switch.
9	7-29-1896	To Cleveland and Pittsburgh RR to cross Third St.
91	1-28-01	To New Phila. Lumber Co. to build switch across Ray St.
712	7-24-14	To the City from heirs of J. E. Emerson for water main.
962	4-30-20	To Wise McClung Mfg. Co. for a switch and coal dock.
975	7-23-20	To J. E. Harding for coal dock.
1037	2-24-22	To the City from I. M. Printz, et al. for sewer line.
1075	9-8-22	To the City from Ohio Service Co. to construct sewer.
1078	10-6-22	To the City from F. G. Gopp, et al. to erect electric light lines.
1188	9-26-24	To Nagley Lumber Co. for switch across West High St.
1436	3-9-28	To Dept. of Highways for property in Goshen Twp.
1575	12-6-29	To the City from Pennsylvania RR to construct sewer line in Kelley St.
2333	6-28-48	To Ohio Power Co. to erect poles and wires.
2409	4-25-50	To T. Just to construct chimney.
2527	3-9-53	To V. and H. Muelhoffer for sewer line.
2598	2-8-54	To the City from B&O RR to build water line.
2612	3-22-54	To M. L Keller, City quit claim easements.
2864	7-11-60	Releases utility rights in alley vacated by Ord. 2453, between lots 2120 and 2121 and running between Blake Ave. SW and the Ohio Canal.
2885	2-13-61	For utilities across railroad right of way on Wabash Ave. NW from Pennsylvania RR.
2918	2-26-62	To the Citizens National Bank for installation of pneumatic tube at corner of Fair Ave. NE and Public Square.
2940	9-24-62	For water line across railroad right of way on Second Dr. NW from Pennsylvania RR.
2952	1-14-63	For water line across railroad right of way on extension of Emmet Ave. NW from Pennsylvania RR.
2987	1-27-64	To Mary Grace Meissner a right of way over the City dump.
3046	6-14-65	To State of Ohio for relocation of State Route 39.
Res.1965-11	9-13-65	To Warner & Swasey for access roadway.
19-74	3-25-74	To Ohio Power Co. for sewage treatment plant.
69-75	12-22-75	From Breyer Exchange, Inc. for storm and water lines.
70-75	12-22-75	From Floyd Breyer for storm and water lines.
73-75	12-8-75	To owner of lot 158 for overhang over City property and for underground line for storm water drainage.
71-78	1-22-79	Authorizes Service Director to enter into a contract for granting of an easement for a microwave tower on City reservoir property.

TABLE B - EASEMENTS (Cont.)

Ord. No.	Date	Description
103-79	1-28-80	Authorizes Service Director to grant an easement to Ohio Power Co. for establishment of right of way across a 4.562 acre parcel of realty located in Goshen Twp.
40-80	5-29-80	To Lauren Mfg. Co. for party wall.
21-81	4-27-81	Authorizes Service Director to obtain easement from Tuscarawas Co. Commissioners for S. Broadway storm sewer project.
26-81	5-28-81	From Tuscarawas Co. Commissioners for storm sewer purposes across east edge to County Road 24.
5-83	3-14-83	To Mini-Shop Drive Thru, Inc. for public travel.
48-86	10-13-86	To the State of Ohio for constructing and maintaining a road.
16-87	4-27-87	To Richard R. Fisher to use a City-owned roadway running off of Ridge Ave. to the City Reservoir.
29-87	6-22-87	Acquisition of easement in connection with the Mill Ave. project Phase I and II.
42-87	8-6-87	Appropriating a temporary easement in connection with the South Broadway road repair.
17-88	3-28-88	To Ohio Power Co. to maintain lines.
22-88	4-25-88	To GTE North Inc. along State Route 416 to construct and maintain lines of communication.
24-88	5-9-88	To Ohio Power Co. to service lines on Lot No. 851.
65-88	10-24-88	A permanent right of way easement to the Ohio State Patrol et al. in order to have access to maintain its radio tower and equipment.
86-89	1-8-90	Vacating portions of easements for road purposes only, on property of Newtowne Mall Associates Ltd.
18-95	6-12-95	Terminates an existing 15 foot easement along property line between Lot No. 5881 and 5882 and establishing a sanitary sewer easement 15 feet in width along the northeast line of Lot 5881.
58-98	6-22-98	Authorizes an easement with North American Petroleum Incorporated to maintain an oil/gas transmission along County Road 24.
34-2009	12-28-09	Authorizes an easement agreement with the Ohio Historical Society to permit an easement for the installation, construction, reconstruction, use, operation, maintenance, repair, replacement, removal, servicing and improvement of a certain roadway providing access to the City's cemetery upon the easement area.
35-2009	12-28-09	Authorizes an easement agreement with the Ohio Historical Society to permit an easement for the construction, installation, reconstruction, use, operation, maintenance, repair, replacement, removal, servicing, and improvement of a certain sanitary sewer force-main upon the easement area.

TABLE C - VACATING OF STREETS AND ALLEYS

Ord. No.	Date	Description
Unno.	2-12-1858	Part of East St.
442	7-30-09	Part of Center St.
743	3-12-15	Certain alleys in J. M. Ready's Addition.
838	1-26-17	Part of South Broadway.
1228	3-6-25	Part of Moravian Alley.
1291	2-5-26	Parts of Kaderly and Park Sts.
1394	8-12-27	Certain drives and paths in East Fair St.
1506	11-23-28	Certain alleys in Lewis Addition and Reeves Oak Park Addition.
1524	4-5-29	Certain alleys in Reeves Oak Park Addition.
1735	12-30-32	Alley in East Avenue Allotment.
1888	10-21-35	Part of Oak St.
1955	6-21-37	Part of St. Clair Ave.
2037	11-28-38	Two alleys south off of Ohio Ave.
2044	1-9-39	Certain alleys in Reeves First Addition.
2119	10-14-40	Part of Mill Ave., SW
2260	7-22-46	Parts of Commercial St.
2280	1-13-47	Part of alley adjacent to lots 22-25 in Jane's Second Addition.
2375	6-13-49	Alley adjacent to lots 2044-2047 in Clark's Addition.
2408	4-25-50	Certain alleys in Hardesty's Addition.
2418	6-26-50	Alley adjacent to lots 22-28 of Reeves Fifth Addition.
2453	6-11-51	Alley between Blake Ave. and canal.
2456	5-28-51	Part of Tenth St., NE
2457	5-28-51	Part of Ashwood Lane.
2464	8-20-51	Alley west of Tuscarawas Ave. to West High St.
2494	6-9-52	Alley between lots 4216 and 4223 in Horst's Second Addition.
2506	8-11-52	Alley adjacent to lot 3347-10 in Lewis Addition.
2519	1-26-53	Alley adjacent to lots 4-9 in Williams Addition.
2520	1-12-53	Alley adjacent to lot 28 in Grimes' Third Addition.
2543	7-13-53	Part of Mill Ave. SW
2544	7-13-53	Alley parallel to Eleventh St. in Schweitzer's Addition.
2562	9-28-53	Alley between West High St. and Ashwood Lane.
2580	12-14-53	Alley in Grimes' Third Addition.
2630	5-24-54	Part of Eighth Dr., SW
2632	7-12-54	Alley adjacent to lots 3872-3874 in Kaserman's Addition.
2661	4-11-55	Alley adjacent to lots 44-47 in Grimes' Addition.
2668	4-25-55	Alley between Third St. and Oak St.
2670	6-27-55	Part of Oak St.
2677	8-22-55	Alley adjacent to lots 4551 and 4542.
2678	8-22-55	Alley adjacent to lots 4135 and 4136.
2669	12-12-55	Alley adjacent to lots 19 and 46 in Hardesty's Addition.
2714	7-10-56	Alley between Second St. and Third St.
2718	8-14-56	Alley adjacent to lots 3750 and 3832.

TABLE C - VACATING OF STREETS AND ALLEYS (Cont.)

Ord. No.	Date	Description
2726	11-27-56	Alley between Second St. and Second Dr.
2730	1-14-57	Alley south of lot 4264.
2735	2-11-57	Alley between Anola and Chauncey Aves.
2739	3-25-57	Alley south of Church Ave.
2745	6-10-57	Three unnamed alleys in Grimes' Subdivision.
2750	7-22-57	Alley adjacent to lot 4621 in Reeves Sixth Addition; alley east of Third St. in Reeves Sixth and Seventh Addition.
2862	4-25-60	Portion of Second St. SE between Ferry Ave. and Adams St.
2863	6-27-60	Unnamed 14 ft. alley and unnamed 16 ft. alley in Lewis Allotments, and Lewis Ave. NW.
2907	1-8-62	Utility strip between lots 4768 and 4769 in Reeves Park Lane Addition contingent upon conveyance to City of another utility strip on northeast line of lot 4768.
2974	7-22-63	Portion of Hummell Ave. between South Broadway and Second St. SE.
2993	4-13-64	Portion of unnamed alley between Fourth St. NW and Kaderly St. and lots 3619 and 3627.
2996	4-27-64	Portion of unnamed alley between lots 20 and 21 from Commercial Ave. SE to the Ohio Canal.
3017	10-12-64	Unnamed alley between Fourth St. NW and Kaderly St. rnnning north from Chauncey Ave. NW to a previously vacated portion of the alley.
3060	12-13-65	Second St. NW between Gooding St. and Wabash Ave. NW
3125	4-24-67	Unnamed alley running west from Mill Ave. SW.
3127	5-22-67	Portion of Hoover Alley SW from Commercial Ave. SW to south boundary of the Ohio Canal.
3133	6-26-67	Unnamed alley running north from West High Ave. between lot 1681 and the McBride property.
3146	11-27-67	132.75 ft. portion of unnamed alley running east and west between Tuscarawas Ave. NW and Jordon Dr.
3152	1-8-68	Portion of Larkin Dr. in Halderbaum's Third Addition east of lots 4932 through 4936.
3163	3-11-68	Portion of unnamed alley running 187.2 ft. north and south from North Ave., NE between lots 4420, 4421 and 4424.
3228	2-10-69	Portion of unnamed alley running east from Kelly St. NW between lots 3417 and 3386.
3245	3-24-69	Part of Tuscarawas Ave. NW beginning at west line of Seventh St. NW.
3280	7-12-70	Portion of unnamed alley running in a general northerly and southerly direction from Anola Ave. bounded on east by lots 3286, 3287 and 3288, and on the west by lots 3630, 3629 and 3628.
21-71	6-28-71	7 ft. strip of unnamed alley along west side of lot 1921.
23-71	8-12-71	Portion of Fifth St. SW between lots 4496 through 4505.
14-73	3-26-73	Unnamed alley between lots 1794, 1795 and 1796.

TABLE C - VACATING OF STREETS AND ALLEYS (Cont.)

Ord. No.	Date	Description
26-74	5-13-74	Unnamed alley between lots 2107, 2108, 2109 and alley vacated by Ord. 3146.
38-75	8-11-75	Unnamed alley between lots 3587, 3561, 3560, 3559, Wabash Ave. and Grandview Ave.
56-75	12-8-75	Unnamed alley between lots 4067 through 4061, 4054 through 4058, 4097; unnamed alley between lots 4076 and 4077; unnamed alley between lots 4081 and 4082.
85-76	12-27-76	Unnamed alley in east-west direction between lots 4563 on the north and 0.17 acre parcel owned by Gertrude A. Stratton on the south.
29-77	5-23-77	Unnamed alley between lots 2892 and 2893.
43-77	7-25-77	Westwood Dr. between lots 5427 and 5428.
50-77	7-25-77	Eight foot alley running north and south in vicinity of property owned by J. F. and J. M. Knapp, C. F. and E. M. Gintz and M. J. Painter.
57-77	12-12-77	Part of Third Ave., Donahey St., part of Gilgen St. and Hall Place situated in Rainsberger and Gilgen's Allotment.
23-78	6-12-78	Carrie Ave. NW in east-west direction between lots 3423 on the south and 3504 on the north.
32-78	6-12-78	Portion of the first alley east of Third St. NW (unnamed) from the northerly side of Carrie Ave. northward to the first alley north of Carrie Ave., bordered on the west by lots 3757 and 3758 and on the east by lot 3803.
46-78	10-9-78	Portion of unnamed alley bordered on the west by the northerly extension of the westernmost lot line of lot 2518; on the east by the northerly extension of the easternmost lot line of lot 2518; bounded on the north by lot 2493 and on the south by lot 2518; and reserving an easement for utility purposes.
53-78	2-26-79	Part of Hall Place located on property of A. B. and V. Cunningham and M.D. and D.L. Whitis.
30-80	6-23-80	Unnamed alley, petition of M.C. and S. Graham, et al.
23-81	6-8-81	Portion of unnamed alley between Lots 2822 and 2821, petition of B.L. Russell.
45-81	10-12-81	Portion of unnamed alley in Lot 1 of Williams outlots.
29-82	6-16-82	Unnamed alley, 15 ft. wide, running east-west from Prospect to Union Aves. between Orchard and Hardesty Aves.
9-85	2-25-85	Portion of Hall Place on property of petitioners Richard and Shirley Watson.
51-88	8-8-88	Portion of unnamed alley between Lot Nos. 2021 on the west and 2022 on the east.
25-89	6-12-89	An unnamed alley extending east and west and bounded on the north by Lot Nos. 5465, 5464 and 5463 and on the south by Lots Nos. 5466, 5467 and 5468.

TABLE C - VACATING OF STREETS AND ALLEYS (Cont.)

Ord. No.	Date	Description
60-89	11-13-89	An unnamed alley extending east and west between Lewis Ave. and Carrie Ave.
21-92	6-22-92	A certain portion of Third Dr. N.W. where it intersects with Cedar Lane, N.W.
34-92	7-27-92	An alley in the 1200 block of 5th St., N.W. located between Lots 3416 and 3377.
9-95	4-24-95	An unnamed alley extending northwest from Fourth St. and bounded to the south by Lot No. 4424 and to the north by Lot No. 4425.
19-96	5-30-96	An unnamed alley extending northeast from Miller Ave. toward the intersection of Kelly St. and Baker Ave.
20-00	4-10-00	An unnamed alley extending 480 feet east of Third St. between Ohio Ave. and Carrie Ave.
32-00	4-10-00	Eaton St.
47-00	9-25-00	An unnamed alley from Park Ave. NW through property owned by the V.E.J. Co.
21-01	5-31-01	Second St. NW from Wabash Ave. extending south to the South Boundary of City property located at the New Philadelphia City Park.
40-03	8-25-03	An unnamed alley extending 265 feet north of Wabash Ave. and 165 feet south of Emmitt Ave. NW between 1023 Logan St. NW Rear and 1033 Logan St. NW rear.
19-04	4-12-04	An unnamed alley parallel to Park Ave. NW and perpendicular to Fifth St. NW.
20-2004	5-24-04	An unnamed alley extending north from Park Ave. NW to the south side of a private residence and located between lots owned by the New Philadelphia VFW.
30-2004	6-28-04	The remaining three-foot strip (.014 acre) of a vacated alley located off of Commercial Ave. SE.
11-2005	4-25-05	An unnamed alley located at 413 Beitler Ave. and part of the Rebecca Dye Property.
5-2006	3-13-06	An unnamed unimproved platted alley located to the west side of North Broadway.
9-2006	2-27-06	An unnamed alley parallel to Tuscarawas Avenue.
4-2008	3-10-08	An unimproved, unnamed alleyway located between Lot 4097 and Lot 4058 and an unnamed alley located between Lot 4097 and Lot 4068 and 4067 within the City which lots are owned by Investment Realty Properties, Ltd.
5-2008	3-24-08	An unnamed, unopened alley running between the Baltimore and Ohio Railroad from West High Avenue, to 11th Street NW, and bordered on the east side by property owned by Investment Realty Properties, Ltd.

TABLE D - DEDICATION AND PLAT APPROVAL

Ord. No.	Date	Description
Unno.	9-19-1877	Alley between West High St. and Salmon St.
93	2-20-01	Plat of Powelson heirs.
101	7-10-01	Plat of Clark's North Addition.
185	6-26-03	Summit Ave. and the extension of North Third St.
698	5-8-14	Plat of Landis' Subdivision.
701	6-5-14	Deed of County Electric Co.
716	8-21-14	Deed of F. B. Grimm.
721	10-2-14	Plat of Wensel's Addition.
755	6-28-15	Plat of A. M. Kaserman's Addition.
766	9-17-15	Deeds of J. E. Reeves and A. E. Ferguson.
767	9-17-15	Plat of A. E. Ferguson's First Addition.
778	2-4-16	Plat of Beitler's Subdivision.
797	4-28-16	Plat of Graff's First Addition.
845	4-27-17	Plat of W. R. Ritter's Addition.
864	9-14-17	Plat of W. E. Beck's Addition.
867	9-21-17	Plats of E. G. Snyder et al., and W. M. and S.J. Smith.
900	11-15-18	Plat of A. M. Kaserman's Subdivision.
965	6-4-20	Plat of Seibold's Addition.
982	9-17-20	Plat of John Eichenlaub's Oakleaf Addition.
988	12-3-20	Lot 4 in J. and H. Eichenlaub's Oakleaf Addition.
995	2-4-21	Plat of first annex to Reeves' Second Addition.
1007	5-27-21	Plat of Graham's Addition.
1016	7-22-21	Plat of T. B. Stroup's Addition.
1017	7-29-21	Plat of Graff's Second Addition.
1027	9-23-21	Plat of Horst's Addition.
1068	8-11-22	Plats of J. W. Robson et al.
1073	9-29-22	Plat of Beitler heirs Addition.
1077	9-29-22	Plat of N. Tharett of lot 18, Anderman's plat.
1089	3-23-23	Plats of G. W. Knisley, et al.
1094	5-25-23	Plat of Hensel's Subdivision.
1105	7-20-23	Plat of F. C. Schultheiss' Addition.
1106	7-27-23	Plat of E. M. Bippus.
1109	8-17-23	Plat of Horst's Second Addition.
1115	9-28-23	Plat of Hardesty's Second Free Home Addition.
1125	11-2-23	Plat of Graff and Seibolds Addition.
1156	5-16-24	Plat of Stiffler and Russell's Addition.
1161	6-20-24	Plats of W. C. Graff et al.
1190	10-10-24	Plat of Rainsberger and Gilgen's Addition.
1193	10-17-24	Plat of W. W. Hall.
1280	11-4-25	Plat of Tennis Club Addition.
1281	12-4-25	Plat of A. M. Kaserman's Addition.
1290	2-5-26	Plat of New Philadelphia Construction Co.

TABLE D - DEDICATION AND PLAT APPROVAL (Cont.)

Ord. No.	Date	Description
1325	7-23-26	Plat of J.E. Reeves' Fifth Addition.
1385	7-8-27	Plats of C. G. Kies' Subdivision and A. E . Ferguson's Addition.
1485	9-7-28	Plat of Hardesty's Fourth and Fifth Additions.
1500	10-12-28	Plat of Heinzelman's Addition.
1507	11-23-28	Plats of lands in Lewis Addition and Reeves Oak Park Addition.
1537	6-14-29	Plat of Schultheiss and Kuhn's Subdivision.
1768	6-16-33	Plat of R. S. Long of outlot 2.
1808	1-5-34	Plat of Reeves Realty Co.
2045	1-10-39	Plat of Patterson Mfg. Co.
2069	7-24-39	Plat of V. R. Marsh.
2088	3-11-40	Plat of E. P. and R. O. Kaserman.
2089	3-11-40	Plat of A. E. Swisshelm.
2120	10-14-40	Plat of Ladel Conveyor and Mfg. Co.
2162	12-22-41	Plat of H. A. Hardesty et al.
2220	8-14-44	Plat of G. A. and I. Holleyoak.
2243	2-11-46	Plat of E. A. Hardesty.
2256	6-10-46	Plats of F.E. Angel, R. I. and I.M. Printz and W. Zimmerman.
2271	10-14-46	Plat of M. and N. Goshorn.
2290	6-9-47	Plat of Reeves' Sixth Addition.
2522	12-30-52	Plat of G. F. Porter's Allotment.
2528	3-9-53	Plat of A. D. Martinelli et al.
2529	3-9-53	Plat of E. M. Hardesty.
2540	5-4-53	Plat of Reeves' Seventh Addition.
2555	8-10-53	Plat of Twin Cities Concrete Co.
2642	9-13-54	Plat of United Home Builders Inc.
2659	3-14-55	Plat of Reeves' Eighth Addition.
2710	5-28-56	Plat of Park Lane Addition.
2773	2-10-58	Plat of A. J. Harris Jr. 's Second Addition.
2984	1-13-64	Charles A. Bichsel's First Addition.
3015	8-31-64	Holderbaum's First Addition.
3019	9-14-64	Oldtown Colonial Estates.
3067	12-13-65	Holderbaum's Second Addition.
3106	12-30-66	Holderbaum's Third Addition.
3112	1-23-67	Oldtown Colonial Estates Second Allotment.
3113	2-27-67	Oldtown Colonial Estates Third Allotment.
3128	5-8-67	Llanfair Lane NW.
3170	3-16-68	Martinelli's First Addition.
3203	9-23-68	0.295 acre of Mattevi property for street purposes.
3215	12-9-68	0.06 acre of Kramer property for street purposes; part of Eugene and Betty Miller property for street purposes.
3225	1-27-69	Plat of Holderbaum's Fourth Addition.

TABLE D - DEDICATION AND PLAT APPROVAL (Cont.)

Ord. No.	Date	Description
3257	6-9-69	Plat of Oldtown Colonial Estates Fourth Allotment.
3267	8-25-69	Plat of Gol-Mar Estates, Inc., First Allotment.
22-71	6-14-71	Plat of Oldtown Colonial Estates Fifth Allotment.
29-73	5-31-73	2.12 acres of City property and 0.71 acres of City property for street purposes.
34-73	7-9-73	Plat of Donahey Estates, First Addition.
61-73	10-25-73	2.967 acres of Bluebell Village, Inc. property for street purposes.
6-74	1-28-74	Plat of Storrie's First Addition.
18-74	4-15-74	Plat of Hummel Valley Estates First Addition.
22-74	4-15-74	Plat of Hilltop Enterprises, Inc. First Addition.
37-75	7-14-75	Plat of Oldtown Colonial Estates Sixth Allotment.
45-75	9-22-75	4.334 acres of City property for street purposes.
74-75	12-22-75	3.09 acres of City property for street purposes.
10-76	4-26-76	Plat of Myers Subdivision.
20-76	5-10-76	Plat of Southwood Terrace Addition.
52-76	8-9-76	0.445 acres of First Quarter of Township 8, Range 2, for street purposes.
53-76	10-11-76	0.138 acres of First Quarter of Township 8, Range 2, for street purposes.
63-76	10-11-76	0.724 acres in First Quarter of Township 8, Range 2 for street purposes.
74-76	11-22-76	Plat of Hummel Valley Estates First Addition.
25-77	3-28-77	Plat of Joseph T. McKnight Addition.
27-78	5-8-78	Plat of Hummel Valley Estates Third Addition
57-78	5-14-79	Two parcels containing .046 acre between Lots 5354 and 5362 for street purposes.
27-79	5-14-79	Plat of Colonial Estates Seventh Addition.
40-79	5-31-79	Plat of Hummel Valley Estates Fourth Addition.
51-79	7-23-79	Accepting 4 tracts, being part of several tracts conveyed to the Peoples National Bank & Trust Co. for street purposes.
84-79	5-29-79	Plat of Larkin Hummel Valley Estates Fifth Addition.
21-80	4-28-80	Dedicating premises conveyed by Reeves Realty Associates to be named Monroe Street.
36-80	6-9-80	Dedicating premises conveyed by Midas Realty Corp. for street purposes.
63-80	9-22-80	Plat of H. I. Snyder's Second Addition Phase I and Phase II.
72-80	10-13-80	Plat of Schoenbrunn Estates No. 1.
50-81	9-28-81	Dedicating 0.224 acre of First Quarter, Twp. 8, Range 2, for street purposes.
51-81	9-28-81	Dedicating 0.0755 acre of Second Quarter, Twp. 8, Range 2, for street purposes.
61-81	10-12-81	Plat of Schoenbrunn Estates No. 2.
33-82	5-24-82	Dedicating 0.445 acre of U.S. Military Lands, First Quarter, Twp. 8, Range 2, for street purposes.
36-83	9-26-83	Dedicating part of Stratton Ave., S.W. for public use.
24-84	6-11-84	Dedicating a portion of Blake Ave. for public use.
38-84	7-23-84	Plat of Honey Valley First Addition.
39-84	7-23-84	Plat of Donahey Estates Second Addition.
3-85	2-11-85	Plat of Donahey Estates Third Addition.
18-85	4-22-85	Plat of R.A. Watson's First Addition.

TABLE D - DEDICATION AND PLAT APPROVAL (Cont.)

Ord. No.	Date	Description
20-85	4-22-85	Plat of H. I. Snyder's Third Addition.
38-85	11-25-85	Plat of Donahey Estates Fourth Addition.
42-86	10-27-86	Plat of Donahey Estates Fifth Addition.
46-87	8-24-87	Plat of Donahey Estates Seventh Addition.
68-87	9-28-87	Dedicating property conveyed by Robert and Mary Edwards as part of a public street and named Jefferson St.
3-88	2-8-88	Accepts conveyance for street purposes, dedicating the street and naming such street.
27-88	5-23-88	Plat of Donahey Estates Sixth Addition.
28-88	5-23-88	Plat of Larkin First Addition.
37-88	6-27-88	Plat of Honey Valley Second Addition.
38-88	8-27-88	Plat of Schoenbrunn Estates Third Addition.
76-89	11-27-89	Plat of Rem Addition, located northeast of Countryside Rd.
37-90	7-12-90	Plat of Northwood Heights, First Addition.
47-90	8-27-90	Plat of Honey Valley Third Addition.
64-91	10-14-91	Plat of Schoenbrunn Estates #4
65-91	10-14-91	Plat of Northwood Heights 2nd Addition.
45-92	8-10-92	Plat of Honey Valley Fourth Addition.
51-92	10-12-92	Plat of Limbaugh, Crider Ave. Addition.
63-92	1-25-93	Plat of Honey Valley Fifth Addition, from the end of Denise Dr. S.E. Phase 3 approximately 635 feet south and ending at the cul-de-sac.
43-93	7-26-93	Plat of Northwood Heights Third Addition, located northwest of Lakeview Rd.
51-93	9-13-93	Plat of Schoenbroun Estates, Fifth Addition.
27-95	6-26-95	Plat of Robert Martinelli and Kathy Pietro.
29-95	6-26-95	Plat of Mistee Dawn Estates.
51-95	11-27-95	Final plat of Beitler St.
57-95	2-26-96	Final plat of 8th Addition of Donahey Estates.
39-96	7-22-96	Plat of Honey Valley Eighth Addition.
40-96	7-22-96	Plat of Mistee Dawn Third Addition.
45-96	7-29-96	Plat of Mistee Dawn Second Addition.
56-96	12-9-96	Plat of Honey Valley Seventh Addition.
48-97	8-11-97	Plat of Mistee Dawn Fourth Addition.
29-98	5-11-98	Plat of Oak Shadows.
75-98	8-24-98	Plat of Mistee Dawn Fifth Addition.
90-98	12-14-98	Accepts McDonald Drive and a portion of West High Ave., and dedicates McDonald Drive.
54-99	7-12-99	Accepts plat of Al and Jane Gasser.
64-99	9-13-99	Accepts plat of Schoenbrunn Estates #6.
65-99	9-13-99	Accepts plat of Parkview Heights Addition.
21-00	4-10-00	Accepts James St. for dedication.
40-00	8-14-00	Accepts the Greco Property, LTD plat along Fifth St.
71-00	1-8-01	Accepts the Creekside Development #2 Plat.
2-01	2-12-01	Accepts plat of Taylor Drive SW Subdivision.
5-01	3-12-01	Accepts plat of Taylor Drive SW Subdivision.
54-01	12-10-01	Accepts the street plat for Pinnacle Drive NW.

TABLE D - DEDICATION AND PLAT APPROVAL (Cont.)

Ord. No.	Date	Description
27-02	7-8-02	Accepts the Creekside Development #3 plat.
84-02	10-14-02	Accepts the amended Creekside Development #2 plat.
1-04	1-26-04	Accepts the plat for Lawver Haas Subdivision.
11-04	4-26-04	Accepts the Oak Shadows Phase II Plat.
28-2004	6-14-04	Accepts the D.J.W. Development Phase 1 Plat.
43-2004	8-9-04	Accepts the Goshen Glens Subdivision Phase 1 Plat.
46-2004	8-9-04	Accepts the Rutledge Gate Phase 1 Plat.
22-2005	6-13-05	Accepts the Rutledge Gate Phase 2 Plat.
26-2005	7-11-05	Accepts two plats: The Tuscarawas Regional Technology Park and University Drive NE.
36-2005	10-24-05	Accepts the dedication plat for Tuscarawas Regional Technology Park.
7-2006	3-13-06	Accepts the D.J.W. Development Phase Two Plat.
27-2006	6-12-06	Accepts the Gasser's Creekside Development #4 Plat.
34-2006	7-24-06	Accepts the vacation and dedication plat for Tuscarawas Regional Technology Park.
24-2007	11-26-07	Accepts the Oak Shadow Phase III Plat.
36-2009	1-11-10	Accepts the final plat of the DJW (Phase 3) Addition.
21-2010	10-11-10	Accepts the final plat of the Kent Cove Estates Phase I off of University Drive NE by Developer Fred Hershberger.
23-2013	12-9-13	Accepts the Oak Shadows Phase VI Plat.
12-2014	6-16-14	Accepts the Oak Shadows Phase IV Plat.
17-2014	8-11-14	Accepts the roadway dedication plat for Market Place Commons S.W.
19-2014	9-8-14	Accepting the Oak Shadows Phase V Plat.
30-2014	12-22-14	Accepts the final plat for DJW Development Phase 4.

TABLE E - ACQUISITION AND DISPOSAL OF REAL PROPERTY

Ord. No.	Date	Description
Unno.	2-12-1858	Acquires property in East Addition for cemetery purposes.
Unno.	12-10-1873	Disposes of property to Lake Shore and Tuscarawas RR Co. for station.
160	9-17-02	Acquires property for extension of Seventh St.
204	12-11-03	Acquires property of M.E. McFarland for street purposes.
395	6-26-08	Acquires property of A. Ferguson for street purposes.
529	10-31-11	Acquires property in Goshen Twp. for water works.
534	5-31-12	Acquires property in Goshen Twp. for sewage disposal works.
556	6-14-12	Acquires property in Goshen Twp. for park purposes.
599	1-31-13	Acquires property of A. McBride for sewer line.
635	7-25-13	Acquires property of E. L. Wenger for street purposes.
641	9-19-13	Acquires property of E. L. Wenger and J. P. Stiffler for street purposes.
648	10-24-13	Acquires property of I. F. Carnahan for sewer line.
683	3-6-14	Acquires property in Goshen Twp, for street purposes.
704	6-26-14	Acquires property of J. E. Emerson for water main.
711	7-31-14	Acquires property of F.B. Grimm for W. Ray St.
1112	9-7-23	Acquires twenty acres in Goshen Twp. from Reeves Realty Co.
1391	8-5-27	Disposes of property in Howe's Addition.
1533	5-10-29	Acquires property of A. and E. Buckohr in Goshen Twp. for sewer purposes.
1782	8-18-33	Acquires property from S. Hensel.
1783	8-18-33	Disposes of property in first quarter of Twp. 8, Range 2.
1866	2-18-35	Acquires property at airport from D.J. Brown
1966	9-7-37	Disposes of property in Twp. 8, Range 2 in Goshen Twp.
1967	9-7-37	Disposes of property in Twp. 8, Range 2 in Goshen Twp.
1968	9-7-37	Disposes of property in Twp. 8, Range 2 in Goshen Twp.
1969	9-7-37	Disposes of property in Twp. 8, Range 2 in Goshen Twp.
1977	12-6-37	Acquires property of Crites estate for cemetery.
1978	12-6-37	Acquires property of L.H. and E.A. Graybill for airport.
1979	12-6-37	Acquires property of C. O. and M. C. Paulus for airport.
2053	2-27-39	Acquires property adjacent to water works.
2174	5-25-42	Disposes of property in Twp. 8, Range 2 in Goshen Twp.
2298	9-22-47	Acquires property of V. Massarelli on Eighth Dr.
2299	9-22-47	Acquires property from S. A. Uptegraph et al.
2300	9-22-47	Disposes of part of lot 3 in Fairview Addition.
2337	7-12-48	Acquires 3 tracts in Schoenbrun tract for airport purposes.
2346	9-27-48	Acquires 2 tracts for street purposes.
2354	11-22-48	Acquires 5 tracts for street purposes.
2432	12-11-50	Acquires property in Twp. 8, Range 2 in Goshen Twp.
2448	3-26-51	Acquires 4 tracts in First Annex to Reeves' Second Addition for street purposes.
2479	12-10-51	Acquires property of H. A. and J. Hardesty for street purposes.
2513	11-24-52	Acquires property of R. L. Walton for sewer line.
2533	3-11-53	Disposes of part of water works property to Warner & Swasey Co.

TABLE E - ACQUISITION AND DISPOSAL OF REAL PROPERTY (Cont.)

Ord. No.	Date	Description
2582	12-14-53	Acquires property for extension of Beitler Ave. sewer.
2607	3-8-54	Acquires property in Twp. 8, Range 2 in Goshen Twp.
2615	3-29-54	Acquires property in Twp. 8, Range 2 in Goshen Twp. for City dump.
2621	4-12-54	Acquires property of E. L. Morris for sewage plant.
2649	12-27-54	Acquires part of outlot 2, Stiffler's Subdivision.
2667	4-11-55	Acquires property in Grimes' Addition for street purposes.
2763	5-26-58	Acquires property of G. L. and M. J. Hensy for street purposes.
2836	6-13-60	Acquires Pennsylvania RR right of way from corporation limits to Village of Roswell.
2864	7-11-60	Acquires strip of land from Henry and Florence Ashbaugh on east side of lot 2120 for utilities.
2903	12-11-61	Acquires 21 acres in Goshen Twp. abutting sewage disposal plant.
2956	2-25-63	Disposes of 13.24 acres to Robert Shontz.
2997	4-27-64	Acquires 2.8 acres adjoining sewage disposal plant from Margaret Keller.
3001	6-8-64	Acquires approximately 13 acres adjacent to City dump from Robert and Martha Galbraith.
3004	6-8-64	Disposes of 4.685 acres to State of Ohio for highway purposes.
Res.1964-11	10-26-64	Releases portion of Ohio and Erie Canal land to abutting owners on south side of canal.
3065	12-27-65	Relinquishes rights to 0.173 acre of abandoned Ohio Canal to abutting property owners.
3097	12-12-66	Acquires lots 198, 199 and 200 from estate of Robert Rutledge.
3098	11-14 66	Authorizes bidding to acquire property at 258 North Ave. N.E.
3172	3-25-68	Disposes of land to State of Ohio for relocation of South Broadway bridge.
3175	4-18-68	Authorizes selling of City owned property adjacent to Quay Briggs property.
3211	11-14-68	Disposes of property to State of Ohio, Dept. of Highways.
3250	5-26-69	Authorizes sale of 3.17 acres near Rankin property.
3299	3-23-70	Accepts 11.820 acre tract from Reeves Banking and Trust Co. for street and utility purposes.
3320	7-13-70	Authorizes purchase of .15 acres from H. and P. Kerr.
71-2	3-22-71	Authorizes purchase of part of lot 160.
71-11	3-29-71	Authorizes purchase of T. Hangers, restaurant building and air compressor from Tuscarawas County Aviation, Inc.
71-38	10-25-71	Authorlzes purchase of premises of Q. Briggs on S. Broadway.
41-73	6-18-73	Acceptance of Lauren Manufacturing Co. property for industrial development.
Res. 4-75	2-24-75	Authorizes purchase of parcels 2-WL, T-1, T-2 and T-3 for highway purposes.
68-78	12-28-78	Authorizes purchase of part of lot 15 of the Schoenbrunn Tract in Goshen Twp., containing 26.349 acres.

TABLE E - ACQUISITION AND DISPOSAL OF REAL PROPERTY (Cont.)

Ord. No.	Date	Description
33-79	4-23-79	Authorizes purchase of .766 acres from R.S. & E.M. Wassem to extend Bluebell Dr.
40-80	5-29-80	Authorizes delivery of deed for land, formerly leased, to Lauren Mfg.
28-81	5-28-81	Authorizes Service Director to enter into contract for purchase of 0.75 acre at Bowers Ave., N.W. and Kelly St.
12-82	1-25-82	Authorizes purchase of property from E. Cookson for future capital improvement needs.
18-82	3-8-82	Authorizes sale of property at 150 S. Broadway.
43-87	8-6-87	Appropriates real estate for the public purpose of the Mills Avenue project.
45-87	8-6-87	Appropriates real estate for the public purpose of the Mills Avenue project.
34-88	6-13-88	Authorizes Park Board to purchase property contiguous to Tuscora Park on behalf of the City.
77-88	12-12-88	Authorizes sale of Valley Manor Nursing Home.
25-90	5-14-90	Authorizes sale of property leased to Lauren Manufacturing Co. to the Department of Transportation.
59-90	12-10-90	Authorizes transfer and ownership of Evergreen Burial Park to the City.
23-91	4-22-91	Settlement agreement to allow certain acreage to be transferred to the City from Buehler Ford Market.
34-94	6-13-94	Authorizes the Mayor to enter into an option to purchase 36.334 acres for $10,000.
66-94	12-29-94	Authorizes an extension of an offer to purchase real estate under Ord. 34-94.
39-95	9-25-95	Reconveys certain Ohio Canal lands to the Ohio Department of Natural Resources.
53-95	1-8-96	Reconveys certain Ohio Canal lands to the Ohio Department of Natural Resources.
8-97	2-24-97	Reconveys certain Ohio Canal lands to the Ohio Department of Natural Resources.
36-97	7-28-97	Reconveys certain Ohio Canal lands to the Ohio Department of Natural Resources.
37-97	7-28-97	Reconveys certain Ohio Canal lands to the Ohio Department of Natural Resources.
12-98	3-23-98	Reconveys certain Ohio Canal lands to the Ohio Department of Natural Resources.
13-98	3-23-98	Reconveys certain Ohio Canal lands to the Ohio Department of Natural Resources.
70-98	8-24-98	Reconveys certain Ohio Canal lands to the Ohio Department of Natural Resources.
79-98	9-14-98	Authorizes an agreement with E.K. and Sally Wright to buy real estate and widen Donahey Ave.

TABLE E - ACQUISITION AND DISPOSAL OF REAL PROPERTY (Cont.)

Ord. No.	Date	Description
82-98	11-9-98	Enters into an agreement with Charles and Naoma Minnich to buy real estate and extend utility services.
28-02	3-25-02	Authorizes the purchase of 18.151 acres which adjoins the New Philadelphia City Park from Jack and Carol Phillips for $96,000.
41-03	7-14-03	Authorizes the Mayor to sign a quit claim deed to return to Benjamin and Eunice Cookson property donated to the City for a skate park.
44-06	12-28-06	Authorizes the sale of 0.6152 acres located at Bowers Ave. NW and Kelly St. NW.
4-09	3-9-09	Accepts the land deeded to the City by the Knisely Family Trust and dedicating said property as a public street Reiser Avenue.
22-2014	9-22-14	Approves an agreement between the City and Susan E. Grover for the purchase of real estate for the purpose of constructing a new Fire Station.
1-2016	1-11-16	Approves an agreement between the City and William Klopfer for the purchase of real estate for the purpose of constructing a new fire station.

TABLE F - LEASE OF REAL PROPERTY

Ord. No.	Date	Description
1513	1-18-29	By City of lot 108 for parking purposes.
2204	2-14-44	By City from D. J. Brown, property for airport purposes.
2227	2-26-45	By City from D. J. Brown, property for airport purposes.
2341	8-9-48	From City by D. Skinner of property at City dump.
2360	12-27-48	From City by Veterans of Foreign Wars, property in Hansel's Addition.
2365	3-28-49	By City from C. D. Kuhn of property in Hansel's Subdivision.
2576	10-13-53	Property in Twp. 8, Range 2 in Goshen Twp.
2590	1-25-54	From City by Lake Central Airlines of property at airport.
2603	3-8-54	From City by Pure Oil Co. of canal lands.
2604	3-8-54	From City by Robert Ashbaugh of canal lands.
2627	5-24-54	From City by T.H. and V.P. Findley of canal lands.
2663	3-28-55	By City from C.D.S. Wheeler for off-street parking.
2695	1-23-56	From City to Board of Education of park grounds.
2707	3-26-56	By City to Tuscarawas County Aviation Inc. of City airport.
Res.1961-7	8-14-61	From City by Little Theater of Tuscarawas County, Inc. part of Tuscora Park for cultural arts center for 99 years.
2899	8-14-61	Extension and renewal to B. F. Goodrich Co. for parts of lots 107 and 108 until 11-30-63.
2910	2-12-62	From City by Flytwin, Inc. building site and space at City airport for 5 years.
2962	4-22-63	By City from New Philadelphia Parking, Inc. for portion of lot 208 for off-street parking lot.
2979	10-28-63	From City to William Swaldo for 1 room at 123 Commercial Ave. S.E. for 5 years.
2980	10-14-63	Extension of lease to B. F. Goodrich at 150 South Broadway until 11-30-64.
3012	8-24-64	Amends and extends B. F. Goodrich lease at 150 S. Broadway for 5 years and permits alterations and improvements.
3021	11-9-64	From City to Midwest Airlines, Inc. for use of City airport for 1 year.
3041	5-10-65	By City from Charlotte Wheeler for south half of lot 193 for 5 years.
3043	6-14-65	By City from I. M. Jaffe, premises on North Broadway for public parking lot for 3 years.
3059	10-25-69	By City from Elizabeth Wessel and George Rosenbery, Tuscarawas Savings and Loan Co. and Achsah Scarborough, premises for 3 parking lots for 3 years.
3075	3-28-66	Renewal and extension to Tuscarawas County Aviation, Inc. for use of City airport for 5 years.
3096	10-24-66	By City, premises owned by Linn-Hert-Geib Co. at East High Ave. and Second St. N. E. for 3 years for public parking lot.
3116	2-27-67	From City to Board of County Commissioners for use of scales at City airport for 1 year.

TABLE F - LEASE OF REAL PROPERTY (Cont.)

Ord. No.	Date	Description
Res.1967-8	8-28-67	Renewal to Flytwin, Inc. for building site and space at City airport for 5 years.
3165	2-15-68	From City to Joy Manufacturing Co. a strip of land 22 feet by 190 feet for parking purposes for 1 year, reserving utility rights.
3196	8-26-68	Modifies Res. 1967-8 lease with Flytwin, Inc. and authorizes lease agreement with Marlite Division, Masonite Corp., Inc.
3213	11-14-68	From City to William Swaldo for 1 room at 123 Commercial Ave. S.E. for 3 years for barber shop.
Res.1968-15	11-14-68	Authorizes option for City to lease land for land fill.
3279	10-13-69	Authorizes lease with Mini-Shop, Inc. for premises located at 150 S. Broadway.
Res.1969-16	11-10-69	Authorizes lease with Board of Education for space at the City Airport to establish a course in aviation technology.
3329	9-14-70	Authorizes lease agreement with Reeves Banking and Trust Co. for lot 252 and part of lot 251, for off-street parking facilities.
Res.1972-4	2-28-72	From City to James Mari for premises at 123 Commercial Ave. S. E. for 2 years for barber shop.
41-73	6-18-73	From City to Lauren Manufacturing Co. for industrial development.
59-73	10-25-73	Authorizes lease with Warner and Swasey Co. of City land.
67-73	10-25-73	Authorizing acceptance and lease of real property to Monroe Mall Assoc.
Res. 5-74	6-10-74	Authorizes assignment of City interest in lease with Perkins Associated, Inc.
9-74	1-28-74	Authorizes lease of restaurant space at Municipal airport to highest bidder.
13-74	2-25-74	Authorizes lease of Quaker Stadium with terms to highest bidder.
56-74	10-28-74	Authorizes easement agreement pursuant to lease with Monroe Mall Assoc.
33-75	6-23-75	Authorizes lease of City land at South Broadway and Mill Ave.
75-75	12-22-75	Authorizing rental of court room facilities from Tuscarawas County Commissioners for Municipal Court use.
4-77	5-23-77	Authorizes lease with Board of Education for use of Quaker Stadium and locker room facilities.
37-77	6-27-77	Authorizes lease of parking lot on lots 190 and 191 from the First Presbyterian Church.
38-77	6-27-77	Authorizes for parking lot purposes lease of property from J. S. and K. C. Patrick.
39-77	6-27-77	Authorizes for parking lot purposes lease of property in vicinity of N. Broadway from the American Legion Post #139.
42-77	6-27-77	Authorizes for parking lot purposes lease of west half of lot 140 from H. E. Everhard.

TABLE F - LEASE OF REAL PROPERTY (Cont.)

Ord. No.	Date	Description
67-77	10-10-77	Authorizes for parking lot purposes lease of part of lot 146 from Ohio Movies, Inc.
68-77	10-10-77	Authorizes for parking lot purposes lease of parts of lots 97 and 98 from D. Skinner.
90-77	11-28-77	Authorizes for parking lot purposes lease of portions of lots 101 and 102 in vicinity of S. Broadway from A. Martinelli.
101-77	12-12-77	From State for airport runway purposes a 4.10 acre parcel for 40 yrs. beginning 10-20-70.
31-78	6-12-78	Authorizes for parking lot purposes lease of premises at rear of 141 N. Broadway, owned by Midland Buckeye Federal Savings & Loan Co.
48-79	7-23-79	Authorizes lease of old City Garage Main Building and attached restroom facility to highest bidder.
75-79	10-22-79	Authorizes lease of 150 S. Broadway to the highest bidder.
21-84	5-31-84	Oil and gas rights lease of .898 acre contiguous to larger tract, formerly railroad property.
16-90	4-9-90	Authorizes for parking lot purposes lease of Lots 190 and 191 from the First Presbyterian Church.
42-90	7-23-90	Authorizes the lease of the Old City Garage to the New Philadelphia Board of Education.
53-91	7-8-91	Authorizes a nondrilling oil and gas lease with North American Petroleum for 33.06 acres.
30-93	6-14-93	Authorizes the Director of Public Service to enter into a lease agreement for real estate located at New Philadelphia Municipal Airport.
32-98	4-27-98	Extend the airport lease with the current fixed based operator on a month to month basis.
106-98	1-25-98	Authorizes a nondrilling oil and gas lease with North American Petroleum, Inc.
49-99	7-12-99	Authorizes a lease for the Airport Restaurant located at Harry Clever Field.
79-99	11-29-99	Lease agreement to relocate Municipal Offices.
87-99	11-29-99	Lease with Clever Aircraft Services Limited.
42-00	8-28-00	A drilling oil and gas lease with Tipka Energy Development Co. for four acres known as the City Reservoir.
27-2010	12-27-10	Authorizes the Mayor to enter into a lease agreement with the State of Ohio Schoenbrunn Village Ohio Historical Society near the Schoenbrunn Village and the New Philadelphia Airport.

TABLE G - STREET GRADE LEVELS AND CHANGE OF STREET NAME

Ord. No.	Date	Description
7	7-1-1896	Broadway St.
8	7-1-1896	High St.
39	3-16-1898	East High St. and East Ave.
222	8-19-04	Broadway St.
230	11-25-04	Miller Ave., Cross St., Ray St. and Garden St.
247	6-23-05	Broadway St.
262	10-20-05	Seventh St. and Electric Blvd.
328	5-17-07	Miller Ave., Cross St and Sherman St.
335	6-14-07	Janes St. and Grant St.
443	7-30-09	Center St. renamed East Fair St.
456	12-31-09	Fixing line and grade for numerous streets.
823	9-22-16	West Side of South Ninth St.
2291	6-9-47	Naming Stadium Rd.
2313	3-8-48	Naming Charles Dr. N.E., Third Dr. N.E., Harmon Dr. S.E. and Bank Lane S.E.
2761	12-23-57	Naming Downey Dr.
2870	9-26-60	Seventh St. N.W. from Ray Ave. N.W. to Cedar Lane N.W. renamed Union Ave. N.W.; Fifth Dr. N.W. from Ray Ave. N.W. to Cedar Lane N.W. renamed Kelly St. N.W.
Res. 1967-2	1-9-67	Township Rd. No. 312 named University Drive.
53-80	7-28-80	Stadium Dr. renamed C. Wm. Kidd Dr.
8-81	3-9-81	Countryside Dr. N.W. renamed Hilltop Rd. N.W. in Phase I, H.I. Snyder's Second Addition.
10-94	2-28-94	Renames Cedar Lane, NW, between Third Street, NW and Fourth St. NW to Leo Benjamin Court.
Res. 8-97	4-14-97	Names an unnamed alley in the northeast section of the City Crawshaw Lane.
35-03	7-14-03	Changes the name of Peach Alley to Mishler Lane.
36-03	7-14-03	Designating all secondary thoroughfares in the City which are named Alley to be renamed Lane for all streets running east to west and to change the name from Alley to Drive for all secondary streets running north and south.

TABLE H - ANNEXATION AND DETACHMENT OF TERRITORY

Ord. No.	Date	Description
Unno.	9-5-1868	Property in Twp. 8, Range 2 of Goshen Twp.
Unno.	12-7-1881	Part of Twp. 8, Range 2 in Goshen Twp.
Unno.	11-19-1884	Part of Twp. 8, Range 2 in Goshen Twp.
Unno.	8-19-1891	Property in Twp. 8, Range 2 in Goshen Twp.
Unno.	9-7-1892	Property in Goshen Twp. and Dover Twp.
63	3-3-1899	Village of Blakes Mills.
134	2-26-02	Properties in Goshen Twp. and Dover Twp.
190	8-21-03	Property in Wagner's Second Addition.
567	7-26-12	Property adjacent to City park.
934	11-4-19	Two tracts in Goshen Twp. and eight allotments.
1009	5-27-21	Two tracts in Goshen Twp.
1352	12-31-26	Property in Goshen Twp.
1963	8-17-37	Property in Goshen Twp.
1964	8-30-37	Property in Goshen Twp.
2015	4-25-38	Property in Goshen Twp.
2431	12-11-50	Two tracts in Goshen Twp.
2472	10-1-51	Property in Twp. 8, Range 2 in Goshen Twp.
2647	12-18-54	Part of Twp. 8, Range 2 in Goshen Twp.
2683	11-14-55	Property in Goshen Twp.
2742	2-25-57	Property in Goshen Twp.
Res.1957-9	11-27-57	Property in Goshen Twp.
2892	5-8-61	Detatches territory west and east of South Broadway.
3008	7-13-64	Annexes 0.494 acre of Lieser property in vicinity of Wabash Ave. and proposed Sixth St. S.W.
3013	8-10-64	Annexes 37.119 acres of former Robinson property, now owned by Holderbaum.
3016	9-14-64	Accepts annexation of certain territory in Goshen Twp. the petition for which was approved by the County Commissioners on July 6, 1964.
3035	3-22-65	Annexes 3.023 acre tract in Goshen Twp. being part of the "fractional lot" and part of lot 6 in the 4th quarter of Twp. 8, Range 2.
3042	5-10-65	Annexes 3.596 acres in vicinity of Ohio Canal lands and South Broadway.
3045	5-24-65	Annexes real estate in Goshen Twp.
3057	9-27-65	Annexes 16.926 acres of Ward K. Bower et al.
3064	11-8-65	Annexes 2.087 acres of Pollock property.
3084	8-8-66	Annexes 34.596 acres of Lola Gibbs, Carrie Shackleford, Hilan Holderbaum and Watson Bros. Construction, Inc.
3138	8-28-67	Annexes property of Dale Schwartz, Thelma Schwartz and Nellie Reif in Goshen Twp.
3166	3-11-68	Annexes territory in Goshen Twp.

TABLE H - ANNEXATION AND DETACHMENT OF TERRITORY (Cont.)

Ord. No.	Date	Description
3187	7-8-68	Annexes 56.655 acres of Holderbaum property.
3191	7-22-68	Annexes 0.3 acre on east side of outlot 5 in Blakes outlots.
3192	11-18-68	Annexes 88.11 acre tract in Goshen Twp. and Dover Twp.
3193	8-12-68	Annexes 0.83 acre in vicinity of lot 4971 and Township Rd. No. 325.
3214	11-14-68	Annexes 28.715 acres in the vicinity of lot 3361, Wabash and Bowers Aves.
3247	4-28-69	Annexes 78.735 acres of Watson Bros. Construction, Inc., Rosa Packer et al.
Res.1969-19	10-29-69	Resolution of intent to accept annexation of P. C. Knisely property.
3298	1-26-70	Annexes 22.43 acres in the vicinity of Maple Ave. N.W., Twelfth St., Tuscarawas River and the corporation line.
Res. 1970-11	8-24-70	Intention of City to accept annexation of 13 acres belonging to S. Doppelt.
3321	8-24-70	Accepts annexation of 34.378 acres located in Goshen Twp.
3322	8-24-70	Accepts annexation of 201.758 acres located in Goshen Twp.
3323	8-24-70	Accepts annexation of 66.284 acres located in GoshenTwp.
3-73	4-9-73	Annexes 2.67 acres in Goshen Twp.
4-73	10-11-73	Annexes two tracts in Goshen Twp., 0.70 acres and 6.894 acres.
49-73	9-10-73	Annexes 0.928 acres and 64.683 acres in Goshen Twp.
56-73	9-24-73	Annexes 2.50 acres, 0.32 acres, 1.06 acres and 2.50 acres in Goshen Twp.
65-73	10-25-73	Annexes land in vicinity of New Schoenbrunn Allotment.
69-73	11-26-73	Annexes 7.009 acres and 109.88 acres in Goshen Twp.
80-73	1-28-74	Annexes lot 382 in Thiebaud Allotment and Twelfth Street.
4-74	2-11-74	Annexes 0.732 acres in Goshen Twp.
5-74	2-11-74	Annexes 2.42 acres and 2.60 acres in Goshen Twp.
7-74	2-11-74	Annexes 0.50 acres in Goshen Twp.
8-74	2-25-74	Annexes lots 394 and 395 in Robert R. Renner First Allotment.
11-74	3-25-74	Annexes 32.11 acres and 10.42 acres in Goshen Twp. of lots 6 and 15.
27-74	6-24-74	Annexes 3.867 acres in Goshen Twp. of Lots 21 and 23.
55-75	10-30-75	Annexes 0.998 acres and 1.657 acres in Goshen Twp. of lots 4 and 5.
57-75	10-30-75	Annexes 16.675 acres in Goshen Twp. of lot 10.
5-76	4-12-76	Annexes 9.23 acres in Goshen Twp. of lots 15 and 16.
24-76	5-24-76	Annexes 1.395 acres in Goshen Twp.
29-76	7-12-76	Annexing three parcels in Goshen Twp. including lots 372 and 386 in Thiebaud Allotment.
30-77	7-11-77	Annexes 4 parcels in the Third Quarter of Twp. 8, Range 1 of the Schoenbrunn Tract, Goshen Twp.
31-77	6-27-77	Annexes 8.577 acres located in First Quarter of Twp. 8, Range 2 of Goshen Twp.

TABLE H - ANNEXATION AND DETACHMENT OF TERRITORY (Cont.)

Ord. No.	Date	Description
6-78	3-27-78	Annexes part of lot 5 of the Schoenbrunn Tract in Goshen Twp., containing 1.318 acres.
7-78	3-27-78	Annexes part of lot 10 of the Schoenbrunn Tract in Goshen Twp., containing 0.842 acres.
33-78	7-10-78	Annexes 0.382 acres in First Quarter of Twp. 8, Range 2 of Goshen Twp.
2-79	2-12-79	Annexes lots 369, 370, 371, 383, 384 and 385 in Thiebaud Allotment in Goshen Twp.; a portion of an 18 ft. east-west alley in such addition, the west end being the extension south of the west line of lot 368 and terminating at 12th St.; and an 18 ft. north-south alley in such addition, the north end terminating at Maple Ave. and the south end terminating at W. High Ave.
9-79	4-9-79	Annexes real estate in Goshen Township of J.& B. Moran and H. I. Snyder.
20-79	4-23-79	Annexes real estate in Goshen Twp. commonly known as the Salt Bowl.
37-79	6-11-79	Annexes .766 acres located in Goshen Twp.
43-79	7-9-79	Annexes part of a 33.25 and 35.75 tract owned by B. Cookson and D. Schwartz.
44-79	7-9-79	Annexes 5 parcels in Goshen Twp. owned by B. Cookson and D. Schwartz.
68-79	10-22-79	Annexes certain territory being a part of lots 4341 and 4342 in Goshen Twp. of J. & J. Winters.
77-79	11-26-79	Annexes certain territory in Goshen Twp. being located in the Fourth Qrtr. of Twp. 9, Range 2 owned by H.I. Snyder.
31-80	7-28-80	Accepts application for annexation of 87.53 acres in Goshen Twp.
41-80	8-11-80	Accepts application for annexation of 1.56 acres in Goshen Twp.
42-80	8-11-80	Accepts application for annexation of Lot 381 in Thiebaud Allotment, Goshen Twp.
68-80	10-13-80	Accepts application for annexation of part of Second Quarter, Twp. 8, Range 2 in Goshen Twp.
43-81	9-28-81	Accepts application of N. L. McWilliams for annexation of a 0.465 acre parcel and 0.524 acre parcel in Goshen Twp.
59-81	11-9-81	Accepts application of H. E. Betche for annexation of 0.696 acre in Goshen Twp.
75-81	1-25-81	Accepts application of L. D. Smith for annexation of 0.331 acre in Goshen Twp.
76-81	1-11-81	Accepts application of T. E. and A. J. Larkin for annexation of 9.487 acres in Goshen Twp.
44-82	1-24-83	Accepts application of K. W. and M. M. Burgess for annexation of 10.085 acres in Goshen Twp.

TABLE H - ANNEXATION AND DETACHMENT OF TERRITORY (Cont.)

Ord. No.	Date	Description
28-83	9-26-83	Accepts application of T. E. and A. J Larkin for annexation of 10.447 acres in Goshen Twp.
51-83	2-13-84	Accepts application of DeMattio Construction, Inc., for annexation of certain territory within Lots 23 and 24 in 3rd Quarter, Twp. 8, Range 1 in Goshen Twp.
4-84	3-12-84	Accepts application of Ben Cookson, Inc. et al. for annexation of certain territory in Goshen Twp.
5-84	3-12-84	Accepts application of H. J. Menapace, et al., for annexation of certain territory in Goshen Twp.
30-84	6-25-84	Accepts application of Countryside Properties, for annexation of certain territory in Goshen Twp.
50-84	11-12-84	Accepts application of Thomas and Allah Jo Larkin for annexation of certain territory in Goshen Twp.
14-85	3-25-85	Accepts application of Thomas and Allah Jo Larkin for annexation of certain territory in Goshen Twp.
55-85	12-23-85	Detachment of certain territory upon the application of H. I. Snyder and Dwain R. Hicks.
27-86	7-14-86	Accepts application of Benjamin Cookson, Jr. and Dale E. Schwartz for annexation of certain territory in Goshen Twp.
27-87	6-22-87	Accepts application of Robert and Paula Smitley and Russell Bennet for annexation of certain territory in Goshen Twp.
37-87	9-14-87	Accepts application of Susan F. Davis for annexation of certain territory in Goshen Twp.
64-87	10-26-87	Accepts application of Thomas E. Larkin et al., for annexation of certain territory in Goshen Twp.
74-87	11-9-87	Accepts application of New Towne Mall Associates Ltd. for annexation of certain territory in Goshen Twp.
1-88	4-11-88	Accepts application of the State Department of Transportation for annexation of certain territory in Goshen Twp.
71-88	5-22-89	Accepts application of the State Department of Transportation for annexation of certain territory in Goshen Twp.
72-88	5-22-89	Accepts application of Times Mirror Cable Television of Ohio for annexation of certain territory in Goshen Twp.
5-90	2-12-90	Accepts application of Sheridan D. Bigler, et al. for the annexation of certain territory in Goshen Twp.
10-90	4-23-90	Accepts application of Dana Lewis for the annexation of certain territory in Goshen Township.
56-90	11-12-90	Accepts application of Gregory and Kimberly Erb for the annexation of certain territory in Goshen Township.
79-91	1-13-92	Accepts application of George E. Limbaugh, Dean Heter and Guy Born of certain territories in Goshen Twp.

TABLE H - ANNEXATION AND DETACHMENT OF TERRITORY (Cont.)

Ord. No.	Date	Description
29-92	7-13-92	Accepts application of DeMattio Construction, Inc. for annexation of certain territory in Goshen Twp.
31-92	7-13-92	Accepts application of Kathy L. Pietro and Robert E. Martinelli for annexation of certain territory in Goshen Twp.
31-93	8-23-93	Accepts application of Dana J. Lewis for annexation of certain territory in Goshen Twp.
48-93	9-27-93	Accepts application of Alan Stutzman for annexation of certain terriory in Goshen Twp.
52-93	9-13-93	Accepts application of G. & G. Partnership et al for annexation of certain territory in Goshen Twp.
Res. 4-94	4-11-94	Authorizes the Law Director to proceed with the annexation of 3.74 acres of the area known as the New Philadelphia Reservoir.
16-94	5-9-94	Accepts application of DeMattis Construction, Inc. for annexation of certain territory in Goshen Twp.
29-94	5-9-94	Accepts application of DeMattis Construction, Inc. for annexation of certain territory in Goshen Twp.
25-94	6-13-94	Accepts application of Kathy Pietro and Robert Martinelli for annexation of 4.953 acres.
16-95	5-22-95	Accepts application of Russell W. Robb for annexation of territory in Goshen Township.
17-95	5-22-95	Accepts application of Anna Mae Snyder and Jay and Elizabeth Huffman for annexation of territory in Goshen Township.
40-95	9-25-95	Accepts the application of Russelyn and Donald Sundheimer for annexation of territory in Goshen Township.
47-95	12-11-95	Accepts application of Dana and Virginia Lewis for a 1.969 acre tract in Goshen Township.
27-96	6-10-96	Accepts application of G.A.C. Corp. for certain territory in Goshen Township.
51-96	10-14-96	Accepts application of John Winkler and James and Judith Allison for certain territory in Goshen Township.
25-97	6-9-97	Accepts application of Jose and Angelica Martinez for certain territory in Goshen Township.
8-98	3-23-98	Accepts application of George and Nikki Lee Wallick/M&P Development of Tuscarawas County Ltd., for certain territory in Goshen Township.
21-98	3-23-98	Accepts the application of Ernest and JoAnn Ferrell for certain territory in Goshen Township.
26-98	4-13-98	Accepts the application of Philip and Carolyn Dixon for certain territory in Goshen Township.
36-98	5-27-98	Accepts the application of Healea Corp. for certain territory in Goshen Township.
59-98	7-27-98	Accepts the application of Allen and Jane Gassen for certain territory in Goshen Township.
76-98	9-28-98	Accepts the application of Jones and Elizabeth J. Barrow for certain territory in Goshen Township.
80-98	10-26-98	Accepts the application of Joseph B. Marsch, LLC., Joseph and Joyce Greco, and Ohio Limited Liability Co., for the annexation of certain territory in Goshen Township.

TABLE H - ANNEXATION AND DETACHMENT OF TERRITORY (Cont.)

Ord. No.	Date	Description
85-98	12-14-98	Accepts application of Thomas Larkin, Patricia Finley and Thomas, James, John, Eugene and Michael Martinelli for certain territory in Goshen Township.
86-98	12-14-98	Accepts application of Sierra and James Hobart for certain territory in Goshen Township.
87-98	12-14-98	Accepts application of Lois Plahtinsky for certain territory in Goshen Township.
91-98	12-28-98	Accepts application of Kenneth Rapport et al. for certain territory in Dover Township.
19-99	4-12-99	Accepts application of Donald and Joan Wagner for certain territory in Goshen Township.
58-99	9-13-99	Accepts application of Allen and Jane Gasser for certain territory in Goshen Township.
56-00	12-28-00	Accepts application of Dwain and Elizabeth Hicks for certain territory in Goshen Township.
7-01	3-26-01	Accepts application of the Tuscarawas County Commissioner Job and Family Services Building for certain territory in Dover Township.
36-01	8-27-01	Accepts application of Endres Land LLC and Enders Floral Co. for annexation of certain territory in Dover Township.
37-01	8-27-01	Accepts application of Gregory and Linda Donaldson for certain territory in Dover Township.
8-02	3-11-02	Accepts application of Jerry and Julie Fisher and John Stocker for certain territory in Goshen Township.
29-02	4-22-02	Annexation of .07 acres adjacent to Larkin First Addition, Donald Drive and Mistie Dawn Estates Fifth Addition.
66-02	11-11-02	Accepts application of David and Nanette Avon for annexation of certain territory in Goshen Township.
94-02	4-14-03	Annexation of 6.12 acres owned by Dennis Carr.
2-03	1-13-03	Annexation of.39 acres adjacent to Donald Drive and Mistee Dawn Estates Fifth Addition.
7-03	9-8-03	Annexation of certain territory in Goshen Township upon application of Mark and Brenda Luikart.
42-03	9-22-03	Annexation of certain territory in Goshen Township upon application of Nancy Dietz, Barbara Cohee, Lynn Padro, and Charles and Robert Tinker.
9-04	4-26-04	Annexation of certain territory in Goshen Township upon application of Allen and Jane Gasser.
40-2004	8-9-04	Accepts the application by R&B Venture LLC for annexation of certain territory in Goshen Township.
41-2004	8-9-04	Accepts the application by S.S.T. Enterprises for annexation of certain territory in Goshen Township.

TABLE I - ZONING MAP CHANGES

Ord. No.	Date	Description
2560	9-28-53	Lots 3661 through 3664 designated industrial.
2588	1-11-54	Lots 3307, 3308 zoned for business.
2706	5-28-56	Three parcels from industrial to residential.
2741	4-8-57	Three areas in vicinity of Lewis Ave., Chauncey Ave., Carrie Ave., Third St. and Fourth St. from residential to business.
2812	1-26-59	Premises owned by Ida Pritz et al. from residential to business.
2860	5-9-60	Lots 4051, 4052 and 4053 at 1020 West High Ave. from residential to business.
2871	11-14-60	Part of lot 312 at 251 Fair Ave. from residential to business.
2873	1-9-61	2.45 acres of Reeves Realty Co. in the vicinity of Wabash Ave. and McKinley Ave. zoned for business and light industry.
2890	5-22-61	Lot 3322 and south half of lot 3321 on Fourth St. S. W. from residential to business.
2898	7-17-61	Lot 63 in Lewis Addition at 1302 Fourth St. N.W. from residential to business.
2925	5-28-62	Lots 2575, 2576, 2577, 3360, 3361, 3387, 3388, 3389, 3390, 3391, 3392 and 3428 from residential to business.
2948	12-17-62	75 ft. at rear of lot 3163 from residential to business.
2950	1-28-63	Lot 497 at 122-130 Fourth St, N,W. from residential to business.
2961	5-13-63	Lot 2741 and part of lot 2742 from residential to business.
2971	6-24-63	Lots 2791 and 2792 on Ridge Ave. N.E. from residential to business,
2975	8-12-63	Part of lot 3323 and adjacent vacated alley at Fourth St. N.W. and Wabash Ave. N. W. from residential to business.
2999	6-8-64	Lots 1855, 1856, 1857, 1858 and 1859 from residential to industrial.
3014	9-14-64	0.494 acre in vicinity of Wabash Ave. and Sixth St. S. W. annexed by Ord. 3008 zoned for business.
3024	12-14-64	39 ft. on south side of lot 104 from business to business and 1ight industry.
3032	3-8-65	Lots 4575, 4576, 4577, 4578, 4579, 2162, 2163, 2164 and 1.32 acres occupied by City school and 0.17 acres owned by Walter and Lois Ervin from residential to business.
3039	5-24-65	Former railroad property, .92 acre, now owned by Reeves Realty Co. zoned for business.
3090	9-26-66	200 ft. on east end of lot 3615 on southwest corner of Brown Ave. N. W. and Tuscarawas Ave. N. W. from residential to industrial.
3118	3-27-67	9.68 acres of Reeves Realty Co. property in vicinity of Wabash Ave. N.W. and Kelly St. N.W., with utility, street and waterline rights reserved, from residential to business and business and light industry.

TABLE I - ZONING MAP CHANGES (Cont.)

Ord. No.	Date	Description
3168	6-8-68	Lot 223 and 18 inches of west side of lot 222 at 343 West High Ave. from residential to business.
3224	2-10-69	Lot 169 at 300 East High Ave. from residential to business.
3235	3-10-69	Specifies zoning districts for recently annexed parcels.
3238	3-24-69	Property annexed in Ord. 3166 to business and residential; property annexed in Ord. 3138 zoned Trailer Park District.
3239	4-14-69	Lots 2247, 2248, 2249, 2250 and 2251 on Tuscarawas Ave. N.W. from residential to business and light industry.
3269	9-8-69	Zoning 78.735 acres annexed under Ord. 3247 as business.
3286	1-26-70	Rezoning lots 3298 through 3306 from "R" to "B".
3332	11-23-70	Zones land recently annexed in Ord. 3321, 3322 and 3323 to business, business and industrial, and residential respectively.
72-23	8-14-72	Lots 3310 through 3320 and north half of lot 3321, and lots 3518 through 3530 from residential to business.
72-32	9-25-72	Part of lot 57 (new number 615) at 402 West High Ave. from residential to business.
1-73	2-26-73	Premises of Albert Cercone from residential to business.
10-73	4-23-73	Premises of Schwartz from residential to business.
54-73	10-11-73	Premises of Don E. Unger from residential to business.
55-73	10-11-73	Premises of Reeves Banking and Trust Co. from residential to business.
74-73	12-10-73	Zoning 150.271 acres annexed in Ord. 69-73 as residential.
38-74	8-26-74	Ward 4 except Commercial Ave. rezoned residential, excepting existing nonconforming uses.
60-74	1-13-75	Premises of Larry J. Vance from residential to industrial.
9-75	9-8-75	Area in vicinity of Third St. from residential to office.
10-75	6-23-75	Premises of Kaylor, Dritz, Pennland Enterprises, Inc. and Meese from residential to business.
54-75	12-22-75	Premises of Hilda Rapport from industrial to residential.
9-76	3-22-76	Zoning part of lot 401 as residential.
28-76	6-28-76	Area between Eighth St. N.E. and Eleventh St. N.E. from business and industrial to residential.
30-76	6-28-76	Zoning parts of lots 4 and 5 annexed by Ord. 55-75 as business.
2-78	2-27-78	Rezoning lots 19 and 20 from residential to office.
28-78	6-26-78	Rezoning part of First Quarter, Twp. 8, Range 2 of the United States Military lands from residential to office.
3-79	2-26-79	Zoning the territory annexed by Ord. 2-79 as business.
26-79	6-9-79	Zoning certain territory annexed to City by various ordinances from 1970 thru 1978, as residential and business.
28-79	6-25-79	Zoning certain real estate annexed by Ord. 9-79 as R-residential.
29-79	7-23-79	Zoning certain real estate annexed by Ord. 20-79 as I-industrial.
20-80	4-28-80	Rezoning 646 Front Ave. and 648 Front Ave. from R-residential to B-business.

TABLE I - ZONING MAP CHANGES (Cont.)

Ord. No.	Date	Description
39-80	7-28-80	Zoning certain real estate annexed by Ord. 31-80 as "R" Residential.
54-80	8-11-80	Zoning certain real estate annexed by Ord. 41-80 as "B" Business.
56-80	9-8-80	Rezoning Lot 711 at 205 Canal St. S. E. from "R" Residential to "B" Business.
57-80	9-8-80	Zoning certain real estate annexed by Ord. 42-80 as "B" Business.
69-80	10-27-80	Zoning certain real estate annexed by Ord. 68-80 as "B" Business.
70-80	10-27-80	Rezoning Lots 1021 to 1029 between Allen Lane S.W. and Front St. S.W. on the west side of Seventh St. S.W. from "R" Residential to "B" Business.
11-81	5-11-81	Zoning certain real estate annexed by various 1979 ordinances as follows: (a) Ord. 43-79 as "I" Industrial; (b) Ord. 44-79 as "T" Trailer Park; (c) Ord. 68-79 as "R" Residential; (d) Ord. 77-79 as "R" Residential.
30-81	7-13-81	Rezoning Lots 181, 182, 183 and 184 from "R" Residential to "B" Business.
54-81	10-12-81	Zoning real estate annexed by Ord. 43-81 as "R" Residential.
80-81	2-8-81	Zoning real estate annexed by Ords. 75-81 and 76-81 as "R" Residential.
45-82	1-24-83	Zoning real estate annexed by Ord. 44-82 as "R" Residential.
23-83	6-13-83	Rezoning certain properties from "I" Industrial to "R" Residential.
29-83	9-26-83	Territory annexed by Ord. 28-83 zoned "R" Residential.
3-84	2-27-84	Territory annexed by Ord. 51-83 zoned "R" Residential.
6-84	4-23-84	Territory annexed by Ord. 5-84 zoned "R" Residential
9-84	4-23-84	Territory annexed by Ord. 4-84 zoned 'I" Industrial.
31-84	7-23-84	Territory annexed by Ord. 30-84 zoned "R" Residential.
46-84	9-27-84	Rezoning certain property owned by Ohio Bell to "O" Office.
51-84	11-12-84	Territory annexed by Ord. 50-84 zoned "R" Residential.
15-85	4-8-85	Territory annexed by Ord. 14-85 zoned “R" Residential.
19-86	6-23-86	Lot No. 496 zoned "O" Office.
30-86	7-14-86	Territory annexed by Ord. 27-86 zoned "C" Commercial.
31-86	7-14-86	Territory annexed by Ord. 31-86 zoned "C" Commercial.
28-87	6-22-87	Territory annexed by Ord. 28-87, zoned "R" Residential.
38-87	9-28-87	Territory annexed by Ord. 38-87, zoned "B" Business.
65-87	10-26-87	Territory annexed by Ord. 64-87, zoned "R" Residential.
75-87	11-23-87	Territory annexed by Ord. 75-87, zoned "B" Business.
2-88	4-11-88	Territory annexed by Ord. 2-88, zoned "B" Business.

TABLE I - ZONING MAP CHANGES (Cont.)

Ord. No.	Date	Description
46-88	8-22-88	Lot Nos. 3353, 3354, 3355 zoned Office District.
50-88	9-26-88	Lot Nos. 3631, 3632 and 3633 zoned Office District.
24-89	5-22-89	Territory annexed by Ord. No. 71-88, zoned industrial.
26-89	5-22-89	Territory annexed by Ord. No.72-88, zoned Business.
21-90	6-25-90	923 East High Ave. zoned Business.
38-90	5-13-90	The former Rink's Discount Center containing approximately 9.261 acres zoned industrial.
44-90	9-10-90	Territory annexed by Ord. 10-90 zoned Business.
55-90	11-12-90	A 0.520 acre parcel and a 0.556 acre parcel located on Fourth St. zoned Business.
19-91	4-8-91	A 0.3316 parcel and a 0.6807 acre parcel located between 11th St. and Ray Ave. rezoned residential.
2-92	1-13-92	Territory annexed by Ord. 79-91 zoned residential.
24-92	6-22-92	1110, 1112 and 1114 Tuscarawas Ave. N.W. from residential to office building.
27-92	7-27-92	The former Rinks Discount Center property, containing approximately 9.261 acres from industrial to business use.
30-92	7-27-92	Territory annexed by Ord. 30-92 zoned residential.
32-92	7-27-92	Territory annexed by Ord. 31-92 zoned residential.
33-92	7-27-92	303 and 309 Tuscarawas Ave. N.W. from residential to Business.
46-92	8-24-92	Real property known as Honey Valley Fourth Addition zoned residential.
4-94	3-28-94	Real estate located at 541 Wabash Ave. NW zoned business.
4-95	3-24-95	Real estate located at 255 Ray Ave. from residential to business.
35-95	9-11-95	Lot Nos. 2749 and 2750 located at 510 Park Ave. N.W. from residential to business.
56-95	2-26-96	Real estate located at 255 Groff Road from industrial to business.
58-95	2-26-96	Real estate located at 1446 Kaderly St. and its two adjacent lots from residential to business.
28-96	6-24-96	Real estate located at 350 Fourth St. from residential to office use.
47-96	10-28-96	Real estate located at the intersection of Cookson Ave. SE and Commercial Ave. SE from industrial to business.
48-96	10-28-96	Real estate located at 1446 Kaderly St. from business to office.
26-97	7-14-97	Real estate located at 504 Bowers Ave. from industrial to business.
10-98	3-23-98	7.416 acres owned by Gary Lawver at Hardesty Ave. from industrial to residential.
104-98	1-25-99	Certain land located off South Broadway and occupied by Buehlers Food Stores from industrial to business.
55-99	8-23-99	1065 West High Ave from industrial to business.
96-99	1-24-00	12.075 acres along East High Ave. from business to industrial.
43-00	8-28-00	.880 acres on Wabash Ave. adjacent to the Pepsi-Cola Bottling Co. from residential to business.
44-00	8-28-00	1.630 acres owned by Nick Incarnato located on Fourth St. from Industrial to residential.

TABLE I - ZONING MAP CHANGES (Cont.)

Ord. No.	Date	Description
68-00	2-12-01	A one acre tract located on Bowers Ave. NW adjacent to Marsh Industries Property from commercial to industrial.
69-00	2-12-01	A 1.3 acre tract located in the 1,000th Block of Kaderly St. near Old Zimmer Patient Care Building from industrial to residential.
70-00	2-12-01	Two acres located at the corner of Union Ave. and Martin St. from industrial to business.
16-01	4-23-01	1.21 acres located in the 800th Block of Kaderly St. near the Old Zimmer Patient Care Building from industrial to residential.
34-01	8-27-01	416 Robinson Drive SE from industrial to business.
36-01	8-27-01	Land annexed by Ord. 36-2001 zoned industrial.
37-01	8-27-01	Land annexed by Ord. 37-2001 zoned industrial.
53-01	12-10-01	118, 122 and 126 Commercial Avenue SW from residential to business.
8-02	3-11-02	Land annexed by Ord. 8-2002 zoned residential.
32-02	5-13-02	Real estate located at 429 Wabash Ave. NW, from residential to office district.
55-2002	8-12-02	3.874 acres being part of the Marsh Industries property bounded on the north by Martin St. located west of Union Ave. and north of Emmett Ave. from Industrial to Residential.
63-2002	9-23-02	A .9868 acre tract owned by Timothy Bober and Jamie Hicks from Business to Industrial.
73-2002	11-11-02	Property located at 115 Howe Ave. SW from Residential to Business.
85-2002	11-25-02	Real estate located at 1103 Fourth St. NW from Residential to Business.
27-2003	7-14-03	Property located at 430 Fair Ave. NW from Residential to Office District.
50-2003	10-27-03	Tuscarawas Regional Technology Park from Residential to Industrial.
16-2004	6-14-04	Lots abutting on West High Ave. from the railroad track crossing on the west in an easterly direction to the intersection of West High Ave., Seventh St. SW and Tuscarawas Ave. from Residential to Business Type B.
29-2004	6-28-04	A 0.319 acre tract located at 812 Kaderly St. from Residential to Business.
18-2006	6-26-06	Certain land owned by Dyer Properties, Ltd. and located on Martin St. NW from Residential to Industrial.
39-2006	11-27-06	The property from Fourth Street SW, west side to Fourth Drive SW, east side and West High Avenue South Side to Allen Lane SW, north side excepting the property located at the south west corner of Fourth Street SW and Allen Lane SW intersection, including: 402 West High Avenue, 408 West High Avenue, 416 West High Avenue, 422 West High Avenue, 407 Allen Lane, 417 Allen Lane, 423 Allen Lane is hereby rezoned to a Business District.

TABLE I - ZONING MAP CHANGES (Cont.)

Ord. No.	Date	Description
9-2007	5-31-07	Property located on the corner of Kelly Street and Bowers Avenue owned by Gary Lawver and containing approximately three acres of land from Industrial to Residential.
21-2007	11-26-07	Certain land owned by Kenwood Shoppes Development, Ltd located at Wabash Avenue NW (Adjacent to the Pepsi-Bottling Company) from Residential to Business.
22-2007	11-26-07	Certain land owned by Investment Properties, III, Ltd. Development, Ltd. located at 1037 West High Avenue (former site of Tuscarawas Auto Parts/Rapport's) from Industrial to Business.
3-2008	3-10-08	Certain land located at 809 Emmet Avenue NW from Industrial to Office.
6-2013	7-8-13	Certain land located at 655 Wabash Avenue NW from Residential to Business.
16-2013	11-11-13	Certain land located on Parcel No. 32-03496-000 at the Corner of Tuscarawas Ave. NW and 7th Street NW (Miller Sutdio, Inc.) from Residential to Business.
4-2015	4-13-15	Certain land located at 419 Tuscarawas Avenue Northwest from Residential to Office.
5-2015	4-13-15	Certain land located at 1121 Tuscarawas Avenue Northwest from Residential to Business.

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions
Chap. 101. Codified Ordinances.
Chap. 103. Official Standards.
Chap. 105. Wards and Boundaries.
Chap. 107. Municipal Building.
Chap. 109. City Property.

TITLE THREE - Legislative
Chap. 121. Council.
Chap. 122. Notice of Public Meetings.
Chap. 123. Ordinances and Resolutions.

TITLE FIVE - Administrative
Chap. 131. Mayor.
Chap. 133. Auditor.
Chap. 135. Treasurer.
Chap. 137. Director of Law.
Chap. 139. Department of Public Safety.
Chap. 141. Police Department.
Chap. 143. Fire Department.
Chap. 145. Department of Public Service.
Chap. 147. Board of Health.
Chap. 149. Park and Recreation Board.
Chap. 151. Civil Service Commission.
Chap. 153. Shade Tree Commission.
Chap. 155. Airport Commission.
Chap. 157. Engineer.
Chap. 159. Employment Provisions.
Chap. 161. Ambulance Service Inspection Board.
Chap. 163. Traffic Advisory Commission.
Chap. 165. Records Commission.
Chap. 166. Building Inspector.

TITLE SEVEN - Judicial
Chap. 171. Municipal Court.

TITLE NINE - Taxation
Chap. 191. Income Tax.
Chap. 193. Motor Vehicle Tax.

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

Chap. 101. Codified Ordinances.
Chap. 103. Official Standards.
Chap. 105. Wards and Boundaries.
Chap. 107. Municipal Building.
Chap. 109. City Property.

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 New Philadelphia, Ohio, 1973, 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 Tuscarawas County, Ohio.

(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 the City of New Philadelphia, 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 or Charter provisions.

(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 Grade levels.
103.02 Official flower.
103.03 Official logo.

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 GRADE LEVELS.
All grade levels within the City shall be determined by reference to the United States Geological Survey marker nearest to the proposed work or construction.
(Ord. 2838. Passed 12-28-59.)

103.02 OFFICIAL FLOWER.
Council hereby designates and declares that the red rose shall be the official flower of the City. (Res. 1966-5. Passed 4-25-66.)

103.03 OFFICIAL LOGO.
Council does hereby ratify and adopt as the official logo for the City, the logo attached to this Resolution.
(Res. 18-94. Passed 10-24-94.)

CHAPTER 105
Wards and Boundaries

105.01 Number of wards established.
105.02 Ward One.
105.03 Ward Two.
105.04 Ward Three.
105.05 Ward Four.

CROSS REFERENCES
Division into wards - see Ohio R.C. 731.06
Voting precincts - see Ohio R.C. 3501.18

105.01 NUMBER OF WARDS ESTABLISHED.

The City is hereby subdivided into four wards, which are equal in number to the members of Council who are to be elected from wards according to law. The boundaries are those set forth in Sections 105.02 through 105.05, which are so fixed that each ward contains as nearly as practicable an equal number of inhabitants.
(Ord. 168. Passed 12-5-02; Ord. 2881. Passed 2-27-61.)

105.02 WARD ONE.

Ward 1 shall be bounded on the north by the northwest and north City limits to the west side of Fourth Street NW;

On the west by the west City limits along Stonecreek Road to 16th Street NW, I-77/U.S. 250, Tuscarawas River;

On the south by the southwest City limits along Tuscarawas River to the west side of Seventh Street SW;

On the east from the west side of Fourth Street NW to the north side of Ray Avenue to the west side of Seventh Street NW to south City limits and Tuscarawas River.
(Ord. 64-2002. Passed 9-23-02.)

105.03 WARD TWO.

On the north by the northeast City limits from the east side of Fourth Street NW;

On the east from the east City limits to southeast block just below 13th Street NE;

On the south just below the block adjacent to the 13th Street NE along east side of East High Avenue to eastside of Beaver Avenue to north side of Kaserman Avenue, north side of Cedar Lane to north Third Street NE to north side of North Avenue NE to east side of North Broadway, south to north side of Ray Avenue to east side of Fourth Street NW;

On the west by the east side of Fourth Street NW north to the City limits.
(Ord. 64-2002. Passed 9-23-02.)

105.04 WARD THREE.

On the north south side of Ray Avenue at the corner of Seventh Street NW to east side of North Broadway to south side of North Avenue NE to Third Street NE to Cedar Lane, south side of Cedar Lane to Pearl Street and south of Kaserman Avenue NE to Beaver Avenue;

On the east the west side of Beaver Avenue to the west side of East High Avenue, Township Road 634 along East Avenue cemetery;

On the south Township Road 634 along East Avenue Cemetery and City limits along railroad tracks City limits along Tuscarawas River to east side of Seventh Street SW extended;

On the west Seventh Street NW from south City limits near the north side of Tuscarawas River to south side corner of Ray Avenue NW.

(Ord. 64-2002. Passed 9-23-02.)

105.05 WARD FOUR.

On the north side along City limits on the south side of Tuscarawas River along Tuscarawas River City limits State Route 250/across Tuscarawas River at Township Road 364 to the west side of East High Avenue to north side of 18th Street SW and City limits to Hicks Avenue NE to City limits north of University Drive;

On the east west City limits out University Drive and out to Reiser Avenue;

On the south all southeast and southwest City limits;

On the west the City limits southwest.

(Ord. 64-2002. Passed 9-23-02.)

CHAPTER 107
Municipal Building

107.01 No smoking areas.

CROSS REFERENCES
Nonsmoking areas in places of public assembly - see Ohio R.C. 3791.031

107.01 NO SMOKING AREAS.

(a) All buildings and vehicles owned or occupied by any division of the City of New Philadelphia, Ohio are in their entirety declared to be "No Smoking Areas."

(b) Clearly visible signs that state "No Smoking" shall be erected.

(c) No person shall remove any signs from areas designated as "No Smoking Areas."

(d) No person shall smoke in any area designated as a "No Smoking Area."

(e) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor and subject to the penalties as set forth in Codified Ordinance Section 501.99(a). (Ord. 99-2002. Passed 1-27-03.)

CHAPTER 109
City Property

109.01 Motor vehicles.

CROSS REFERENCES
Unauthorized use of a vehicle - see GEN. OFF. 545.06
Unauthorized use of property - see GEN. OFF. 545.08
Tampering with records - see GEN. OFF. 545.14

109.01 MOTOR VEHICLES.

(a) Every motor vehicle owned by the City, except those expressly exempted herein, shall have markings, decals or some other appropriate manner of identification of such motor vehicle as property of the City, with such identification appearing on both sides of the motor vehicle, and such identification shall be affixed to that motor vehicle within sixty days of delivery.

(b) Motor vehicles used directly in connection with the Police Department shall be exempt from the provisions of this section.
(Ord. 8-78. Passed 3-27-78.)

TITLE THREE - Legislative
Chap. 121. Council.
Chap. 122. Notice of Public Meetings.
Chap. 123. Ordinances and Resolutions.

CHAPTER 121
Council

121.01 Rules of procedure.

CROSS REFERENCES
Release of treasurer's liability for loss of funds - see Ohio R. C. 131.18 et seq.
General powers - see Ohio R.C. 715.03, 731.47
Authority to purchase, sell real estate - see Ohio R. C. Ch. 721
To establish sewerage rates - see Ohio R.C. 729.49
Composition - see Ohio R.C. 731.01, 731.06
Qualifications - see Ohio R.C. 731.02, 731.44
Election and term - see Ohio R.C. 731.03, 733.09
Clerk - see Ohio R.C. 731.04
President pro tempore - see Ohio R.C. 731.04, 733.08
Legislative powers - see Ohio R.C. 731.05
Vacancy - see Ohio R.C. 731.43
Meetings - see Ohio R.C. 731.44, 731.46
Rules and journal - see Ohio R.C. 731.45
President - see Ohio R.C. 733.07 et seq.
Hearings against delinquent officers - see Ohio R.C. 733.35 et seq.
Misconduct - see Ohio R.C. 733.72 et seq.
Contract interest - see Ohio R.C. 733.78, 2919.08 et seq.
Wards - see ADM. Ch. 105

121.01 RULES OF PROCEDURE.

Rule 1. All regular meetings of Council shall be held on the second and fourth Monday of each month, unless the same falls on a legal holiday, in which case the regular meeting shall be held on the following Thursday. Council shall meet at 7:30 p.m.
Res. 1-80. Passed 1-14-80.)

Rule 2. The Mayor, any three members, and the Council President may call special meetings upon at least 24 hours written notice to each member, served personally orleft at his/her ususal place of residence. (Ord. 4-2016. Passed 4-15-16.)

Rule 3. A motion to adjourn shall always be in order, except upon immediate repetition, or when a member has the floor or when Council is voting, and the same shall not be debatable.

Rule 4. No member shall be privileged to disturb or interrupt another member in possession of the floor, except by a call to order.

Rule 5. For all purposes save that of seconding motions, no member shall be entitled to any of the privileges of the floor until he arises to his feet and addresses the President by his proper title and is recognized by the President.

Rule 6. The Mayor, the Director of Public Service, the Director of Public Safety, the City Auditor and the City Treasurer shall at all times be entitled to any privileges of the floor for the purpose of speaking on any question pertaining to their respective departments.

Rule 7. The yeas and nays shall be taken on any question when demanded by any member and the roll shall be called in alphabetical order, in rotation.

Rule 8. Upon every call of the yeas and nays, every member present shall vote. If a member declares, prior to a vote, that he prefers not to vote due to a conflict of interest, the reasons for his preference shall be stated and Council shall vote to excuse the member. If unanimously excused, there shall be no vote recorded for the silent member. If a member otherwise abstains from voting, his abstention shall be counted as a vote for the majority.

Rule 9. Four members of Council shall constitute a quorum.

Rule 10. In the absence of both the President of Council and the President Pro Tem, Council shall elect one of the following committee chairmen in the order named to serve as President Pro Tem of the meeting: Finance Chairman; Contact Chairman; Public Works Chairman; Annexation and Zoning Chairman; Safety, Health and Service Chairman; Special and Building Committee Chairman and Salary Committee Chairman.

Rule 11. No member shall be permitted to leave Council while it is in session except upon the consent of the chair.

Rule 12. All committees shall be appointed by the presiding officer, subject to the approval of Council. (Res. 1-80. Passed 1-14-80.)

Rule 13. The following standing committees and such other committees as may be required shall be appointed: Finance; Public Works and Economic Development; Safety, Health & Service; Zoning & Annexation; Salary; Parks & Cemetery; and Contact and Special Committees. (Ord. 24-2004. Passed 5-24-04.)

Rule 14. (a) The following procedures shall apply to the passage of ordinances and resolutions: (Res. 1-80. Passed 1-14-80.)

(1) No matter to be considered for legislative action by the New Philadelphia, Ohio, City Council shall be presented to the City Council for action without first being considered, approved, and recommended by the appropriate City Council Committee. In the event legislation requires immediate action due to an existing emergency or other situation in which a delay would be detrimental to the health, welfare or safety of the residents of New Philadelphia, City Council may waive this rule for that particular instance only by a vote of not less than 2/3 of its members. (Res. 10-2007. Passed 4-9-07.)

(2) Each ordinance and resolution shall be read by title only, provided Council may require any reading to be in full by a majority vote of its members.

(3) Each ordinance or resolution shall be read on three different days, provided the legislative authority may dispense with the rule by a vote of at least three-fourths of its members.

(4) The vote on the passage of each ordinance or resolution shall be taken by yeas and nays and entered upon the journal.

(5) Each ordinance or resolution shall be passed, except as otherwise provided by law, by a vote of at least a majority of all members of Council.

(b) Action by Council not required by law to be by ordinance or resolution may be taken by motion approved by at least a majority vote of the members present at the meeting when the action is taken.

Rule 15. Any legislation to be prepared by the Director of Law shall be presented to the Director of Law in a form acceptable to him not later than four days prior to the meeting at which the legislation is to be presented to Council. From the legislation thus submitted, the Clerk of Council shall prepare an agenda for the next meeting and have one copy in the hands of each member of Council, the President of Council, the Director of Law and the Mayor, at least seventy-two hours in advance of the next regularly scheduled Council meeting. If any legislation is submitted to the Director of Law later than four days prior to the next Council meeting, there shall be no assurance that this legislation shall be prepared in time for presentation and the party sponsoring the legislation has the responsibility of advising the other Council members of the possibility of this legislation being presented in addition to the legislation listed in the agenda.

Rule 16. The Clerk of Council shall serve notice on all members of special meetings of Council.

Rule 17. All questions concerning the government of Council, and the transaction of business thereby, which are not provided for in these rules or by the laws of the State, shall be decided in accordance with parliamentary rules of "Robert's Rules of Order, Revised." (Res. 1-80. Passed 1-14-80.)

Rule 18. During all meetings of Council, business shall be transacted as far as possible in the following order: Invocation-Pledge of Allegiance; roll call; additions to agenda; minutes of previous sessions; correspondence; administrative reports; commission reports; committee reports; comments from visitors; comments from Council; reading of ordinances; reading of resolutions; unfinished or old business; new business; adjournment.

Prior to voting on any ordinance or resolution or suspension of rules, Council President shall for public comment, administration comment and Council comment in that order.
(Ord. 4-2016. Passed 4-25-16.)

Rule 19. Any or all rules for the government of Council now or hereafter adopted, may be suspended at any meeting of Council by the concurrent vote of three-fourths of all members elected thereto. The vote for such suspension shall be taken by yeas and nays and entered upon the journal.

Rule 20. Following each meeting of Council, the Clerk of Council shall prepare the minutes of the proceedings, have them typed, printed or reproduced by some other formal written process, and have a copy in the hands of each Councilman, the President of Council, the Director of Law and the Mayor at least seventy-two hours in advance of the next regularly scheduled meeting of Council. The formal reading of such minutes at the meeting of Council shall be dispensed with unless a majority of Council by motion requires them be read aloud in whole or in part; copies of the minutes shall be made available to the news media at the next regularly scheduled meeting. All minutes shall be approved by formal motion as "printed and received".

Rule 21. Minutes of all Council committee meetings shall be kept by the respective committee chairman. For committee meetings of special significance or importance, the Clerk of Council shall take minutes as requested by the committee chairman. Otherwise, minutes shall be taken by the chairman or a committee member designated by the chairman.

Rule 22. Comments from visitors will normally be limited to a five-minute period. This time limit is at the sole discretion of the President of Council and may be extended to meet special conditions which, in his opinion, warrant special consideration.

Rule 23. Any member of Council who finds it impossible to attend a given meeting shall notify the President of Council or the Mayor at the earliest possible date, and otherwise arrange for reports from his committee to be given by another committee member.
(Res. 1-80. Passed 1-14-80.)

CHAPTER 122
Notice of Public Meetings

122.01 Definitions.
122.02 Notice of regular and organizational meetings.
122.03 Notice of special meetings.
122.04 Notice to news media of special meetings.
122.05 Notification of discussion of specific types of public business.
122.06 General rules.

CROSS REFERENCES
Open meetings - see Ohio R.C. 121.22
Disturbing lawful meeting - see GEN. OFF. 509.04

122.01 DEFINITIONS.
As used in this chapter:
(a) "Clerk" means the Clerk of Council.
(b) "Day" means calendar day.
(c) "Meeting" means any prearranged discussion of the public business of the municipal body by a majority of the members of the municipal body.
(d) "Municipal body" means each of the following: Council; Board of Control; Advisory Board of Home Health; Health Board; Park and Recreation Board; Cemetery Committee; Planning Commission; Board of Zoning Appeals; Civil Service Commission; Airport Commission; Shade Tree Commission; and committees of the above municipal bodies comprised of members of such bodies if such committees are comprised of a majority of the members of the main municipal body, or are decision-making committees.
(e) "Oral notification" means notification given orally either in person or by telephone, directly to the person for whom such notification is intended, or by leaving an oral message for such person at the address, or if by telephone at the telephone number, of such person as shown on the records kept by the Clerk under these rules.
(f) "Post" means to post in an area accessible to the public during the usual business hours at the following locations:
(1) At the front door to the Mayor's office;
(2) The telephone operator's desk in the outer lobby of the Municipal Building; and
(3) The doors entering Council Chambers.
A notice identifying the locations at which notification will be posted pursuant to these rules shall be published by the Clerk within ten calendar days after the adoption of these rules.

(g) "Published" means published once in a newspaper having a general circulation in the Municipality, as defined in Ohio R.C. 7.12, except that no portion of such newspaper need be printed in the Municipality. If at the time of any such publication there is no such newspaper of general circulation, then such publication shall be in a newspaper then determined by the Clerk to have the largest circulation in the Municipality.

(h) "Special meeting" means a meeting which is neither a regular meeting nor an adjournment of a regular (or special) meeting to another time or day to consider items specifically stated on the original agenda of such regular (or special) meeting.

(i) "Written notification" means notification in writing mailed, telegraphed or delivered to the address of the person for whom such notification is intended as shown on the records kept by the Clerk under these rules, or in any way delivered to such person. If mailed, such notification shall be mailed by first-class mail, deposited in a U. S. Postal Service mailbox no later than the second day preceding the day of the meeting to which such notification refers, provided that at least one regular mail delivery day falls between the day of mailing and the day of such meeting.
(Ord. 71-75. Passed 1-12-76.)

122.02 NOTICE OF REGULAR AND ORGANIZATIONAL MEETINGS.

(a) The Clerk shall post a statement of the times and places of regular meetings of each municipal body for each calendar year not later than the second day preceding the day of the first regular meeting (other than the organizational meeting) of the calendar year of that municipal body. The Clerk shall check at reasonable intervals to ensure that such statement remains so posted during such calendar year. If at any time during the calendar year the time or place of regular meetings, or of any regular meeting, is changed on a permanent or temporary basis, a statement of the time and place of such changed regular meetings shall be so posted by the Clerk at least twenty-four hours before the time of the first changed regular meeting.

(b) The Clerk shall post a statement of the time and place of any organizational meeting of a municipal body at least twenty-four hours before the time of such organizational meeting.

(c) Upon the adjournment of any regular or special meeting to another day, the Clerk shall promptly post notice of the time and place of such adjourned meeting.
(Ord. 71-75. Passed 1-12-76.)

122.03 NOTICE OF SPECIAL MEETINGS.

(a) Except in the case of a special meeting referred to in Section 122.04, the Clerk shall, no later than twelve hours before the time of a special meeting of a municipal body, post a statement of the time, place and purpose of such special meeting.

(b) The statement under this section and the notifications under Section 122.04 shall state such specific or general purpose or purposes then known to the Clerk to be intended to be considered at such special meeting and may state, as an additional general purpose, that any other business as may properly come before such municipal body at such meeting may be considered and acted upon.
(Ord. 71-75. Passed 1-12-76.)

122.04 NOTICE TO NEWS MEDIA OF SPECIAL MEETINGS.

(a) Any news medium organization that desires to be given advance notification of special meetings of a municipal body shall file with the Clerk a written request therefor. Except in the event of an emergency requiring immediate official action as referred to in subsection (d) hereof, a special meeting shall not be held unless at least twelve hours advance notice of the time, place and purposes of such special meeting is given to the news media that have requested such advance notification in accordance with subsection (b) hereof.

(b) News media requests for such advance notification of special meetings shall specify: the municipal body that is the subject of such request; the name of the medium; the name and address of the person to whom written notifications to the medium may be mailed, telegraphed or delivered; (and) the names, addresses and telephone numbers (including addresses and telephone numbers at which notifications may be given either during or outside of business hours) of at least two persons to either one of whom oral notifications to the medium may be given; and at least one telephone number which the request identifies as being named, and which can be called at any hour for the purpose of giving oral notification to such medium.

Any such request shall be effective for one year from the date of filing with the Clerk or until the Clerk receives written notice from such medium canceling or modifying such request, whichever is earlier. Each requesting news medium shall be informed of such period of effectiveness at the time it files its request. Such requests may be modified or extended only by filing a complete new request with the Clerk. A request shall not be deemed to be made unless it is complete in all respects, and such request may be conclusively relied on by the City, the municipal body that is the subject of such request and the Clerk.

(c) The Clerk shall give such oral notification or written notification, or both, as the Clerk determines, to the news media that have requested such advance notification in accordance with subsection (b) hereof of the time, place and purposes of each special meeting, at least twenty-four hours prior to the time of such special meeting.

(d) In the event of an emergency requiring immediate official action, a special meeting may be held without giving twenty-four hours advance notification thereof to the requesting news media. The persons calling such meeting, or any one or more of such persons or the Clerk on their behalf, shall immediately give oral notification or written notification, or both, as the person or persons giving such notification determine, of the place and purposes of such special meeting to such news media that have requested such advance notification in accordance with subsection (b) hereof. The minutes or the call, or both, of any such special meeting shall state the general nature of the emergency requiring immediate official action. (Ord. 71-75. Passed 1-12-76.)

122.05 NOTIFICATION OF DISCUSSION OF SPECIFIC TYPES OF PUBLIC BUSINESS.

(a) Any person, upon written request and as provided herein, may obtain reasonable advance notification of all meetings at which any specific type of public business is scheduled to be discussed.

Such person may file a written request with the Clerk specifying: the person's name, and the address and telephone numbers at or through which the person can be reached during and outside of business hours; the specific type of public business the discussion of which the person is requesting advance notification; the municipal body that is the subject of such request and the number of calendar months, not to exceed twelve, which the request covers. Such request may be canceled by request from such person to the Clerk.

Each such written request shall be accompanied by stamped self-addressed envelopes sufficient in number to cover the number of regular meetings during the time period covered by the request and an estimated number of six special meetings. The Clerk shall notify in writing the requesting person when the supply of envelopes is running out, and if the person desires notification after such supply has run out, such person must deliver to the Clerk an additional reasonable number of stamped self-addressed envelopes as a condition to receiving further notifications.

Such request may be modified or extended only by filing a complete new request with the Clerk. A request shall not be deemed to be made unless it is complete in all respects, and such request may be conclusively relied on by the City, the municipal body that is the subject of such request, and the Clerk.

(b) The Clerk shall if possible give such advance notification under this section by written notification. If such written notification cannot be given or has not been given, the Clerk shall give oral notification.

The contents of written notification under this subsection (b) may be a copy of the agenda of the meeting. Written notification under this subsection (b) may be accomplished by giving advance written notification, by copies of the agenda, of all meetings of the municipal body that is the subject of such request.

(Ord. 71-75. Passed 1-12-76.)

122.06 GENERAL RULES.

(a) Any person may telephone the Clerk to determine, based on information available at that time: the time and place of regular meetings; the time, place and purpose of any then known special meetings; and whether the available agenda of any such future meeting states that any specific type of public business, identified by such person, is to be discussed at such meeting.

(b) A reasonable attempt at notification shall constitute notification in compliance with these rules.

(c) A certificate by the Clerk as to compliance with these rules shall be conclusive upon this City and the municipal body involved.

(d) The Clerk shall maintain a record of the date and manner, and time if pertinent under these rules, of all actions taken with regard to notices and notifications under these rules, and shall retain copies of proofs of publication of any notifications or notices published thereunder.

(e) To better insure compliance with these rules as to notice and notification, it shall be the responsibility of the chairman or secretary of a municipal body other than Council, or the person or persons calling the meetings, to timely advise the Clerk of future meetings, and the subject matters to be discussed thereat, of such municipal body.
(Ord. 71-75. Passed 1-12-76.)

CHAPTER 123
Ordinances and Resolutions

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

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 by Council President and Clerk - see Ohio R.C. 731.20
Publication in book form - see Ohio R.C. 731.23
Adoption of technical codes - see Ohio R.C. 731.231; BLDG. 1307. 01; FIRE PREV. 1511.01
Publication certification - see Ohio R.C. 731.24 et seq.
Posting - see Ohio R.C. 731.25
Initiative and referendum - see Ohio R.C. 731.28 et seq.
Emergency measures - see Ohio R.C. 731.30

TITLE FIVE - Administrative

Chap. 131. Mayor.
Chap. 133. Auditor.
Chap. 135. Treasurer.
Chap. 137. Director of Law.
Chap. 139. Department of Public Safety.
Chap. 141. Police Department.
Chap. 143. Fire Department.
Chap. 145. Department of Public Service.
Chap. 147. Board of Health.
Chap. 149. Park and Recreation Board.
Chap. 151. Civil Service Commission.
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Chap. 155. Airport Commission.
Chap. 157. Engineer.
Chap. 159. Employment Provisions.
Chap. 161. Ambulance Service Inspection Board.
Chap. 163. Traffic Advisory Commission.
Chap. 165. Records Commission.
Chap. 166. Building Inspector.

CHAPTER 131
Mayor

131.01 Setting of parking fees.
131.02 Modifying various licensing fees.

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 et seq.
Reports to Council - see Ohio R.C. 733.32, 733.41
Protest of excessive expenditures - see Ohio R.C. 733.33
Charges against delinquent officers - see Ohio R.C. 733.34 et seq.
Disposition of fines and other moneys - see Ohio R.C. 733.40
Powers during and to announce emergency - see TRAF. 351.17, GEN. OFF. 509.08

131.01 SETTING OF PARKING FEES.

The Mayor is authorized to set the monthly fee paid for a parking permit for City owned parking lots and/or parking lots privately owned but operated by the City. (Ord. 34-96. Passed 8-12-96.)

131.02 MODIFYING VARIOUS LICENSING FEES.

The administrative offices of New Philadelphia, specifically the Mayor, are hereby authorized to modify the various licensing fee required under the Codified Ordinances of the City of New Philadelphia by an amount not to exceed fifteen percent (15%) per year for any increase, subject to approval by Council. (Ord. 75-99. Passed 11-22-99.)

CHAPTER 133
Auditor

133.01 Investment of funds.
133.02 Income tax personnel.
133.03 Filing fee and costs for rezoning, annexation, street vacation.
133.04 Deputy Auditor.
133.05 Awarding bidded contracts.

CROSS REFERENCES

Uniform Bond Law - see Ohio R.C. Ch. 133
Uniform Depository Act - see Ohio R.C. Ch. 135
Election and term - see Ohio R.C. 733.10
Books and accounts - see Ohio R.C. 733.11
Receiving bids - see Ohio R.C . 733.18
Deputy auditor - see Ohio R.C. 733.19
Appropriation and expenditure - see Ohio R.C. 5705.41
City income tax - see ADM. Ch. 191

133.01 INVESTMENT OF FUNDS.

Whenever there are moneys in the Treasury of the City which will not be required to be used for a period of six months or more, such moneys may, in lieu of being deposited in a bank or banks, be invested in accordance with the provisions of Ohio R.C. 731.56 through 731.59. Investments so purchased shall be sold in accordance with Ohio R.C. 731.57. (Ord. 71-73. Passed 11-26-73.)

133.02 INCOME TAX PERSONNEL.

(a) Personnel necessary to administer the City income tax shall be employed within and be a part of the City Auditor's Department. (Ord. 25-83. Passed 6-27-83.)

(b) Personnel shall consist of the following:

(1) One full-time employee to be designated the Tax Administrator, who shall administer the City income tax. The Tax Administrator shall be bonded in the sum of ten thousand dollars ($10,000);

(2) Two full-time employees, who shall render clerical duties for the City Income Tax Department and shall otherwise act as assistants to the Tax Administrator and other duties as assigned by the Tax Administrator. Each such employee shall be bonded in the sum of ten thousand dollars ($10,000);

(3) Part-time personnel who shall render services to the Tax Administrator for the operation of the City Income Tax Department shall be bonded in the sum of ten thousand dollars ($10,000).

(c) Both the Tax Administrator and the full-time employees shall be subject to the penalty of immediate dismissal upon violation of the provisions of Section 10 relative to the disclosure of confidential information as provided in the Income Tax Ordinance 3283, passed December 22, 1969. (Ord. 59-85. Passed 12-9-85.)

133.03 FILING FEE AND COSTS FOR REZONING, ANNEXATION, STREET VACATION.

(a) Any person, firm or corporation filing any request for rezoning a parcel of land shall at the time pay a filing fee of one hundred dollars ($100.00) with the City Auditor, and, at the time of such deposit, shall execute an agreement in the form approved by the Law Director, that they agree to be responsible for, and to reimburse the City for any costs incurred in making any necessary notifications individually, or by publication, as well as the cost of publishing the ordinance itself upon passage.

(b) Any person, firm or corporation filing a request to have a parcel of land annexed to the City, shall at the time of filing the transcript of the orders of the Board of County Commissioners, the petition and all other papers relating to the annexation, pay a filing fee of one hundred dollars ($100.00) with the City Auditor, and in addition, shall execute an agreement in the form acceptable to the Law Director whereby they agree to be responsible for, and to reimburse the City for all necessary costs in connection with any notices for public hearings, publication of the annexation ordinance, as well as any costs in connection with the necessary notice for public hearing in regard to zoning that parcel, and, with the publication of the Zoning Ordinance.

(c) Any person, firm or corporation filing a petition to have a street or alley or any portion thereof vacated shall at the time of filing the petition pay a filing fee of one hundred dollars ($100.00) with the City Auditor, and, shall execute an agreement in a form approved by the Law Director wherein such petitioners agree to be responsible for, and reimburse the City for any costs incurred in connection with notice of public hearing, or publication of the ordinance vacating such street or portion thereof.
(Ord. 56-84. Passed 10-29-84.)

133.04 DEPUTY AUDITOR.

It is hereby authorized and directed that a Deputy Auditor shall be appointed to fulfill the duties of the Auditor during the absence of the Auditor for illness or vacation.

A committee consisting of the Mayor, the Director of Law and the Treasurer shall select a person to perform the duties of the Auditor in the event the Auditor fails or is unable to make an appointment.
(Ord. 31-75. Passed 6-9-75.)

133.05 AWARDING BIDDED CONTRACTS.

(a) If the City of New Philadelphia is required by law, ordinance or resolution to award a contract to the lowest responsive and responsible bidder, a bidder on the contract shall be considered responsive if his proposal responds to bid specifications in all material respects and contains no irregularities or deviations from the specifications which would affect the amount of the bid or otherwise give the bidder a competitive advantage. The factors that the City shall consider in determining whether a bidder on the contract is responsible include the experience of the bidder, his financial condition, his conduct and performance on previous contracts, his facilities, his management skills, and his ability to execute the contract properly. An apparent low bidder found not to be responsive and responsible shall be notified by the City of New Philadelphia of that finding and the reasons for it in writing and by certified mail.

(b) Where the City of New Philadelphia determines to award a contract to a bidder other than the apparent low bidder or bidders for the construction, reconstruction, improvement, enlargement, alteration, repair, painting or decoration of public improvements, it shall meet with the apparent low bidder or bidders upon a filing of a timely written protest. The protest must be received within five days of the notification required in subsection (a) hereof. No final award shall be made until the City of New Philadelphia either affirms or reverses its earlier determination. Notwithstanding any other provisions of the Revised Code, the procedure described in this division is not subject to Ohio R.C. Chapter 119.

(c) The policy stated in subsection (a) hereof, is hereby enacted in accordance with Ohio R.C. 9.312.
(Ord. 28-91. Passed 4-8-91.)

CHAPTER 135
Treasurer

135.01 Deputy Treasurer.
135.02 Income tax personnel. (Repealed)

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
Powers and duties - see Ohio R.C. 733.44
Annual report to Council - see Ohio R.C. 733.45

135.01 DEPUTY TREASURER.

It is hereby authorized and directed that a Deputy Treasurer be appointed to fulfill the duties of the Treasurer during the absence of the Treasurer for illness or vacation.

A committee consisting of the Mayor, the Director of Law and the Auditor shall select a person to perform the duties of the Treasurer.
(Ord. 30-75. Passed 6-9-75.)

135.02 INCOME TAX PERSONNEL.

(EDITOR'S NOTE: Former Section 135.02 was repealed by Ordinance 25-83, passed June 27, 1983.)

CHAPTER 137
Director of Law

137.01 Assistant to the police prosecutor.

CROSS REFERENCES

Election and term - see Ohio R.C. 733.49
Qualifications - see Ohio R.C. 733.50
Powers and duties - see Ohio R.C. 733.51 et seq.
Annual report to Council - see Ohio R.C. 733.62
Counsel for City school board - see Ohio R. C. 3313.35

137.01 ASSISTANT TO THE POLICE PROSECUTOR.

The position of Assistant to the Police Prosecutor is hereby established, and the Director of Law of the City is hereby authorized to employ someone for the position, which is to be full time.

(Ord. 69-79. Passed 9-24-79; Ord. 90-79. Passed 12-10-79.)

CHAPTER 139
Department of Public Safety

139.01 Position of Director to be separate.
139.02 Subdepartments.
139.03 School guards.

CROSS REFERENCES

Contracts - see Ohio R.C. 733.22 et seq., 737.02 et seq.
Appointment of Director - see Ohio R.C. 737.01
General duties of Director and records - see Ohio R.C. 737.02 et seq.
Police Department - see ADM. Ch. 141
Fire Department- see ADM. Ch. 143
Authority of Director - see TRAF. 305.01
Director to investigate hazardous intersections - see TRAF. 305.02
Traffic Control Map and File - see TRAF. 305.04 et seq.
Obedience to school crossing guard - see TRAF. 303.02

139.01 POSITION OF DIRECTOR TO BE SEPARATE.

The position of Director of Public Safety shall be a separate and distinct position.
(Ord. 2397. Passed 12-30-49.)

139.02 SUBDEPARTMENTS.

The following subdepartments are hereby established within the Department of Public Safety:

Police Department
Fire Department.

(Ord. 2838. Passed 12-28-59.)

139.03 SCHOOL GUARDS.

There is hereby established the position of school crossing guard under the jurisdiction of the Director of Public Safety.
(Ord. 2387. Passed 10-25-49.)

CHAPTER 141
Police Department

141.01 Age limits for original appointments.
141.02 Auxiliary police.
141.03 Clothing allowance for auxiliary police.
141.04 Special police officer unit.

CROSS REFERENCES

Original appointment; probationary period and age - see Ohio R.C. 124.27, 124.30, 124.41
Reductions, suspensions and removals - see Ohio R.C. 124.34 et seq., 737.12
Civil service application - see Ohio R.C. 737.051, 737.10, 737.11
Composition and control - see Ohio R.C. 715.05, 737.05
Auxiliary police unit - see Ohio R. C. 737.051, 737.06
Hours and leave - see Ohio R.C. 737.07
General duties - see Ohio R.C. 737.11
Recovered property and disposition - see Ohio R.C. 737.29 et seq.
Police and Firemen's Disability and Pension Fund - see Ohio R.C. Ch. 742
Resisting an officer - see GEN. OFF. 525.09
Residency requirement - see ADM. 159.03

141.01 AGE LIMITS FOR ORIGINAL APPOINTMENTS.

No person is eligible to receive an original appointment to the Police Department as a policeman or policewoman subject to the civil service laws of this State unless such person has reached the age of twenty-one years. (Ord. 64-93. Passed 10-11-93.)

141.02 AUXILIARY POLICE.

(a) There is hereby established an Auxiliary Police Unit within the Police Department in accordance with Ohio R. C. 737.051. A minimum of six members of the auxiliary police shall be maintained under the jurisdiction of the Police Department.

(b) The Chief of Police shall have exclusive control of the stationing and transfer of all patrolmen, auxiliary police officers, and other officers and employees of the Police Department and Auxiliary Police Unit, under such general rules and regulations as the Director of Public Safety prescribes, in accordance with Ohio R. C. 737.06.
(Ord. 3306. Passed 4-27-70.)

141.03 CLOTHING ALLOWANCE FOR AUXILIARY POLICE.

A clothing allowance is hereby established for auxiliary police officers in the amount of two hundred dollars ($200.00) per year with the stipulation and agreement from any individual receiving this clothing allowance that should such individual discontinue participation as a New Philadelphia auxiliary police officer the two hundred dollars ($200.00) shall be repaid prorated quarterly for the calendar year. This clothing allowance shall be yearly.
(Ord. 29-2000. Passed 5-8-00.)

141.04 SPECIAL POLICE OFFICER UNIT.

(a) Within the Department of the Public Safety, a special officer unit shall be created. Officers who honorably retire from the department with a minimum of five years service with the New Philadelphia Police Department and who desire to be recognized as members of that unit shall notify the Safety Director. The Safety Director (at his sole discretion) may appoint special police officers.

(b) Special officers shall serve as long as the Safety Director may desire or until they resign.

(c) The Special Officer position shall be voluntary and compensated at the rate of one dollar ($1.00) per year. The Safety Director shall have authority to authorize uniforms. The unit members shall not be in the classified civil service of the City of New Philadelphia. No benefits or seniority may accrue or continue to accrue for these special officers. Special Officers may perform mentoring, teaching and other duties only at the request of the Chief of Police or Safety Director. The special officers shall have full police powers and all police officers certifications shall be maintained.

(d) If any special officers want to perform voluntary services for the citizens of the City of New Philadelphia, they shall be permitted to do so only under the terms and conditions as established by the Safety Director and solely with the discretion of the Chief of Police under the direction of the Safety Director.

(e) If the Safety Director and the Mayor conclude that it is in the best interest of the Citizens of the City of New Philadelphia, they shall have authority to appoint to the special police unit additional special officers who are honorably retired from other Ohio Police Departments and Ohio Sheriff Departments.

(f) Members of this voluntary unit shall not be governed by or covered by any union contract. (Ord. 14-2011. Passed 12-12-11.)

CHAPTER 143
Fire Department

143.01 Age limits for original appointments.
143.02 Emergency ambulance service.
143.03 Certification of ambulance personnel.
143.04 Filling air tanks; fees.
143.05 Hazmat Team Response fee.

CROSS REFERENCES

Original appointment; probationary period and age - see Ohio R.C. 124.27, 124.30, 124.42
Reductions, suspensions and removals - see Ohio R.C. 124.34 et seq., 737.12
Civil service application - see Ohio R.C. 737.10, 737.11
Fire protection contracts - see Ohio R.C. 307.05, 505.44, 717.02
Composition and control - see Ohio R.C. 715.05, 737.08, 737.21
Schooling, buildings and equipment - see Ohio R.C. 715.05, 737.23
General duties - see Ohio R.C. 737.11
False fire alarm or report - see GEN. OFF. 509.06
Residency requirements - see ADM. 159.03

143.01 AGE LIMITS FOR ORIGINAL APPOINTMENTS.

No person is eligible to receive an original appointment to the Fire Department as a fireman or firewoman subject to the civil service laws of this State unless such person has reached the age of twenty-one years.
(Ord. 67-93. Passed 10-25-93.)

143.02 EMERGENCY AMBULANCE SERVICE.

(a) Established. There is hereby established an emergency ambulance service to be operated by personnel of the Fire Department.

(b) Equipment. The Mayor is hereby directed to acquire by lease or purchase two emergency vehicles together with all necessary supplies and equipment for the operation of the service.

(c) Base. The Mayor is further authorized to make such repairs and remodeling to the Sharp property necessary for the quartering of personnel and the efficient operation of the service. (Ord. 76-73. Passed 12-22-73.)

(d) Fees.

(1) All income derived from fees paid for emergency ambulance service rendered by the Fire Department, and any user fees or clerical charges fees from services provided, shall be deposited in the ambulance expendable trust created for the purpose of supporting that service.

(2) The Fire Department shall charge rates established by a representative committee composed of the following:

A. The Chairperson of the Safety, Health and Service Committee of Council.

B. The Chairperson of the Finance Committee of Council.

C. The Chairperson of the Salary Committee of Council.

D. The Safety Director of the City of New Philadelphia.

E. The Chief of the Fire Department.

(Ord. 77-97. Passed 1-26-98.)

(3) The ambulance rates for the year 2010 are hereby established as follows:

Level of Care	2010
ALS1	$489.25
ALS2	$515.00
BLS	$360.50
Mileage	$ 12.00
ALS No Transport	$ 77.25
Medic Assist	$180.25

(Ord. 32-2009. Passed 12-28-09.)

The ambulance committee shall meet at least once annually, in open session, for review of the fees charged for ambulance service, however, increases in fees shall not be effective until one year from the date of the last increase without the consent of Council. Furthermore, the fees charged for service shall not be decreased below the base rates established by Council in Ordinance No. 42-93 without consent of Council.

(3) These fees shall not be used for any other purpose in the Fire Department except for expenses incurred by the City which are directly related to the establishment, maintenance and preservation of emergency ambulance service for the City. These expenses may include but not be limited to:

A. The purchase of vehicles (ambulances) to transport victims from the scene to the primary care facility and the maintenance and repair of such vehicles.

B. The purchase, maintenance and repair of equipment used on the vehicles (ambulances) and related medical equipment used in the treatment of victims and equipment needed for compliance to Federal, State and Local regulations concerning disease and infection control.

C. The supplies used in the treatment of victims and supplies needed for compliance to Federal, State and Local regulations concerning disease and infection control.

D. Computer software and updates, office supplies and equipment and the maintenance and repair of such equipment to allow the billings for such services to be done, maintained and tracked in an efficient and expeditious manner.

E. To provide schooling in order to maintain required standards of victim care and to maintain Federal, State and Local regulations for the required training of EMT-A, EMT-Intermediate and EMT-Paramedic.

F. To provide and fund the position of Squad Co-Ordinator for the ambulance service. This person shall be appointed by the Chief of the Fire Department by selecting the person with the highest score in a competitive test. The competitive test shall consist of a written examination. Duties of the squad co-ordinator shall include, but not be limited to, supervising the scheduling of all continuing education courses; maintaining records of all training, certifications and expiration dates of such certifications; supervising the maintenance and repair of all ambulances and equipment; ordering and maintaining supplies used in the ambulance service and supervising the ambulance service to insure it conforms to all applicable Federal, State and Local regulations. This position shall be initiated no earlier than January 1, 1998. Compensation for this position shall be in the form of a stipend paid in equal payments with the regular payroll. This stipend shall be independent of the person's regular pay and shall not affect the hourly rate of pay they receive nor any other portion of the payroll affected by the hourly rate. The rate of compensation shall be evenly divided over the entire year. This amount and all applicable employer taxes and pension payments shall be drawn from the Ambulance Expendable Trust Fund from the personal services account. The amount of compensation paid to the squad-co-ordinator shall be reviewed annually by the ambulance committee as set forth in subsection (d)(2) hereof and the committee shall have the authority to recommend increases to the stipend as they deem appropriate and forward such recommendation to the Salary Committee of Council for approval.

G. To provide wages, salaries and overtime for the manning and operation of the ambulance service. The ambulance committee as set forth in subsection (d)(2) hereof shall meet each November with the City Auditor and determine the amount of overtime generated in the preceding twelve months by the ambulance service. The committee shall then determine what amount that shall be transferred to the General Fund to cover such costs, taking into consideration the funds available in the ambulance expendable trust and the operating costs needed in the next fiscal year to maintain the ambulance service as set forth in this ordinance. At no time shall be the amount transferred exceed thirty percent (30%) of the entire available funds without the consent of Council by resolution vote in open session. (Ord. 77-97. Passed 1-26-98.)

(e) Area Covered. The emergency service shall cover the City of New Philadelphia.

(f) Restrictions. No invalid service is authorized hereby and the type of ambulance service shall be confined to emergency situations. (Ord. 76-73. Passed 12-22-73.)

(g) Funds. To provide wages, salaries and overtime for the manning and operation of the ambulance service. The ambulance committee as set forth in subsections (d)(2) hereof shall meet each November with the City Auditor and determine the amount of overtime generated in the proceeding twelve months by the ambulance service. From the funds collected under this ordinance the operating costs, wages, salaries and overtime for the manning and operation of the ambulance service shall be paid.
(Ord. 12-2003. Passed 3-10-03.)

143.03 CERTIFICATION OF AMBULANCE PERSONNEL.

(a) Each member of the Fire Department shall, within 100 days of his/her original appointment, become certified through the Ohio Department of Public Safety as an EMT-Paramedic and shall retain that certification without interruption through the period of service as fireman with the Fire Department of the City of New Philadelphia, Ohio, or lose his/her position as fireman with the New Philadelphia Fire Department.

(b) Should any member of the Fire Department fail to keep his/her certification current, after having initially obtained such certification, then such fireman shall become re-certified within six months of the expiration of his/her certification or lose his/her position with the Fire Department. (Ord. 37-2002. Passed 5-30-02.)

143.04 FILLING AIR TANKS; FEES.

(a) The Fire Department shall collect fees for filling and refilling air tanks pursuant to a written schedule adopted by the Fire Chief, Safety Director and Mayor and shall deposit all monies into an air compressor maintenance fund.

(b) All monies collected by the Fire Department shall be deposited into Account #211, a special revenue fund, to be used for the purpose of maintaining and repairing the air compressor system at the Fire Department.
(Ord. 64-92. Passed 12-14-92.)

143.05 HAZMAT TEAM RESPONSE FEE.

The Fire Department shall collect fees for Hazmat Team Response using a written schedule adopted by the Fire Chief, Safety Director and Mayor and shall deposit all monies into Hazmat Team fund. (Ord. 15-94. Passed 4-25-94.)

CHAPTER 145
Department of Public Service

145.01 Positions of Director to be separate.
145.02 Subdepartments.
145.03 City Surveyor.
145.04 Waiver of residency requirement.
145.05 Fees for review of plats and construction plans.
145.06 Minimum standards for traffic light controllers.

CROSS REFERENCES

Compulsory service connections - see Ohio R.C. 729.06, 743.23, 743.37
Management and control of sewerage system - see Ohio R.C. 729.50 et seq.; S.U.& P.S. Ch. 931
Contracts - see Ohio R.C. 733.22 et seq., 735.05 et seq.
Director's appointment, general duties and records - see Ohio R.C. 735.01, 735.02
Management and control of waterworks - see Ohio R.C. 743.02 et seq.; S.U.& P.S. Ch. 935
Street excavation permits - see S.U.& P.S. 901.01
Tree and shrub planting permits - see S.U.& P.S. 905.01
Garbage and rubbish collection - see S.U.& P.S. Ch. 971
To designate nonsmoking areas - see ADM. 107.01

145.01 POSITION OF DIRECTOR TO BE SEPARATE.

The position of Director of Public Service shall be a separate and distinct position. (Ord. 2397. Passed 12-30-49.)

145.02 SUBDEPARTMENTS.

The following subdepartments are established within the Department of Public Service:

Street Department
Waterworks Department
Cemetery Department
Sanitation Department
Waste Water Treatment Department
Public Lands and Buildings Department.

(Ord. 2838. Passed 12-28-59.)

145.03 CITY SURVEYOR.

The Director of Public Service is hereby authorized and directed to employ a full-time City Surveyor. The person so employed shall be a licensed surveyor. (Ord. 3233. Passed 1-13-69.)

145.04 WAIVER OF RESIDENCY REQUIREMENT.

The residence requirement as set out in Ohio R.C. 735.01 in reference to the Director of Public Service becoming a resident of the City within six months after his appointment hereby waived. (Ord. 73-79. Passed 11-12-79.)

145.05 FEES FOR REVIEW OF PLATS AND CONSTRUCTION PLANS.

No final plats and construction plans within the limits of the City shall hereafter be submitted to the Director of Public Service without the appropriate fee being deposited with the Director of Public Service when submitting such documents for review. The fees shall be used to defray the cost of reviewing and processing the final plats and construction plans. Fees shall be established by resolution adopted by the Council upon recommendation by the Director of Public Service, who shall annually provide City Council with a schedule of fees for such review and processing.
(Ord. 16-89. Passed 3-27-89.)

145.06 MINIMUM STANDARDS FOR TRAFFIC LIGHT CONTROLLERS.

All traffic controllers installed in New Philadelphia, Ohio shall conform to Ohio Department of Transportation specification 633:

(a) Controller Assembly, 8 Phase, Systems Ready, Model ASC/2S-1000 As Manufactured by Econolite Control Products. The controller shall be a Model ASC/2S-1000 as manufactured by Econolite Control Products and shall incorporate or be furnished with all the design features, auxiliary equipment, accessories and pre-wired cabinet features as required in the standard bid item.

(b) Controller, Master, Traffic Responsive, Model ASC-2M-1000 As Manufactured by Econolite Control Products. The controller shall be a Model ASC/2M-1000 Zone Monitor Master, as manufactured by Econolite Control Products and shall incorporate or be furnished with all the design features auxiliary equipment, accessories and pre-wired cabinet features as required in the standard bid item.

(c) Central Office Monitor With Aries Software As Manufactured by Econolite Control Products. The Central Office Monitor shall include the Aries Closed Loop Software, as manufactured by Econolite Control Products and shall incorporate or be furnished with all the design features as required in the standard bid item.

(d) Cabinet Assembly. The cabinet shall be a Nema TS2 type 1 in a Nema TS2 Cabinet as manufactured by PathMaster Incorporated.

The traffic controllers shall be solid state digital micro processor type controllers with menue-driven prompts, internal TBC, telemetry unit, and all other accessories which are necessary to make the controller completely functional and operational. The Service Director shall have the authority upon expert recommendation to modify this standard in order to establish minimum compatibility for the traffic light system in New Philadelphia, Ohio.
(Ord. 8-2001. Passed 3-26-01.)

CHAPTER 147
Board of Health

147.01 Board established.
147.02 Health Commissioner.
147.03 Health Department.

CROSS REFERENCES

Power to provide for public health - see Ohio R.C. 715.37
Power to abate health nuisances - see Ohio R.C. 715.44
Power to inspect animals and food products - see Ohio R.C. 715.46
Powers and nuisances - see Ohio R.C. 3707.01 et seq., 3709.36
Enforcement of orders - see Ohio R.C. 3707.02, 3707.48 et seq., 3707.99
General duties - see Ohio R.C. 3709.22 et seq., 3709.36
Notice to fill lots, remove putrid substances - see GEN. OFF. 521.05
Noxious or offensive odors - see GEN. OFF. 521.09
Open meetings - see ADM. Ch. 122

147.01 BOARD ESTABLISHED.

Under the provisions of Ohio R.C. 3709.05 a Board of Health is hereby established to be composed of such members and performing such duties as provided for by law.
(Ord. 947. Passed 2-6-20.)

147.02 HEALTH COMMISSIONER.

The Board of Health shall appoint a Health Commissioner and such other employees as it may believe necessary.
(Ord. 2838. Passed 12-28-59.)

147.03 HEALTH DEPARTMENT.

The Board of Health may establish a Health Department in accordance with the provisions of the Ohio Revised Code.
(Ord. 2838. Passed 12-28-59.)

CHAPTER 149
Park and Recreation Board

149.01 Boards combined; membership; budget.
149.02 Concessions.

CROSS REFERENCES
Land appropriation for parks - see Ohio R.C. 715.21, 719.01
Contract restrictions - see Ohio R.C. 715.68, 731.48
Contract interest - see Ohio R.C. 733.78
Board of Park Commissioners - see Ohio R.C. 755.01 et seq.
Recreation Board - see Ohio R.C. 755.14 et seq.
City park regulations - see S.U. & P.S. Ch. 973
Open meetings - see ADM. Ch. 122

149.01 BOARDS COMBINED; MEMBERSHIP; BUDGET.

(a) The Board of Park Commissioners created by vote of the people and Recreation Board established by Ordinance 2838, passed December 28, 1959, are hereby combined into one body and shall henceforth be known as the Park and Recreation Board.

(b) The members of the existing Board of Park Commissioners and Recreation Board shall constitute the members of the Park and Recreation Board.

(c) All future appointments to the Park and Recreation Board shall be made in compliance with the provisions of Ohio R.C. Chapter 755.

(d) The Park and Recreation Board shall henceforth operate from one budget. (Res. 1966-13. Passed 10-24-66.)

149.02 CONCESSIONS.

(a) In addition to the power, authority and duty conferred upon the Park and Recreation Board by law, the Board is authorized to grant privileges and concessions in the public parks and grounds of the City of New Philadelphia over which the Board has jurisdiction.

(b) The authority of the Park and Recreation Board granted under subsection (a) is limited at all times to the granting and letting of privileges and concessions during each season for each of the several purposes and objects deemed necessary by the Board to make such parks attractive and enjoyable to the general public. In so doing, the Board may let the buildings located thereon for such purposes and shall select the locations and space to be occupied by such lessees when such lessees furnish their own buildings, booths or appliances.

(c) The Park and Recreation Board shall enter into contracts with lessees or licensees upon such terms as the board believes most advantageous to the City. Any contract entered into by the Park and Recreation Board under this section shall be approved by the Mayor and the form reviewed by the Law Director according to law. The Park and Recreation Board shall have authority to negotiate all such contracts.

(d) The Board shall keep a strict account of all moneys received from any concessions, contracts, licensees or other purpose and shall make timely deposits with the City through the Auditor and Treasurer's office. All such deposits shall be credited to the Park Fund to be used at the park locations. Monthly reports of income and expenses shall be submitted to the New Philadelphia City Auditor and Treasurer.

(e) The Park Board shall give a monthly report to the Mayor's Office including financial records and of any other matters for which the Park Board shall be active. An annual report should be submitted to New Philadelphia City Council showing Park Board activity and all incomes and expenses authorized by and/or controlled by the Park and Recreation Board. (Ord. 13-2009. Passed 4-27-09.)

CHAPTER 151
Civil Service Commission

EDITOR'S NOTE: There are no sections in Chapter 151. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Civil service - see Ohio Const., Art. XV, Sec. 10
Civil Service Law - see Ohio R.C. Ch. 124
Civil Service Commission- see Ohio R.C. 124.40
Application to police and fire personnel - see Ohio R. C. 737.051, 737.10, 737.11
Open meetings - see ADM. Ch. 122

CHAPTER 153
Shade Tree Commission

153.01 Establishment; membership.
153.02 Term; vacancies.
153.03 Service to be noncompensatory.
153.04 Powers and duties.
153.05 Organization; rules; journal; quorum; special reports.

CROSS REFERENCES

Power to regulate shade trees and shrubbery - see Ohio R.C. 715.20
Assessments for tree planting or maintenance - see Ohio R.C. 727.011
Injury or destruction - see GEN. OFF. 541.05
Permit required for planting - see S.U. & P. S. 905.01
Open meetings - see ADM. Ch. 122

153.01 ESTABLISHED; MEMBERSHIP.

There is hereby established a Shade Tree Commission which shall consist of the following five members: the Director of Public Service, the Chairman of the Safety, Health and Service Committee of Council and three persons, residents of the City, who shall be appointed by the Mayor and approved by Council. (Ord. 2-2009. Passed 3-9-09.)

153.02 TERM; VACANCIES.

The term of the three persons of the Shade Tree Commission to be appointed by the Mayor shall be three years except for 2009 when each member shall be appointed for one, two, or three years. In the event that a vacancy occurs during the term of any member, a successor shall be appointed for the unexpired portion of the term.
(Ord. 2-2009. Passed 3-9-09.)

153.03 SERVICE TO BE NONCOMPENSATORY.

Members of the Shade Tree Commission shall serve without compensation.
(Ord. 2-2009. Passed 3-9-09.)

153.04 POWERS AND DUTIES.

The Shade Tree Commission has power to study, investigate, plan, advise, report and recommend to Council, the Director of Public Service or the Mayor, 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 public ways, streets and alleys. (Ord. 2-2009. Passed 3-9-09.)

153.05 ORGANIZATION; RULES; JOURNAL; QUORUM; SPECIAL REPORTS.

(a) The Shade Tree Commission shall choose its own officers, follow Modified Roberts Rules of Order, and keep minutes of its proceedings. A majority of the members shall be a quorum for the transaction of business. All plans, findings, advice, reports and recommendations made by the Commission shall be in writing and designate by name those members of the Commission approving or concurring therein. Members who do not so approve or concur therein have the right, as a part of such report, to state their reasons for refusing to approve or concur.

(b) The Commission, when requested by Council, the Mayor or Director of Public Service, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

(c) The Shade Tree Commission shall meet in January and July of each year. A copy of the minutes of any meeting shall be submitted to City Council. An annual report shall be provided to Council by the end of January each year.
(Ord. 2-2009. Passed 3-9-09.)

CHAPTER 155
Airport Commission

155.01 Established; membership; service of appointed members to be noncompensatory; secretary.
155.02 Term of office; vacancies.
155.03 Duties of the Airport Commission.
155.04 Organization; rules of procedure; meetings.
155.05 Budget.
155.06 Councilmanic approval of executive officer.
155.07 Annual report.
155.08 Minimum standards for aeronautical activity.

CROSS REFERENCES
Appropriation of property - see Ohio R. C. 717.01
Airports - see Ohio R.C. Ch. 4561, 4563

155.01 ESTABLISHED; MEMBERSHIP; SERVICE OF APPOINTED MEMBERS TO BE NONCOMPENSATORY; SECRETARY.

There is hereby created the New Philadelphia Airport Commission composed of nine members who are residents of Tuscarawas County and who shall serve without compensation:

(a) From its membership, the Commission elect a Commission Chair, who shall not vote except in the case of a tie.

(b) Three members of Council, appointed by the President of Council and confirmed by a resolution of Council.

(c) Six residents to be appointed by the Mayor and confirmed by a resolution of Council. Appointed members may serve prior to conformation by Council, but no longer than three months without Council approval.

(d) The Commission shall elect a member as secretary.

(Ord. 53-99. Passed 9-13-99.)

155.02 TERM OF OFFICE; VACANCIES.

(a) The terms of elected members of the Airport Commission shall be concurrent with their respective tenure of office.

(b) The terms of appointees of the Mayor shall, upon original appointment, be as follows: two for one year, two for two years and two for three years. Thereafter, all appointments made by the Mayor shall be for terms of three years.

(c) Vacancies caused by death, resignation or otherwise shall be for the balance of the term of the vacated seat in the manner of the original appointment.

(Ord. 53-99. Passed 9-13-99.)

155.03 DUTIES OF THE AIRPORT COMMISSION.

The duties of the Airport Commission are as follows:

(a) To oversee the operation, maintenance and management of the airport facilities, existing and acquired.

(b) To study 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.

(c) To study, plan, advise and recommend to Council on all matters pertaining to the New Philadelphia Airport including, but not limited to, the acquisition, development and construction of necessary facilities.

(d) To make recommendations to Council as to the desirable legislation concerning aviation activities of the City.

(e) To receive assignments from the Mayor, Council or the Director of Public Service for study, consideration and recommendation of any problems confronting the City in the field of aviation.

(Ord. 53-99. Passed 9-13-99.)

155.04 ORGANIZATION; RULES OF PROCEDURE; MEETINGS.

As soon as convenient after the appointment of members, the Airport Commission shall organize under its chairman. It shall adopt its own rules and procedures. The Commission shall hold a regular meeting each calendar month, and such additional meetings at the call of the chair or by the call of three Commission members.
(Ord. 53-99. Passed 9-13-99.)

155.05 BUDGET.

The Airport Commission shall submit to the Mayor, not later than June 1 of each year, its proposed budget for the ensuing year. (Ord. 53-99. Passed 9-13-99.)

155.06 COUNCILMANIC APPROVAL OF EXECUTIVE OFFICER.

Any administrative officer, fixed base operator, airport manager or person exercising functions delegated to them by the Airport Commission shall be confirmed by a resolution of Council. (Ord. 53-99. Passed 9-13-99.)

155.07 ANNUAL REPORT.

By February of each year, the Airport Commission shall submit to City Council an annual report of airport activities from the previous year. The report shall include capital improvements made and revenue collected at the airport facilities.
(Ord. 53-99. Passed 9-13-99.)

155.08 MINIMUM STANDARDS FOR AERONAUTICAL ACTIVITY.

The minimum standards for aeronautical activity as revised and updated and approved by the U.S. Department of Transportation Federal Aviation Administration March 25, 1999, a copy of which is attached to Ordinance 45-99 is hereby adopted as the revised updated minimum standards policy for aeronautic activity at Harry Clever field New Philadelphia, Ohio. (Ord. 45-99. Passed 6-14-99.)

CHAPTER 157
Engineer

EDITOR'S NOTE: There are no sections in Chapter 157. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Plat approval and acceptance of streets - see Ohio R.C. 711.08, 711.191; P. & Z. Ch. 1121
Civil engineer - see Ohio R. C. 733.80
General duties - see Ohio R. C. 735.32
Registration as a professional engineer - see Ohio R. C. Ch. 4733

CHAPTER 159
Employment Provisions

EDITOR'S NOTE: Legislation pertaining to salaries and other employee benefits is not codified herein since these provisions are subject to frequent change. Consult the City Auditor's office for information concerning such legislation currently in effect.

159.01 Jury duty; compensation.
159.02 Sick leave; visit by City nurse.
159.03 Residence requirements.
159.04 Public employees retired compensation.
159.05 Reimbursement for travel expenses.
159.06 Overtime and compensatory time for nonunion employees.
159.07 Running for non-City elected office.
159.08 Funeral leave.

CROSS REFERENCES

Welfare - see Ohio Const. Art. II, Sec. 34
Workmen's compensation - see Ohio Const Art. II, Sec. 35; Ohio R.C. Ch. 4123
Wages and hours on public works - see Ohio Const. Art. II, Sec. 37; Ohio R. C. Ch. 4115
Blanket bonds - see Ohio R.C. 3.06
Deductions for dues and savings - see Ohio R.C. 9.41, 9.43
Public Employees Retirement System - see Ohio R.C. Ch. 145
Power to fix bonds - see Ohio R.C. 731.04, 731.08
Power to fix salaries and compensation - see Ohio R.C. 731.04, 731.08
Expenses - see Ohio R.C. 733.79, 737.23
Strikes by public employees - see Ohio R.C. Ch. 4117

159.01 JURY DUTY; COMPENSATION.

All City employees who are called to serve as jurors in any County or Federal court, shall be paid the difference between the compensation of jurors and their regular City compensation. (Ord. 3129. Passed 6-12-67.)

159.02 SICK LEAVE; VISIT BY CITY NURSE.

On the first day of sick leave the City nurse will visit an employee personally and report to the Mayor, giving her recommendation as to whether a doctor's certificate is necessary to establish the disability of the employee.
(Ord. 3105. Passed 12-30-66.)

159.03 RESIDENCE REQUIREMENT.

(a) All regular members of the Police and Fire Departments of the City are required to be bona fide residents of the City. Anyone at the time of his appointment of employment in the Police or Fire Departments who does not reside within the corporate limits shall establish residence in the City limits within sixty days. All regular members of the Police and Fire Departments shall maintain an up-to-date record of residence address with the City Auditor. (Ord. 23-76. Passed 4-12-76.)

(b) All non-collective bargaining employees of the City except those employees in the employ of the New Philadelphia Municipal Court shall actually live within the corporate limits of the City, however, employees, upon written request to the Mayor, may be permitted to live outside the corporate limits of the City, as follows:

Up to one mile from the corporate limits or three miles from the center of the City as measured by the State, County or Township Roads but within the limits of the boundaries of the New Philadelphia School District.

(c) Those employees mentioned in subsection (b) hereof who live outside the defined area as of the effective date of this subsection, shall be permitted to continue living at the present location, however, should any employee move from the residence they occupy as of the effective date of this subsection, they will be required to move within the defined boundaries above as a condition for maintaining continued employment with the City.

(d) Any newly hired employee of the City who is a member of the employee group, specified in subsection (b) hereof, shall, as a condition of employment with the City, move into the outlined limits within sixty days after the actual hire date.
(Ord. 33-86. Passed 7-14-86.)

(e) Seasonal employees hired to fill the position as swimming pool lifeguard and New Philadelphia Park Police, being seasonal employees are exempted from the residency requirements established herein. (Ord. 30-98. Passed 5-27-98.)

(f) The position of New Philadelphia City Prosecutor and Assistant New Philadelphia Municipal Prosecutor shall be exempt from the residency requirement as set forth in subsection (b) hereof. (Ord. 19-01. Passed 3-26-01.)

(g) New Philadelphia Information Systems Specialist, James F. Zucal is exempted from the residency requirements established in subsection (b).
(Ord. 17-99. Passed 4-12-99.)

159.04 PUBLIC EMPLOYEES RETIRED COMPENSATION PROGRAM.

(a) The City hereby adopts a plan under the Ohio Public Employee Deferred Compensation Program and extends to all eligible employees the opportunity to join.

(b) The Mayor is hereby authorized by Council to execute an agreement with the Ohio Public Employees Deferred Compensation Board on terms and conditions which the Mayor determines are in the best interest of the City, which agreement shall authorize the Board to offer a plan under the program to all eligible employees of the City and thereafter to administer the plan on behalf of such employees. (Res. 12-79. Passed 10-22-79.)

159.05 REIMBURSEMENT FOR TRAVEL EXPENSES.

(a) Whenever possible, employees shall attempt to use City owned vehicles. Whenever a private vehicle is used, mileage reimbursement for City employees using a personal vehicle shall be at the current rate as established by the Federal Government Regulations or Internal Revenue Service. For private vehicle usage, all vehicles shall be covered with a policy of liability insurance. City shall not be responsible or liable for any expenses associated with the use of a private vehicle except for mileage reimbursement. City shall not be responsible for any fines or penalties incurred by employee. No personal side trips shall be permitted without express written consent by Mayor, and such will be at the sole cost of employee. Any side trips shall not be considered in scope of employment for workers compensation or other purposes.

(b) Meal reimbursement shall be limited to the maximum approved rate pursuant to the current Internal Revenue Service amount set for meals and incidental expenses for each locality. There shall be no reimbursement for alcoholic beverages and no such beverages shall be charged on any city account. Receipts must be attached to any reimbursement request (there will be no reimbursement for meals included with conference or meeting).

(c) Lodging reimbursement shall be limited to the current rate as established by the Internal Revenue Service Schedule for motels and meals. If the room is more than ten percent (10%) higher than the Internal Revenue Service rate, it shall be the employee's personal expense unless such amount is approved by the finance committee on a case by case basis. There will be no reimbursement for in room service, pay to view, dry cleaning, similar expenses, or personal phone calls. Receipts must be attached to any reimbursement request.

(d) When two employees of the same gender are required to remain overnight at the same location, lodging shall be made for a single room with a double accommodations when practical and available.

(e) Any and all requests for reimbursement including all itemized receipts and/or supporting documentation shall be made to the department head and to the Auditor of the City of New Philadelphia by established and existing procedures for such reimbursement within thirty (30) days. (Ord. 2-2010. Passed 3-8-10.)

159.06 OVERTIME AND COMPENSATORY TIME FOR NONUNION EMPLOYEES.

(a) Definitions.

(1) "Exempt employee" means any individual who is exempted by definition from the overtime and minimum wage provisions of the Fair Labor Standards Act of 1938, as amended (FLSA). Exempt employees shall include but are not limited to the following classifications:

A. Executive administrative or professional employees (Section 13(a)(1), FLSA).

B. Elected officials and their appointed staff (Section 3 (e)(2)(C), FLSA).

C. Other exemptions defined by Section 13, FLSA, and the Code of Federal Regulations promulgated by the Department of Labor.

(2) "Nonexempt employee" means any individual who is not exempted from the provisions of the Fair Labor Standards Act of 1938, as amended, and who is entitled to minimum wage and overtime compensation as provided thereunder.

(b) Overtime and compensatory time for nonexempt and exempt employees shall be as follows:

(1) Nonexempt employees.

A. Approved overtime shall be paid to all City employees who are not exempt from the provisions of the Fair Labor Standards Act of 1938, as amended.

B. Employees shall be paid at a rate of one and one-half times the employee's regular wage rate for hours worked in excess of forty in one work week, in the manner and methods provided in the Federal Fair Labor Standards Act of 1938, as amended.

C. Approved overtime shall be paid to an employee for each minute worked.

D. If any employee entitled to overtime works on a regular scheduled day that falls on any part of a holiday pursuant to FLSA Section 151.06(a), he shall be entitled to holiday pay. The holiday pay shall be one and one-half times the employee's base pay and the employee shall receive not less than one holiday pay for a given holiday.

E. Overtime and compensatory time disputes shall be resolved by the Appointing Authority. Overtime and compensatory time entitlements shall be approved by the Appointing Authority and shall be properly recorded as to when it was earned and when it was used on a biweekly basis when the payroll is submitted. The records on file in the Auditor's office shall be final.

F. Employees may waive the right to overtime pay and receive in lieu thereof compensatory time off. Employees shall be entitled to one and one-half compensatory hours for each hour actually worked in excess of forty hours in one week.

G. Employees may not accrue more than forty hours total of unused compensatory time for overtime hours worked during the term of their employment.

H. All compensatory hours in excess of forty accrued prior to the effective date of this section shall be utilized in the next 365 days. In exceptional circumstances, this period of time may be extended with the approval of the Appointing Authority.

I. Employees may use accrued compensatory time with the approval of the Department Head taking into account the scheduling needs of the department. Compensatory time hours used will not count as hours worked during the applicable work period for purposes of determining overtime.

J. Upon termination of employment, employees with unused compensatory time shall be paid at the final regular rate, whichever is higher.

(2) Exempt employees.

A. Professional, administrative, executive, fiduciary and other employees who are exempt from the Fair Labor Standards Act of 1938, as amended, shall be entitled to compensatory hours, only as set forth within this section.

B. Exempt employees shall not be paid overtime. Exempt employees shall be entitled to one and one-half compensatory hours for each hour actually worked in excess of forty hours in one week.

C. Exempt employees may work a flexible work schedule on those occasions when hours in excess of forty in a work week are required.

D. Exempt employees may not accrue more than 120 hours total of unused compensatory time for overtime hours worked during the term of their employment. Any compensatory hours earned in excess of 120 hours shall be used within thirty days of the end of the pay period in which such hours are accumulated.

E. All compensatory hours in excess of 120 hours accrued prior to the effective date of this section shall be utilized in the next 365 days. In exceptional circumstances, this period of time may be extended with the approval of the Appointing Authority.

F. Exempt employees may use accrued compensatory time with the approval of the Appointing Authority taking into account the scheduling needs of the department. Compensatory time hours used will not count as hours worked during the applicable work period for purposes of determining overtime.

G. Notwithstanding anything contained to the contrary in this section, elected officials shall not be entitled to overtime pay or to compensatory time off for any hours worked in excess of forty in any one week.

(c) This Ordinance shall not apply to those persons covered by union contracts. (Ord. 9-94. Passed 4-11-94.)

159.07 RUNNING FOR NON-CITY ELECTED OFFICE.

The City of New Philadelphia does hereby authorize any City employee to run for non-City elected office at any partisan election without any repercussion or action taken by the City. (Ord. 74-99. Passed 11-22-99.)

159.08 FUNERAL LEAVE.

All employees whom are not in the bargaining units shall be granted funeral leave as follows:

Employees who have a death in the immediate family shall be granted three work days absence with pay to attend to funeral arrangement and/or funeral. The three work days of leave shall be taken within one week of the death. The immediate family shall be interpreted to mean father, mother, sister, brother, husband, wife, children, grandmother, grandfather, great grandmother, great grandfather, grandson, granddaughter, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepchildren, foster children, foster parents, guardian or other person who stands in place of a parent (loco parentis), stepmother, stepfather, brother-in-law and sister-in-law. The loco parentis relationship must be demonstrated by the employee to the employer prior to the death of the claimed person who stands in the place of a parent. If a death or funeral of a member in the immediate family occurs more than 175 miles from home, absence of five work days will be allowed, but only three days with pay. If a funeral leave is taken beyond the above limits, said leave shall be without pay. In all cases, the employee will inform the head of the Department when such leave will be extended. Holidays will not be counted as work days for the purpose of this section. (Ord. 37-2000. Passed 6-12-00.)

CHAPTER 161
Ambulance Service Inspection Board

161.01 Creation; members; duties.
161.02 Terms; vacancies.
161.03 Organization; meetings; report.

CROSS REFERENCES

Reports of unusual or violent deaths - see Ohio R.C. 313.12
Joint ambulance districts - see Ohio R.C. 505.71 et seq.
Emergency medical service - see Ohio R. C. 4731.82 et seq.
Emergency ambulance service - see ADM. 143.02
Vehicle operation at stop sign or signal - see TRAF. 331.20
Right of way - see TRAF. 331.21
Speed - see TRAF. 333.06
Pedestrians to yield to - see TRAF. 371.08
False reports - see GEN. OFF. 509.07

161.01 CREATION; MEMBERS; DUTIES.

(a) There is hereby created a Board to be known and designated as Ambulance Service Inspection Board composed of the Safety Director, Health Commissioner, Chief of the Fire Department and a qualified automotive mechanic. All members are to serve without pay or further compensation for the performance of their duties.

(b) The Safety Director shall act as Chairman of the Board and inspect all pertinent records of the company or individual holding a contract with the City for emergency ambulance service.

(c) The Health Commissioner shall inspect or direct an inspection by the Health Nurse to determine the proper sanitation and health procedures to be followed by the ambulance service.

(d) The Chief of the Fire Department shall periodically inspect all the equipment of the emergency ambulance to determine that such equipment meets the requirements of the contract entered into with the City.

(e) The Safety Director shall select a qualified automotive mechanic whose duty will be to inspect the emergency vehicles for mechanical readiness and safety and for patient safety. (Ord. 64-73. Passed 11-26-73.)

161.02 TERMS; VACANCIES.

The terms of office of the Safety Director, Health Commissioner and Fire Department Chief shall be concurrent with their respective term of office. The term of the qualified automotive mechanic will be two years. Vacancies caused by death, resignation or otherwise, shall be for the balance of the term in connection with which the vacancy occurred and shall be filled by the person occupying the position in which the vacancy occurred or in the same manner as original appointments are made.
(Ord. 64-73. Passed 11-26-73.)

161.03 ORGANIZATION; MEETINGS; REPORT.

As soon as convenient after their appointment, the Ambulance Service Inspection Board shall organize under its Chairman and shall select one of its members as Secretary. It shall adopt its own rules of procedure. The Board shall hold regular meetings each calendar month and such additional meetings as may be deemed necessary.

The Board shall submit to the Council not later than January 15 of each year, commencing in 1975, a written report of its activities.
(Ord. 64-73. Passed 11-26-73.)

CHAPTER 163
Traffic Advisory Commission

163.01 Established; membership.
163.02 Terms of office; vacancies.
163.03 Duties.
163.04 Organization; meetings.

CROSS REFERENCES
Safety Director's authority - see TRAF. 305.01
Traffic control devices - see TRAF. Ch. 313

163.01 ESTABLISHED; MEMBERSHIP.

There is hereby created a commission to be known and designated as Traffic Advisory Commission composed of eleven members, all of whom shall be residents of the City, including a member of the Health, Safety and Service Committee of Council (the Chairman or another member of the Committee acting as a substitute), a registered traffic engineer, an employee of the State Department of Transportation, one resident of each of the four wards of the City, a member of the Police Department, the City Traffic Technician, and the Director of Public Service and the Director of Public Safety, who shall serve as the Chairman. In the absence of the Director of Public Safety, the member of the Health, Safety and Service Committee shall chair the meeting. The members, other than the Traffic Technician, Council Representative and Directors of Service and Safety, shall be appointed by the Mayor. All members of the Traffic Advisory Commission shall serve without pay and those employees of the City, other than the two Directors and the Council representative, shall be granted compensatory time off for actual time spent at meetings.
(Ord. 30-88. Passed 6-27-88.)

163.02 TERMS OF OFFICE; VACANCIES.

The term of the Council representative, Service Director and the Safety Director shall be concurrent with their respective tenure of office. The terms of the appointees of the Mayor shall be for two years, any of whom may be reappointed. Vacancies caused by death, resignation or otherwise shall be for the balance of the term in connection with which the vacancy occurred and shall be filled in the same manner as original appointments are made.
(Ord. 65-76. Passed 10-11-76.)

163.03 DUTIES.

The duties of the Traffic Advisory Commission shall be as follows:

(a) To study the problems and determine the needs of the City in connection with establishing an orderly traffic control pattern.

(b) To study, plan, advise and recommend to the Safety Director on matters pertaining to traffic control patterns and traffic control signals throughout the City.

(c) To make recommendations from time to time to Council as to desirable legislation concerning traffic control patterns and devices throughout the City.

(d) To receive assignments from the Mayor, Service Director, Council or the Safety Director for study, consideration and recommendation of any problem confronting the City in the area of traffic control.

(e) All studies, materials, traffic court reports, etc., shall become the property of the City and be placed on file in the Municipal Building.

(Ord. 65-76. Passed 10-11-76.)

163.04 ORGANIZATION; MEETINGS.

As soon as convenient after its appointment, the Traffic Advisory Commission shall organize under its chairman and shall elect one of its members to serve as Secretary. It shall adopt its own rules of procedure but will specify that minutes of all meetings shall be sent to the Council regularly. The Commission shall meet at least once each month on a regularly specified day and time and shall hold such special meetings as necessary. The meetings shall be public and any interested citizen may appear and offer suggestions and comments, subject to the rules and procedures as adopted by the Commission.

(Ord. 30-88. Passed 6-27-88.)

CHAPTER 165
Records Commission

165.01 Established.
165.02 Membership.
165.03 Meetings; duties.
165.04 Public Records Policy.

CROSS REFERENCES
Photostat or microfilm recording - see Ohio R.C. 9.01

165.01 ESTABLISHED.

There is hereby created, in accordance with Ohio R.C. 149.39, the Records Commission of the City, which shall consist of the Mayor, who shall be the chairman, and three additional members.
(Ord. 74-89. Passed 11-27-89.)

165.02 MEMBERSHIP.

The members of the Records Commission shall be the chief fiscal officer, the chief legal officer and a citizen appointed by the chief executive. A secretary, who may or may not be a member of the Records Commission, shall be appointed by the Commission, and shall serve at its pleasure. The Commission members and secretary shall serve without compensation. The Commission may employ an archivist.
(Ord. 74-89. Passed 11-27-89.)

165.03 MEETINGS; DUTIES.

The Records Commission shall meet every six months and upon call of the chairman, and shall perform the duties set forth in Ohio R.C. 149.39, and in addition thereto shall, when it is deemed advisable by the membership, initiate and promulgate plans for the reproduction of City records, by lawful means, for the purposes of more economical storage and improved safety thereof, and may conduct investigations of the necessity for and the practicability of such plans.
(Ord. 74-89. Passed 11-27-89.)

165.04 PUBLIC RECORDS POLICY.

(a) Mission Statement. Openness leads to a better informed citizenry, which leads to better government and better public policy. Consistent with the premise that government at all levels exists first and foremost to service the interests of the people, it is the mission and intent of the City of New Philadelphia to at all times fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act.

(b) Defining Public Records. All records kept by the City of New Philadelphia are public unless they are exempt from disclosure under Ohio law. All public records must be organized and maintained in such a way that they can be made available for inspection and copying.

(1) A record is defined to include the following: A document in any format - paper electronic (including, but not limited to, business e-mail) - that is created, received by, or comes under the jurisdiction of the City of New Philadelphia that documents the organization, functions, policies, decisions, procedures, operations or other activities of the office.

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

(d) Handling Requests: No specific language is required to make a request for public records. However, the requestor must at least identify the records requested with sufficient clarity to allow the office to identify, retrieve, and review the records. If it is not clear what records are being sought, the office must contact the requestor for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its public records.

(1) The requestor does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public records. It is this office's general policy that this information is not to be requested. However, the law does permit the office to ask for a written request, the requestor's identity, and/or the intended use of the information requested, but only if a written request or disclosure of identity or intended use will benefit the requestor by enhancing the office's ability to identify, locate, or deliver the public records that have been requested; and after telling the requestor that a written request is not required and that the requestor may decline to reveal the requestor's identity or intended use.

(2) In processing the request, the office does not have an obligation to create new records or perform new analysis of existing information. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering, or querying. Although not required by law, the office may accommodate the requestor by generating new records when it makes sense and is practical under the circumstances.

(3) In processing a request for inspection of a public record, an office employee must accompany the requestor during inspection to make certain original records are not taken or altered.

(4) A copy of the most recent edition of the Ohio Sunshine Laws manual is available via the Attorney General's internet website (www.ohioattorneygeneral.gov) for the purpose of keeping employees of the office and the public educated as to the office's obligations under the Ohio Public Records Act, Open Meetings Act, records retention laws and Personal Information Systems Act.

(e) Electronic Records. Records in the form of e-mail, text messaging, and instant messaging, including those sent and received via a hand-held communications device are to be treated in the same fashion as records in other formats, such as paper or audiotape.

(1) Public records content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of this office are required to retain their e-mail records and other electronic records in accordance with applicable records retention schedules.

(f) Denial or Redaction of Records. If the requestor makes an ambiguous or overly broad request or has difficulty in making a request for public records, the request may be denied, but the denial must provide the requestor an opportunity to revise the request by informing the requestor of the manner in which records are maintained and accessed by the office.

(1) Any denial of public records requested must include an explanation, including legal authority. If the initial request was made in writing, the explanation must also be in writing. If portions of a record are public and portions are exempt, the exempt portions may be redacted and the rest released. When making public records available for public inspection or copying, the office shall notify the requestor of any redaction or make the redaction plainly visible. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

(g) Copying and Mailing Costs. Those seeking public records may be charged only the actual cost of making copies, not labor.

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

(2) If a requestor asks that documents be mailed, he or she may be charged the actual cost of the postage and mailing supplies. There is no charge for documents e-mailed.

(Ord. 13-2014. Passed 9-8-14.)

CHAPTER 166
Building Inspector

166.01 Established.

166.01 ESTABLISHED.

Council does hereby establish the position of Building Inspector to enforce the Housing and Building Codes within the City which shall be a full time position under rules and regulations as established in Ordinance 39-97 as amended from time to time.
(Ord. 31-01. Passed 7-31-01.)

CHAPTER 171
Municipal Court

EDITOR'S NOTE: The New Philadelphia Municipal Court having territorial jurisdiction within the City and Auburn, Bucks, Fairfield, Goshen, Jefferson, Warren, York, Dover, Franklin, Lawrence, Sandy, Sugarcreek and Wayne Townships in Tuscarawas County has been established under Ohio R.C. 1901.01 et seq. 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 New Philadelphia ordinances shall be paid into the City Treasury. Rule 13 of the Ohio Traffic Rules as promulgated by the Ohio Supreme Court provides that the Court shall establish a traffic violations bureau and specifies certain restrictions as to the designated offenses and schedule of fines to be accepted as waiver payment in lieu of Court appearance.

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 violations - see Ohio R.C. 4513.37

TITLE NINE - Taxation
Chap. 191. Income Tax.

CHAPTER 191
Income Tax

191.01 Purpose.
191.02 Definitions.
191.03 Imposition of tax.
191.04 Exclusions.
191.05 Effective date.
191.06 Annual tax return and payment of tax due.
191.07 Collection at source; withholding by employer.
191.08 Declarations; estimated tax payments.
191.09 Duties of the Administrator.
191.10 Investigative powers of Administrator; penalty for divulging confidential information.
191.11 Interest and penalties.
191.12 Collection of unpaid taxes by civil litigation; refunds of overpayments.
191.13 Violations; criminal prosecutions.
191.14 Board of Review.
191.15 Use of funds.
191.16 Credit for tax paid to another municipality.
191.17 Savings clause.
191.18 Collection of tax after termination of chapter.
191.19 Determination of income subject to tax.

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
Income tax personnel - see ADM. 133.02

191.01 PURPOSE.

To provide funds for the purposes of (i) general municipal operations and (ii) providing funds for the provision of municipal fire and police services, there is hereby levied a tax on qualifying wages, commissions, and other compensation, and on net profits and other taxable income as hereinafter provided.
(Ord. 3-2005. Passed 5-9-05.)

191.02 DEFINITIONS.

(a) As used in this Chapter, the following words shall have the meanings 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 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 subsection (a)(1)A. hereof, 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 subsection (a)(1)D.2. hereof, 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;

2. Subsection (a)(1)D.1. hereof 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 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. 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 deducible 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-employee shall not be allowed as a deduction.

Nothing in subsection (a)(1) hereof, 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) "Administrator" means the individual designated by the ordinance, appointed to administer and enforce the provisions of the ordinance.

(3) "Association" means a partnership, limited partnership, S Corporation any other form of unincorporated enterprise, owned by one or more persons.

(4) "Board of Review" means the Board created by and constituted as provided in Section 191.14.

(5) "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.

(6) "Corporation" means a corporation, Sub-S Corporation, or 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.

(7) "Day" means a full day or any fractional part of a day.

(8) "Domicile" means the place where a taxpayer has his true, fixed, and permanent home, and to which, whenever the taxpayer is absent, he has the intention of returning. Factors to be considered when determining domicile are, but are not limited to: registration of vehicles; current driver's license; address on Federal and State income tax returns; address of voter's registration; attendance at schools by taxpayer's family; county of taxpayer's estate if deceased.

(9) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.

(10) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or which employs one or more persons on a salary, wage, commission or other compensation basis.

(11) "Fiduciary" means a guardian, trustee, executor, administrator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(12) "Fiscal year" means an accounting period of twelve months ending on any day other than December 31.

(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 the total income of a taxpayer from any source whatsoever.

(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, 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 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 New Philadelphia.

(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 (F) of section 191.03, required to be reported on schedule C, schedule E, or schedule F.

(23) “Nonqualified 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 City.

(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 any office or place of business within the City.

(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) "Pension" means income earned or received as a result of retirement from employment from an IRS qualified retirement plan and which is generally, although not exclusively, reported to the taxpayer by the payor on a Form 1099-R or similar form.

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

(33) "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 employees or agents.

(34) “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 taxing municipality.

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

(36) “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.

(37) "Resident" means an individual domiciled in the City.

(38) “Resident incorporated business entity” means an incorporated business entity whose office, place or operations or business situs is within the Municipality.

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

(40) "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.

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

(42) “Schedule E” means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

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

(44) "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.

(45) "Tax Administrator" 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 Tax Administrator.

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

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

(48) "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, and 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. 51-2003. Passed 12-22-03.)

191.03 IMPOSITION OF TAX.

(a) Basis of Imposition. Subject to the provisions of this chapter, an annual tax is hereby imposed at the rate of one and one-half percent (1-1/2%) per year of which one percent (1%) shall be used for the purposes specified in Section 191.01(i) and of which one-half percent (½%) shall be used for the purposes specified in Section 191.01(ii), which results from a one percent (1%) income tax approved by the City on December 22, 2003 and a one-half percent (½%) income tax approved by the electors on May 3, 2005, effective on and after July 1, 2005, upon the following:

(1) On all qualifying wages, commissions, spousal support, 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, 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.
(Ord. 3-2005. Passed 5-9-05.)

(6) On any and all income received as gambling winnings whether it be from lottery, internet sweepstakes, or other game of chance in excess of $599.99. This section is meant to include winnings at any internet sweepstakes café or other gambling winnings won in the City of New Philadelphia, Ohio and each person earning such winnings in the City of New Philadelphia shall be obligated to file a city income tax return and pay city income tax on such winnings.
(Ord. 26-2010. Passed 11-22-10.)

(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 formula 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 rental 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 business apportionment percentage formula provided for herein, the Tax Administrator, 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) hereof, "sales made in a municipal corporation" mean:

(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) Operating loss carry forward.

(1) The municipality does allow a net operating loss carry forward for three years. The municipality does not allow a net operating loss carry back.

(e) A husband and wife may, for any tax year, elect to file separate or joint returns. A loss from the business activity of one spouse may not be used to reduce the taxable income of the other spouse. Also, a loss from the operation of a business, including rental losses, may not be used to offset the income on a taxpayer's W-2 Form.

(f) 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. (Ord. 51-2003. Passed 12-22-03.)

191.04 EXCLUSIONS.

The provisions of this Chapter shall not be construed as levying a tax upon the following:

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

(b) 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.

(c) Compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

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

(e) 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).

(f) Compensation for damage to property by way of insurance.

(g) Interest and dividends from intangible property.

(h) 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.

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

(j) 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.

(k) 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.

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

(m) 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.

(n) 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) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.

(o) 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.

(p) 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:

(1) 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.

(2) 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.

(q) 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:

(1) The income of an electric company or combined company;

(2) The income of a telephone company.

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

(r) 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.

(s) An S corporation shareholder's distributive share of net profits or losses of the S corporation.

(t) 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. 51-2003. Passed 12-22-03.)

191.05 EFFECTIVE DATE.

The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of persons, businesses, professions, or other activities, as defined in this chapter, earned or received on and after July 1, 2005.

(Ord. 3-2005. Passed 5-9-05.)

191.06 ANNUAL TAX RETURN AND PAYMENT OF TAX DUE.

(a) Each taxpayer or resident 18 years of age or older, who engages in business or other activity or whose qualifying wages, commissions or other compensation are subject to the tax imposed by this tax code, shall, whether or not a tax is due thereon, make and file a return on or before April 15th of each year with the Administrator. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or other period. Any person otherwise subject to the tax who is registered with the City as being retired with no earned income, shall be exempt from filing an annual tax return at the discretion of the Administrator.

(b) A husband and wife may, for any tax year, elect to file separate or joint returns. However, a loss from the business activity of one spouse may not be used to reduce the taxable income of the other spouse. Also, a loss from the operation of a business, including rental losses, may not be used to offset the income on a taxpayer's W-2 Form.

(c) The Administrator is hereby authorized to provide by regulation, subject to the approval of the Board of Review, that the W-2 form furnished by an employer or employers, for a nonresident employee showing the full amount of tax deducted by such employer or employers from the salaries, wages or commissions or other compensation, as required by Section 191.07 and paid to the City, or other municipality or state, imposing a tax equal to or greater than the New Philadelphia income tax, on the same taxable income, shall be accepted as the return required of a nonresident employee under this chapter, whose sole income subject to the tax or taxes under this chapter is such salary, wages, commissions or other compensation.

(d) Such return shall be filed with the Administrator on a form or forms furnished by or obtainable from the Administrator or on a suitable generic form, setting forth:

(1) The aggregate amounts of qualifying wages, commissions and other compensation earned or received or other income defined by statute as taxable; and

(2) Gross income from such business less allowable expenses incurred in the acquisition of such gross income to arrive at a net profit; and

(3) The amount of the tax imposed by this chapter thereon; and

(4) Any credits to which the taxpayer may be entitled under the provisions of this chapter; and

(5) Such other pertinent statements, information returns or other information as the Administrator may require.

(e) The taxpayer making a return required hereunder shall, at the time of the filing thereof, pay to the Administrator the balance of the tax, due, if it exceeds $4.99.

(1) Should the return or the records of the Administrator indicate an overpayment of the tax to which the City is entitled under the provisions of this ordinance, such overpayment shall be first applied against any existing tax liability, penalties, or interest, and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or applied against any subsequent liability hereunder; provided that an overpayment of less than five dollars ($5.00) shall not be refunded.

(2) Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a return of tax overpaid, subject to the requirements and/or limitations contained in Sections 191.12 and 191.16. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the annual return.

(3) Within three months from the final determination of any Federal tax liability affecting the taxpayer's New Philadelphia tax liability, such taxpayer shall make and file an amended New Philadelphia return showing income subject to the New Philadelphia tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make claim for return of any overpayment.

(f) The officer or employee of such employer having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes, penalties, or interest due.

(g) The Tax Return Is Considered Received if mailed, on the date postmarked by the United States Postal Service or on the date delivered without mailing to the Municipal Tax Office.

(h) Extension of time for filing returns. Taxpayers granted extensions of time for filing their federal income tax returns may have an extension for filing their New Philadelphia Tax Return provided that a copy of the federal extension is filed with the Administrator on or before the original due date of the New Philadelphia Tax Return. The extended date for filing the New Philadelphia return will be the same as the extended date for the federal return regardless of the original due date of the tax return. Statutory interest of one-half percent (1/2%) per month or fraction thereof will be charged from the original due date of the return until date of actual payment. The extension is for extending the due date of the tax return and does not extend the time for paying any tax due. If a taxpayer wishes to extend the time for filing the New Philadelphia tax return to a date other than that provided by the automatic federal extension, the taxpayer must file such a request in writing to the Administrator prior to the due date of the automatic extension. The extension may be granted by the Administrator upon terms and conditions set forth by him or her. A taxpayer's extension request may be denied if the taxpayer is delinquent in the filing of any tax returns or payments of any taxes, penalties, or interest due. The granting of an extension does not extend the time for paying the tax, it only extends the time for filing the tax return.

(i) The failure of any taxpayer to receive or procure a return, declaration or other required form shall not excuse the taxpayer from filing such forms or from paying the tax due.

(j) Payments received for taxes due shall be allocated first to penalties due, then to interest due, and then to taxes due.

(k) The Administrator is authorized but is not required to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he/she is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him/her under this chapter. (Ord. 51-2003. Passed 12-22-03.)

191.07 COLLECTION AT SOURCE; WITHHOLDING BY EMPLOYER.

(a) Each employer within or doing business within the City who employs one or more persons on a salary, wage, commission or other compensation basis as defined herein, shall, at the time of the payment thereof, deduct the tax of one and one-half percent (1-1/2%) from the gross salaries, wages, commissions or other compensation earned or received by residents regardless of where such compensation was earned, and shall deduct the tax of one and one-half percent (1-1/2%) from the salaries, wages, commissions or other compensation as defined herein as earned or received within the City by nonresidents thereof. (Ord. 3-2005. Passed 5-9-05.)

(b) Notwithstanding the provisions of subsection (a) hereof, if such employer within or doing business within the City who or which employs a City resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for and remit to the City only the difference, if any, between the tax on such City resident required to be withheld by such other taxing municipality and the tax imposed by this ordinance; or shall withhold City tax on 100% of the income subject to City tax if the City resident/employee is employed at a location where a municipal tax is not imposed.

(c) Each such employer shall, on or before the last day of the month following the close of each calendar quarter, make a return and remit the tax hereby required to be withheld to the Administrator. Such employer shall be liable for the payment of taxes hereby required to be deducted and withheld, whether or not such taxes have in fact been so deducted and withheld.

(d) Effective January 1, 2001, New Philadelphia shall not require any nonresident employer, agent of such nonresident employer, or other payor that is not situated in New Philadelphia to deduct and withhold New Philadelphia tax from the salaries, wages, and other compensation earned or received by an individual unless the total amount of New Philadelphia Tax required to be withheld and deducted for all of the nonresident employer's employees or other payor's payees exceeds one hundred fifty dollars ($150.00) for that calendar year.

(e) Effective January 1, 2001, if the New Philadelphia tax required to be deducted and withheld from the salaries, wages, and other compensation of all of the nonresident employer's employees or other payor's payees exceeds one hundred fifty dollars ($150.00) for any calendar year beginning with the calendar year commencing on January 1, 2001, and thereafter, then the said nonresident employer, agent of such employer, or other payor, is required to deduct and withhold New Philadelphia tax in each ensuing year, even if the amount of tax required to be withheld and deducted in each of those ensuing years is one hundred fifty dollars ($150.00) or less, except as provided in subsection (f) hereof.

(f) If a nonresident employer, agent of such employer, or other payor that is not situated in New Philadlephia is required to deduct and withhold New Philadelphia tax for an ensuing year as set forth at subsection (e) hereof immediately preceding, and the total amount of tax required to be deducted and withheld in accordance with subsection (e) hereof in each of the three (3) consecutive ensuing years is one hundred fifty dollars ($150.00) or less, then New Philadelphia tax shall not be required to be deducted and withheld by the employer, employer's agent, or other payor in any subsequent year to the last of those three (3) consecutive ensuing years unless the amount required to be deducted and withheld and deducted in any such subsequent year exceeds one hundred fifty dollars ($150.00).

(g) An "Other Payor" as used in the preceding three paragraphs means any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.

(h) Such employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the City, as a trustee for the benefit of the City, and any such tax collected by such employer from its employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.

(i) The officer or the employee having control of or charged with the responsibility of filing the return and making payment, shall be personally liable for failure to file the return or pay the tax due as required by this section. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay taxes, penalties, or interest due.

(j) On or before January 31 following any calendar year, such employer shall file with the Administrator an annual reconciliation return along with an information return for such employee from whom New Philadelphia income tax has been or should have been withheld, providing the W-2s and name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of municipal income tax withheld from the employee with the municipality for which said tax was withheld identified. The information return shall also include all of the information required to be reported by the employer to IRS on a W-2 form. At the time of filing the annual reconciliation return the employer shall pay over any amounts deducted or which should have been deducted during the preceding year but which was not remitted. The annual reconciliation form shall be obtained from the Administrator.

(k) All individuals, businesses, employers, brokers or others who are required under the Internal Revenue Code to furnish forms 1099 to IRS for individuals or businesses to whom or which they have non-employee compensation shall furnish copies of the said form 1099's to the Administrator or in lieu thereof, a list containing the same information as required by IRS on the 1099's on or before the due date for such forms 1099's as established by IRS. Failure to provide the foregoing information may result in any deduction for payment by the taxpayer taken on the taxpayer's return to be disallowed.

(l) Every employer shall retain all records necessary to compute withholding taxes due New Philadelphia for a period of five years from the date the Reconciliation Form, W-2 Forms, and 1099 forms are filed.

(m) The return is considered received when all returns and forms required to be filed by an employer are considered received on the date postmarked by the United States Postal Service or on the date delivered without mailing by the taxpayer to the City.

(n) The failure of any employer to receive or procure a return, or other required form shall not excuse the employer from preparing any information return, withholding tax returns or from filing such forms or from paying the tax due.

(o) Payments received for withholding taxes due shall be applied first to penalties due, then to interest due, and then to taxes due.
(Ord. 51-2003. Passed 12-22-03.)

191.08 DECLARATIONS; ESTIMATED TAX PAYMENTS.

(a) Every person who anticipates any taxable income which is not subject to Section 191.07 or who engages in any business, profession enterprise and activity subject to the tax imposed by Section 191.03, 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.

(1) Such declaration shall be filed on or before April 30th of each year during the life of this ordinance, or before the 30th day of the fourth month from the date in which the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration before the 30th day of the fourth month after the beginning of each fiscal year or period.

(3) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator. Credit may be taken for New Philadelphia income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax paid to other municipalities in accordance with the provisions of Section 191.16.

(4) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent payment date provided for herein.

(5) If the net estimated tax due after the deduction for allowable credits is $100.00 or more, such declaration shall be accompanied by a payment of at least one fourth of the net estimated annual tax due.

(6) At least a similar amount shall be paid on or before the 30th day of the seventh, tenth and thirteenth month after the beginning of the taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(b) On or before the 30th day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due New Philadelphia shall be paid therewith in accordance with the provisions of Section 191.06.

(c) If a taxpayer's total tax payments made in accordance with this section including any credits available to the taxpayer per Sections 191.07 and 191.16 do not equal at least 90% (ninety percent) of the taxpayers current years annual tax liability or 100% (one hundred percent) of the taxpayers annual tax liability for the immediately preceding tax year, then interest shall be assessed on the underpayment of tax due as follows:

(1) The taxpayers annual tax liability as established on the taxpayers annual return shall be divided by four (4) to determine the amount of tax that should have been paid quarterly on an estimated basis. The difference between that amount of tax which should have been paid quarterly on an estimated basis and the amount of tax actually paid on an estimated basis shall be subject to interest of one percent (1%) per month on portion thereof from the due date of the quarterly installment to the date that the annual return is due on the tax paid thereon, whichever is earlier.

(2) In the event that the taxpayer provides satisfactory evidence to the Tax Administrator that the taxpayer's income fluctuated in such a manner that the interest assessable should not be charged, the Tax Administrator may waive any portion of the interest upon request of the taxpayer and submission of evidence of the fluctuation.

(Ord. 51-2003. Passed 12-22-03.)

191.09 DUTIES OF THE ADMINISTRATOR.

It shall be the duty of the Administrator to:

(a) Collect and receive the tax imposed by this chapter in the manner prescribed herein, to keep accurate records thereof and to record daily all moneys so received.

(b) Enforce payment of all taxes due the City hereunder, to keep accurate records for a period of not less than five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld and to show the dates and amounts of payments thereof.

(c) The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this ordinance, including provision for the reexamination and correction of returns.

(d) 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 Administrator may determine the amount of tax appearing to be due the City from the taxpayer and shall send to such taxpayer by mail a written statement showing the amount of tax, if any, so determined together with interest and penalties thereon. Such determination may be modified or amended based upon information or data subsequently secured by or made available to the Administrator. If the taxpayer fails to respond to the assessment within 30 days, the tax, penalties, and interest assessed shall become due and payable and collectible as are other unpaid taxes.

(e) Subject to the consent of the Board of Review or pursuant to regulation approved by the said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 191.11.

(f) If the Administrator issues a decision or opinion to a taxpayer regarding a tax obligation that is subject to appeal, the Administrator shall notify the taxpayer of the taxpayer's right to appeal the decision and of the manner in which the appeal can be made.

(Ord. 51-2003. Passed 12-22-03.)

191.10 INVESTIGATIVE POWERS OF ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Administrator, or any employee of the City designated by the Administrator, is hereby authorized to examine the books, papers, records, and Federal or State income tax returns of any employer or of any taxpayer or person subject to the tax for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed, and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations as are hereby authorized.

(b) The Administrator is hereby authorized to order any person deemed by the Administrator to have knowledge or information pertinent to the tax liability of any taxpayer to appear before him or her and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal or State income tax returns and the attendance of all persons before him or her 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 and Federal or State income tax returns, or the refusal to submit to such examination by any 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 Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 191.13.

(d) Any information gained from, or as the result of, any declarations, returns, investigations, reports, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, which includes the exchange of information with other tax authorities or in accordance with proper judicial order. Any such person divulging such information in violation of this chapter shall be subject to prosecution as provided in Section 191.13. Each disclosure shall constitute a separate offense. In addition, information may be released by the Administrator in accordance with and upon the execution by a taxpayer of a waiver and consent form or authorization form which form or forms shall be furnished by the Administrator. In addition to the penalty provided in Section 191.13 any employee of the City who violates the provisions hereof relative to the disclosure of confidential information shall be subject to immediate dismissal.

(e) Every taxpayer shall maintain, and retain for a period of five years after the date a declaration or return is due or withholding taxes paid, all records necessary to exhibit and compute his liability for taxes due or to be withheld under the provisions of this chapter. (Ord. 51-2003. Passed 12-22-03.)

191.11 INTEREST AND PENALTIES.

(a) All taxes imposed and moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the rate of one percent (1%) per month, or fraction thereof.

(b) In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes due, other than taxes withheld; one percent (1%) per month or fraction thereof.

(2) For failure to remit taxes withheld from employees; three percent (3%) per month or fraction thereof.

(3) For failure to file a tax return by the date due, including due dates extended as set forth at Section 191.06(g) there shall be due a penalty of twenty-five dollars ($25.00) in addition to all other penalties and interest, even if no tax is due.

(c) The penalty provided in this section shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator nor, in the absence of fraud, shall either penalty or interest 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 months after the final determination of the Federal tax liability, whichever is later.

(d) Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty or interest, the Board of Review may nevertheless abate penalty or interest, or both. (Ord. 51-2003. Passed 12-22-03.)

191.12 COLLECTION OF UNPAID TAXES BY CIVIL LITIGATION; 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. Such suit shall be brought within three (3) years after the tax was due or the return was filed, whichever is later in accordance with Ohio R.C. 718.12 A.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time limitation specified in Ohio R.C. 718.12 C. Amounts less than five dollars ($5.00) shall not be refundable.

(c) A loss from the operation of a business or profession may be offset against net profits from other business or professional activities in the amount of the loss commensurate with the portion of profits, if profits existed, with respect to which credit could not be claimed for tax paid to another municipality. Accordingly, if the profits of an activity are subject to tax by another municipality, the portion of a loss that may be not be used to offset profits is determined by multiplying the loss by a faction, the numerator being either the tax rate of the other taxing municipality or the percentage rate to which credit for tax paid to another municipality is limited, whichever is the lesser, and the denominator being the existing New Philadelphia tax rate. Any unused loss, or portion thereof, allowable for offset as determined in this manner, may be carried forward as set forth in Article III-C-1 of the income tax rules and regulations. (Ord. 51-2003. Passed 12-22-03.)

191.13 VIOLATIONS; CRIMINAL PROSECUTIONS.

Any person or taxpayer who or which:

(a) Fails, neglects or refuses to make any return, information return or declaration required by this chapter; or

(b) Makes any false or fraudulent return; or knowingly makes any incomplete return; or

(c) Fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or

(d) Fails neglects or refuses to withhold the tax from his employees or to remit such withholding to the Administrator; or

(e) Refuses to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or

(f) Fails to appear before the Administrator and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or

(g) Refuses to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or

(h) Fails to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or

(i) Gives to an employer false information as to his true name, correct Social Security number, or residence address, or fails to promptly notify an employer of any change in his residence address and the date thereof; or

(j) Fails to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld or knowingly gives false or misleading information to the Administrator; or

(k) Attempts to do anything whatever to avoid payment of the whole or any part of the tax, penalties or interest imposed by this chapter; or

(l) Fails neglects or refuses to complete and return to the Administrator any tax form whose purpose is to determine if a resident must file a City tax return; Shall be guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars ($1,000.00) or imprisoned not more than six (6) months or both, for each offense.

(m) Prosecutions for an offense made punishable under this chapter shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of the compensation or net profits required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense in accordance with Ohio R.C. 718.12B.

(n) The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any return, information return or declaration, from filing such form or from paying the tax. (Ord. 51-2003. Passed 12-22-03.)

191.14 BOARD OF REVIEW.

(a) A Board of Review, consisting of a chairman and two other individuals, each to be appointed by the Mayor and approved by Council, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 191.10 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.

(b) All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) Any taxpayer dissatisfied with any ruling or decision of the Administrator which was made under the authority conferred by Section 191.09(c) and/or Section 191.09(e) and who has filed the required returns or other documents pertaining to the contested issue may appeal there from to the Board of Review within thirty (30) calendar days from the issuance of such ruling or decision by the Administrator. The appeal must state the alleged errors in the Administrator's ruling or decision. The Board must schedule a hearing within forty-five (45) calendar days of receiving the appeal unless the taxpayer expressly waives the hearing and chooses instead to let the Board render its decision on the writings submitted by the Administrator and the taxpayer. If the taxpayer does not waive the hearing, the taxpayer is entitled to appear before the Board and bring with him or her representation of his or her choosing. The Board must issue a written decision within ninety (90) days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer within 15 days after issuing the decision. If the Board fails to comply with the provisions of this section, the taxpayer's appeal will default in favor of the taxpayer. Hearing held in accordance with this Section is not a meeting of a public body subject to ORC 121.22.

(d) Any person dissatisfied with any ruling or decision of the Board of Review may appeal there from to a court of competent jurisdiction as provided by law within thirty (30) calendar days from the date of the Board's ruling.
(Ord. 51-2003. Passed 12-22-03.)

191.15 USE OF FUNDS.
Funds shall be allocated to the General Fund and the Capital Improvement Fund as may be determined by Council.
(Ord. 51-2003. Passed 12-22-03.)

191.16 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.
(a) Credits and Limitations Thereof. Every individual taxpayer who resides in the City of New Philadelphia who received net profits, salaries, wages, commissions, or other personal service compensation for work done or services performed or rendered outside of the City of New Philadelphia, if it be made to appear that he has paid a municipal income tax on the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed one and one-half percent (1-1/2%) on such income earned in such other municipality or municipalities where such tax is paid.
(Ord. 3-2005. Passed 5-9-05.)

(b) The credits provided for shall not be allowed unless the same are claimed in a timely return or form acceptable to, and filed with the Administrator. In the event a taxpayer fails, neglects or refuses to file such timely return or form, he shall not be entitled to such credit and shall be liable for the full amount of tax assessed by this ordinance, together with such interest and penalties, both civil and criminal, as are prescribed in this chapter.

(c) No credit shall be given for any tax paid to a school district or a county.
(Ord. 51-2003. Passed 12-22-03.)

191.17 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax against any individual of any of the several groups specified herein, is 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 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, clause, section or part thereof not been included herein.
(Ord. 51-2003. Passed 12-22-03.)

191.18 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned for an indefinite period, provided however, that annual returns for the year ending December 31, 2004, shall be filed on or before April 15, 2005. This ordinance and all prior ordinances shall continue to be effective until all taxes, penalties and interest due under the said ordinances are fully paid and all tax returns due are filed, and any and all civil litigation and criminal prosecutions for the collection of said taxes have been fully consummated.

(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 Section 191.06 and Section 191.07 of this chapter as though the same were continuing.
(Ord. 51-2003. Passed 12-22-03.)

191.19 DETERMINATION OF INCOME SUBJECT TO TAX.

(a) In the taxation of income that is subject to municipal income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of a municipal corporation disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the municipal corporation, then only such portion shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation. In the absence of such records, 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:

(1) The average net book value 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 net book value 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 rental thereon by eight;

(2) 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 to other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed excluding compensation described in Division (f)(8) of Section 718.01 of the Revised Code.

(3) 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, whoever made or performed. If the foregoing allocation formula does not produce an equitable result, another basis may be substituted, under uniform regulations so as to produce an equitable result.

(b) As used in subsection (a) hereof, "sales made in a municipal corporation" mean:

(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 sale s 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.

(Ord. 51-2003. Passed 12-22-03.)

CHAPTER 193
Motor Vehicle Tax

193.01 Levy.
193.02 Reduction.
193.03 Use.

CROSS REFERENCES
State provisions - see Ohio R.C. 4503.04 et seq.
Income Tax - see ADM. Ch. 191

193.01 LEVY.
Pursuant to Ohio R.C. 4504.172, an annual license tax, in addition to the taxes levied by the Ohio R.C. 4503.04, 4503.07, 4503.16 and 4503.18, in the amount of five dollars ($5.00) per vehicle shall be levied on all vehicles which are registered, as the term is defined by the Ohio R.C. 4503.10, within the City.
(Ord. 53-87. Passed 9-28-87.)

193.02 REDUCTION.
This tax is subject to reduction in the manner provided by the Ohio R.C. 4503.11 and the exemptions provided by the Ohio R.C. 4503.16, 4503.17, 4503.171, 4503.41 and 4503.43.
(Ord. 53-87. Passed 9-28-87.)

193.03 USE.
The monies collected from the annual license tax shall be used for the purpose articulated by the Ohio R.C. 4504.172.
(Ord. 53-87. Passed 9-28-87.)

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART THREE - TRAFFIC CODE

TITLE ONE - Administration
Chap. 301. Definitions.
Chap. 303. Enforcement, Impounding and Penalty.
Chap. 305. Traffic Control; Map and File.

TITLE THREE - Streets and Traffic Control Devices
Chap. 311. Street Obstructions and Special Uses.
Chap. 313. Traffic Control Devices.

TITLE FIVE - Vehicles
Chap. 331. Operation Generally.
Chap. 333. OVI; Willful Misconduct; Speed.
Chap. 335. Licensing; Accidents.
Chap. 337. Safety and Equipment.
Chap. 339. Commercial and Heavy Vehicles.
Chap. 341. Commercial Drivers.

TITLE SEVEN - Parking
Chap. 351. Parking Generally.
Chap. 353. Parking Meters.
Chap. 355. Parking in Central Business District.

TITLE NINE - Pedestrians, Bicycles and Motorcycles
Chap. 371. Pedestrians.
Chap. 373. Bicycles and Motorcycles.
Chap. 374. Motorized Bicycles.
Chap. 375. Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles.

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

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CHAPTER 301
Definitions

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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(LLL))

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

(b) "Motorized bicycle" means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that is capable of being pedaled and is equipped with a helper motor of not more than fifty cubic centimeters piston displacement which produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface. (ORC 4511.01(H))

301.05 BUS.

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

301.06 BUSINESS DISTRICT.

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

301.07 COMMERCIAL TRACTOR.

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

301.08 CONTROLLED-ACCESS HIGHWAY.

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

301.09 CROSSWALK.

"Crosswalk" means:

(a) That part of a roadway at intersections ordinarily included within the real or projected prolongation of property lines and curb lines or, in the absence of curbs, the edges of the traversable roadway;

(b) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface;

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

301.10 DRIVER OR OPERATOR.

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

301.11 EMERGENCY VEHICLE.

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

301.12 EXPLOSIVES.

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

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

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

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

301.15 FREEWAY.
"Freeway" means a divided multi-lane highway for through traffic with all crossroads separated in grade and with full control of access. (ORC 4511.01(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", “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, 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, 4511.53, 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 a municipal ordinance that is substantially similar to any section or provision set forth or described in subsection (a) to (c) of this section.
(ORC 4511.01(III))

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

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

301.27 PUBLIC SAFETY VEHICLE.
"Public safety vehicle" means any of the following:

(a) Ambulances, including private ambulance companies under contract to a municipal corporation, township or county and private ambulances and transport vehicles bearing license plates issued under Ohio R.C. 4503.49;

(b) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the State or the Municipality;

(c) Any motor vehicle when properly identified as required by the Ohio Director of Public Safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The Ohio Fire Marshal shall be designated by the Ohio Director of Public Safety as the certifying agency for all public safety vehicles described in this subsection (c);

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

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

(ORC 4511.01(E))

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

301.28 RAILROAD.

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

301.29 RAILROAD SIGN OR SIGNAL.

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

301.30 RAILROAD TRAIN.

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

301.31 RESIDENCE DISTRICT.

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

301.32 RIGHT OF WAY.

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

(a) The right of a vehicle or pedestrian to proceed uninterruptedly in a lawful manner in the direction in which it or the individual is moving in preference to another vehicle or pedestrian approaching from a different direction into its or the individual's path;

(b) A general term denoting land, property or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation purposes. When used in this context, right of way includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the State or local authority. (ORC 4511.01(UU))

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

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

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

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

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

301.361 SHARED-USE PATH.
"Shared-use path" means a bikeway outside the traveled way and physically separate from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. A shared-use path also may be used by pedestrians, including skaters, joggers, users of manual and motorized wheelchairs, and other authorized motorized and non-motorized users. (ORC 4511.01(PPP))

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

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

301.39 STOP (WHEN REQUIRED).
"Stop" when required means a complete cessation of movement.

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

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

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

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

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

301.43 THROUGH STREET OR HIGHWAY.
"Through street or highway" means every street or highway as provided in Section 313.02. (ORC 4511.01(HH))

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

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

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

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

301.48 TRAILER.

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

301.49 TRUCK.

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

301.50 URBAN DISTRICT.

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

301.51 VEHICLE.

"Vehicle" means every device, including a motorized bicycle, 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, 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 COMMERCIAL ACCESS ROUTE.

“Commercial access route” means a route so designated, as provided in Section 305.06 of the Codified Ordinances of the City of New Philadelphia, Ohio, which shall provide access to or from certain designated township or county roads between the corporate limits of the City and a State route or designated truck route within the City.
(Ord. 95-77. Passed 11-28-77.)

301.54 LOCAL STREETS.

“Local streets” as used in Section 339.02 shall be all streets and highways lying within the municipal corporation which are not State routes, Federal routes, streets designated as truck routes or streets designated as commercial access routes.
(Ord. 95-77. Passed 11-28-77.)

CHAPTER 303
Enforcement, Impounding and Penalty

303.01 Compliance with lawful order of police officer; fleeing.
303.02 Traffic direction in emergencies; obedience to school guard.
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303.041 Emergency, public safety and coroner's vehicles exempt.
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303.07 Application to drivers of government vehicles.
303.08 Impounding of vehicles; redemption.
303.081 Impounding vehicles on private residential or agricultural property.
303.082 Private tow-away zones.
303.083 Release of vehicle; records; charges.
303.09 Leaving junk and other vehicles on private or public property without permission or notification.
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303.99 General Traffic Code penalties.

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 as highway maintenance vehicle from civil liability arising from a violation of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 or Ohio R.C. 4511.66 or 5577.01 to 5577.09.

(2) This section does not exempt the driver of a vehicle that is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09.
(ORC 4511.04)

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

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

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

303.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.

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

303.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.

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

(1) As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except: in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance;

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

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.051)

303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

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

303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

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

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

(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.

(11) When any vehicle is found standing or parked in violation of Codified Ordinance Section 351.03. (Ord. 73-98. Passed 8-24-98.)

(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 the owner 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.

(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 under subsection (d)(1) of this section in order to obtain release of the motor vehicle. 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 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 the following fees:

1. Not more than ninety dollars ($90.00) for the removal of the motor vehicle. However, if the motor vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds, and is a truck, bus or a combination of a commercial tractor and trailer or semitrailer, not more than one hundred fifty dollars ($150.00) for the removal.

2. Not more than twelve dollars ($12.00) per twenty-four hour period for the storage of the motor vehicle. However, if the motor vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus or a combination of a commercial tractor and trailer or semitrailer, not more than twenty dollars ($20.00) per twenty-four hour period for storage.

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.

(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, the owner may not retrieve any personal item that has been determined by the Chief of Police, as applicable, to be necessary to a criminal investigation. 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) The owner of any towing service or storage facility that 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 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 posts on the owner's 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 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.

Any owner of property that has been established as a private tow-away zone under Ohio R.C. 4513.60 or Section 303.081 et seq. of this Traffic Code as that section existed prior to the effective date of this section who does not have a contract with a towing service for the removal of vehicles from the property may retain existing private tow-away zone signs that comply with that section for up to six months after the effective date of this section. At any time, in order to comply with the requirements of subsection (b)(1) of this section, such a property owner may modify the 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 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 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 property or in violation of any posted parking condition or regulation, the owner 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 under subsection (g) of this section, 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 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.

(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 under subsection (g) of this section, in order to obtain release of the vehicle. 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 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.

(e) (1) If an owner of 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, the owner of the towing service or storage facility from which the vehicle may be recovered shall immediately 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. Subject to subsection (f)(4) of this section, the owner of the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:

A. Within five business days of removal of the vehicle from the private tow-away zone, if the vehicle has not yet been recovered, 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 authorized in 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 authorized in 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 owner of a 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 all 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. Not more than ninety dollars ($90.00) for the removal of the vehicle. However, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus or a combination of a commercial tractor and trailer or semitrailer, not more than one hundred fifty dollars ($150.00) for the removal.

2. Not more than twelve dollars ($12.00) per twenty-four-hour period for the storage of the vehicle. However, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer, not more than twenty dollars ($20.00) per twenty-four-hour period for storage.

3. 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 copies of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.

(3) 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. For purposes of subsection (g)(3) of this section, "personal items" do not include any items that are attached to the vehicle.

(h) No towing service or storage facility shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, 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) The owner of any towing service or storage facility or property owner that violates subsection (h) of this section is guilty of a minor misdemeanor.
(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 AUTHORITY OF ARRESTING OFFICER USING RADAR.
The driver of any motor vehicle which has been checked by radar or by an electrical or mechanical timing device to determine the speed of the motor vehicle over a measured distance of the highway and found to be in violation of any of the provisions of this Traffic Code may be arrested until a warrant can be obtained, provided such officer has observed the recording of the speed of such motor vehicle by the radio microwaves, electrical or mechanical device, or has received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves, electrical or mechanical timing device. However, in case of an arrest based on such a message, the radio message must have been dispatched immediately after the speed of the motor vehicle was recorded and the arresting officer furnished a description of the motor vehicle for proper identification and the recorded speed.
(ORC 4511.091)

303.11 PROVIDING FALSE INFORMATION TO POLICE OFFICER.
(a) No person shall knowingly present, display or orally communicate a false name, social security number or date of birth to a law enforcement officer who is in the process of issuing to the person a traffic ticket or complaint.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4513.361)

303.99 GENERAL TRAFFIC CODE PENALTIES.

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

(b) 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)

CHAPTER 305
Traffic Control; Map and File

305.01 Authority of Safety Director; traffic control rules.
305.02 Stop signs at hazardous intersections.
305.03 Regulation of Municipal parking lots; nonliability of City for damages.
305.04 Traffic Control Map.
305.05 Traffic Control File.
305.06 Amendments.

CROSS REFERENCES
Parking meters - see TRAF. Ch. 353
Safety Director authorized to establish taxicab, bus spaces - see BUS. REG. 771.10

305.01 AUTHORITY OF SAFETY DIRECTOR; TRAFFIC CONTROL RULES.
The Director of Public Safety shall have the power:

(a) To designate streets or parts of streets where there shall be parking for a limited time, or no parking at any time.
(b) To determine parking meter time limits, meter charges and the location or relocation of meters within meter zones and on Municipal parking lots.
(c) To determine the location of truck or bus loading and unloading zones, and to place appropriate signs indicating such zones.
(d) To determine the location of taxicab stands, and to place appropriate signs indicating such stands.
(e) To determine the right and left side of laned streets by fixing and marking the center line of such street.
(f) To determine the number of lanes for streets and the direction of travel in such lanes by appropriate signs or markings.
(g) To designate streets as one-way streets by placing appropriate signs indicating the direction of travel.
(h) To prohibit left- or right-hand turns at street intersections by placing appropriate signs or markings.
(i) To close temporarily any streets or parts of streets, or restrict the use thereof, when required by public safety or convenience.
(j) To designate and mark crosswalks for pedestrians.
(k) To establish and mark safety zones for pedestrians.
(l) To establish zones of quiet.
(m) To designate streets or parts of streets as restricted thoroughfares, where no trucks or commercial vehicles shall enter except to receive or deliver merchandise or other goods.

(n) To place and maintain such additional traffic control devices, signs, marks or lines as he deems necessary to regulate, guide and warn traffic.

Any rule or regulation of the Director of Public Safety as enumerated herein shall be published in the same manner as ordinances or resolutions of Council and shall be recorded and maintained in a book designated as "Traffic Control Rules and Regulations" by the Director. Copies of such rules and regulations shall be delivered to the Chief of Police, the Mayor and the Director of Public Service. Any such rule or regulation shall be entered upon the Traffic Control Map and File by the Director of Public Safety.

Such rules and regulations of the Public Safety Director shall become effective when appropriate signs are posted giving notice of the rule or regulation and when published.

Such rules and regulations of the Public Safety Director shall remain in full force and effect until they are either revoked by him or repealed, amended or changed by Council.
(Ord. 2838. Passed 12-28-59.)

305.02 STOP SIGNS AT HAZARDOUS INTERSECTIONS.

The Director of Public Safety shall investigate hazardous intersections where, because of poor visibility and children in the neighborhood, it is advisable, with the advice and consent of the Safety, Health and Service Committee of Council, to erect stop signs at lanes, drives and alleys.

Upon investigation and determination by the Public Safety Director and the Safety, Health and Service Committee of Council, the Public Safety Director shall request the Director of Public Service to erect stop signs at the hazardous intersections of lanes, drives and alleys.
(Ord. 2788. Passed 7-14-58.)

305.03 REGULATION OF MUNICIPAL PARKING LOTS; NONLIABILITY OF CITY FOR DAMAGES.

(a) The exact hours during which the parking privilege on Municipal parking lots may be exercised shall be as determined from time to time by the Director of Public Safety.

(b) The manner of providing parking facilities and the area upon which the parking shall be permitted shall be determined by the Director of Public Safety.

(c) The City shall not be liable for the payment of any claims for property damage or personal injuries or any other claims arising directly or indirectly out of the exercise of the parking privilege granted herein, unless the claims shall be as a result of the sole negligence of the City.
(Ord. 2838. Passed 12-28-59.)

305.04 TRAFFIC CONTROL MAP.

The establishment of a Traffic Control Map is hereby directed which shall show at all times current designations of the following traffic control features within the Municipality:

(a) Through streets;
(b) Stop intersections;
(c) Yield right-of-way intersections;
(d) One-way streets and alleys;
(e) Traffic control signals;
(f) Loading zones;

(g) Prohibited and limited parking areas;
(h) Angle parking areas;
(i) Parking meter zones;
(j) Truck routes and commercial access routes;
(k) Prohibited "right turn on red" intersections.

The Traffic Control Map shall be prepared and maintained by and kept in the Police Department. (Ord. 55-77. Passed 8-22-77; Ord. 95-77. Passed 11-28-77.)

305.05 TRAFFIC CONTROL FILE.

(a) The establishment of a Traffic Control File is hereby directed which shall constitute the permanent and official record of the traffic control designations enumerated in Section 305.04.

(b) The Traffic Control File shall be prepared by and maintained in the Police Department.

(c) The Traffic Control File shall include the following information:
(1) Type of traffic control designation;
(2) Complete description of the street or area affected;
(3) Number of the ordinance or regulation authorizing designation;
(4) Effective date of ordinance or regulation;
(5) Date the proper traffic control device was erected;
(6) Date recorded upon Traffic Control Map.

305.06 AMENDMENTS.

Any amendment to the Traffic Control Map shall only be made by regulation of the Public Safety Director or legislation passed by Council. Upon the effective date of such legislation or regulation and the erection of proper traffic control devices giving notice thereof, the amendment shall be in effect. All amendments shall be recorded on the official Traffic Control Map and in the official Traffic Control File.

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.
311.03 Toy vehicles on streets.

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.

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

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

The permit may be refused or cancelled if:

(1) The time, place, size or conduct of the parade including the assembly areas and route of march would unreasonably interfere with the public convenience and safe use of the streets and highways.

(2) The parade would require the diversion of so great a number of police officers to properly police the line of movement, assembly area and areas contiguous thereto so as to deny normal police protection to the Municipality.

(3) The parade route of march or assembly areas would unreasonably interfere with the movement of police vehicles, fire-fighting equipment or ambulance service to other areas of the Municipality.

(4) The parade would unreasonably interfere with another parade for which a permit has been issued.

(5) The information contained in the application is found to be false, misleading or incomplete in any material detail.

(6) An emergency such as a fire or storm would prevent the proper conduct of the parade.

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

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

311.03 TOY VEHICLES ON STREETS.

(a) No person on roller skates or riding in or by means of any sled, toy vehicle, skateboard or similar device shall go upon any roadway except while crossing a street on a crosswalk and except on streets set aside as play streets.

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

CHAPTER 313
Traffic Control Devices

313.01 Obedience to traffic control devices.
313.02 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 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. (ORC 4511.12)

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

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

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

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

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

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

313.03 TRAFFIC SIGNAL INDICATIONS.

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

(a) Steady Green Signal Indication:

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

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 int his section shall be construed to invalidate the continued use of pedestrian control signals utilizing the word "wait" if those signals were installed prior to March 28, 1985.

(5) A flashing walking person signal indication has no meaning and shall not be used. (ORC 4511.14)

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

313.06 FLASHING TRAFFIC SIGNALS.

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

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

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

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

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

313.08 ALTERATION, INJURY, REMOVAL OF TRAFFIC CONTROL DEVICES.

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

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

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

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

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

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

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

(a) The driver of a vehicle who approaches an intersection where traffic is controlled by traffic control signals shall do all of the following, if the signal facing the driver either exhibits no colored lights or colored lighted arrows or exhibits a combination of such lights or arrows that fails to clearly indicate the assignment of right of way:

(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.
(ORC 4511.132)

313.10 UNLAWFUL PURCHASE, POSSESSION OR SALE.

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

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

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

(2) In the course of the individual's employment by any manufacturer of traffic control devices other than a State or local authority;

(3) For the purpose of demonstrating the design and function of a traffic control device to State or local officials;

(4) When the traffic control device has been purchased from the State or a local authority at a sale of property that is no longer needed or is unfit for use;

(5) The traffic control device has been properly purchased from a manufacturer for use on private property and the person possessing the device has a sales receipt for the device or other acknowledgment of sale issued by the manufacturer.

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

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

313.11 PORTABLE SIGNAL PREEMPTION DEVICES PROHIBITED.

(a) (1) No person shall possess a portable signal preemption device.

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

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

(1) A peace officer, as defined in Ohio R.C. 109.71(A)(11), (12), (14) or (19);

(2) A State highway patrol trooper;

(3) A person while occupying a public safety vehicle as defined in Ohio R.C. 4511.01(E)(1), (3) or (4).

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

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

TITLE FIVE - Vehicles

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Chap. 333. OVI; Willful Misconduct; Speed.
Chap. 335. Licensing; Accidents.
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Chap. 339. Commercial and Heavy Vehicles.
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CHAPTER 331
Operation Generally

331.01 Driving upon right side of roadway; exceptions.
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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. (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. (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.

(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. (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. (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. (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. (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. (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. (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. (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. (ORC 4511.36)

331.11 TURNING INTO PRIVATE DRIVEWAY, ALLEY OR BUILDING.

(a) The driver of a vehicle intending to turn into a private road or driveway, alley or building from a public street or highway shall be governed by the following rules:

(1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) Upon a roadway where traffic is proceeding in opposite directions, approach for a left turn and a left turn shall be made from that portion of the right half of the roadway nearest the center line thereof.

(3) Upon a roadway where traffic is restricted to one direction, approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

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

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

331.12 "U" TURNS RESTRICTED.

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

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

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

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (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. (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, the signal shall be made not less than one time but is not required to be continuous. A bicycle operator is not required to make a signal if the 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.

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. (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 may give a right turn signal by extending the right hand and arm horizontally and to the right side of the 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. (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. (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. (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. (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. (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. (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, 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)

331.22 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. (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. (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. (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. (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. (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. (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. (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. (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. (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. (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, 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. (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. (ORC 4511.61)

331.41 MOVING VEHICLE WITHOUT DRIVER'S CONSENT.

(a) No person shall move a vehicle without the driver's consent into any place or position which would make the driver or owner liable to punishment for a violation of any provision of this Traffic Code.

(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.

331.42 LITTERING FROM MOTOR VEHICLE.

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

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

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

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

331.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.

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

(b) This section does not apply to:
(1) Any person wearing a hearing aid;
(2) Law enforcement personnel while on duty;
(3) Fire personnel and emergency medical service personnel while on duty;
(4) Any person engaged in the operation of equipment for use in the maintenance or repair of any street or highway; or
(5) Any person engaged in the operation of refuse collection equipment.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.84)

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

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

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

(c) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.

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

(d) As used in this section:

(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, as measured by gas chromatography mass spectrometry, 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. As measured by gas chromatography mass spectrometry, 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.

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.

   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 class five license 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. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.

B. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within six 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 class four license 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. (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 six 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 class three license 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)(3) 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. (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 six 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) 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.

(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.

(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) or Ohio R.C. 1547.11;

I. A violation of a former law of this State that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;

(2) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:

A. Except as specifically authorized under this section, the term must be served in a jail.

B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.

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

(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;

(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 at all times on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (12);

(8) Sixty miles per hour for operators of any motor vehicle at all times on all portions of rural divided highways;

(9) Sixty-five miles per hour for operators of any motor vehicle at all times on rural expressways without traffic control signals;

(10) Seventy miles per hour for operators of any motor vehicle at all times on all rural freeways.

(11) Fifty-five miles per hour for operators of any motor vehicle at all times on all portions of freeways in congested areas as determined by the Director and that are part of the interstate system and are located within a municipal corporation or within an interstate freeway outerbelt;

(12) Sixty-five miles per hour for operators of any motor vehicle at all times on all portions of freeways in urban areas as determined by the Director and that are part of the interstate system and are part of an interstate freeway outerbelt;

(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, 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 outside urbanized areas, as designated in accordance with 23 USC 101, and outside of a business or urban district.

(j) (1) A violation of any provision of this section is one of the following:

A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;

B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;

C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.

(2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of Ohio R.C. 4511.21 or of any provision of a municipal ordinance that is substantially similar to Ohio R.C. 4511.21 and operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.

(3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine. (ORC 4511.21)

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

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

(1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.

(2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.

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

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

(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.
(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.
(ORC 4511.22)

333.05 SPEED LIMITATIONS OVER BRIDGES.

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

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

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (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.**
335.03 **Driving with temporary instruction permit; curfew.**
335.031 **Driving with probationary license; curfew.**
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335.11 **Use of illegal license plates; transfer of registration.**
335.12 **Stopping after accident upon streets; collision with unattended vehicle.**
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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)

335.03 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 JUDGMENT SUSPENSION.

(a) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to Ohio R.C. Chapter 4509, shall operate any motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period of the suspension or cancellation, except as specifically authorized by Ohio R.C. Chapter 4509. No person shall operate a motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period in which the person is required by Ohio R.C. 4509.45 to file and maintain proof of financial responsibility for a violation of Ohio R.C. 4509.101, unless proof of financial responsibility is maintained with respect to that vehicle.

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

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

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

(1) Except as otherwise provided in subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars ($1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.

(2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.16, or any combination of two violations of Ohio R.C. 4510.16 or Ohio R.C. 4510.11 or 4510.111, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree.

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

(ORC 4510.16)

(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.

(a) No person who is the owner or operator of a motor vehicle shall fail to properly display in plain view on the front and rear of the motor vehicle the distinctive number and registration mark, including any county identification sticker and any validation sticker issued under Ohio R.C. 4503.19 and 4503.191, furnished by the Ohio Director of Public Safety, except that a manufacturer of motor vehicles or dealer therein, the holder of an intransit permit, and the owner or operator of a motorcycle, cab-enclosed motorcycle, motorized bicycle, manufactured home, mobile home, trailer or semitrailer shall display on the rear only. A motor vehicle that is issued two license plates shall display the validation sticker on the rear license plate. A commercial tractor that does not receive an apportioned license plate under the international registration plan shall be issued one license plate and one validation sticker, which license plate and validation sticker shall be displayed on the front of the commercial tractor. An apportioned vehicle receiving an apportioned license plate under the international registration plan shall display the license plate only on the front of a commercial tractor and on the rear of all other vehicles. All license plates shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs their visibility.

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.

(b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4503.21)

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)

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

(a) In case of accident to or collision with persons or property upon any of the public roads or highways, due to the driving or operation thereon of any motor vehicle, the person driving or operating the motor vehicle, having knowledge of the accident or collision, immediately shall stop the driver's or operator's motor vehicle at the scene of the accident or collision and shall remain at the scene of the accident or collision until the driver or operator has given the driver's or operator's name and address and, if the driver or 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 any person injured in the accident or collision or to the operator, occupant, owner, or attendant of any motor vehicle damaged in the accident or collision, or to any police officer at the scene of the accident or collision.

In the event the injured person is unable to comprehend and record the information required to be given by this section, the other driver involved in the accident or collision forthwith shall notify the nearest police authority concerning the location of the accident or collision, and the driver's name, address and the registered number of the motor vehicle the driver was operating, and then 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.

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) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident, a misdemeanor of the first degree. If the accident or collision results in serious physical harm or death to a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate state law.

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) In case of accident or collision resulting in injury or damage to persons or property upon any public or private property other than public roads or highways, due to the driving or operation thereon of any motor vehicle, the person driving or operating the motor vehicle, having knowledge of the accident or collision, shall stop, and, upon request of the person injured or damaged, or any other person, shall give that person the driver's or operator's name and address, and, if the driver or 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 driver's or operator's driver's or commercial driver's license.

If the owner or person in charge of the damaged property is not furnished such information, the driver of the motor vehicle involved in the accident or collision, within twenty-four hours after the accident or collision, 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 damaged property and give the date, time, and location of the accident or collision.

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) Whoever violates subsection (a) of this section is guilty of failure to stop after a nonpublic road accident, a misdemeanor of the first degree. If the accident or collision results in serious physical harm or death to a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate state law.

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.
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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, 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	
	Stopping distance in feet	Deceleration in feet per second per second
Brakes on all wheels	30	14
Brakes not on all four wheels	40	10.7

(10) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (ORC 4513.20)

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

337.19 HORN, SIREN AND THEFT ALARM SIGNAL.

(a) Every motor vehicle when operated upon a street shall be equipped with a horn which is in good working order and capable of emitting sound audible, under normal conditions, from a distance of not less than 200 feet.

(b) No motor vehicle shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal. Every emergency or public safety vehicle shall be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Ohio Director of Public Safety. Such equipment shall not be used except when such vehicle is operated in response to an emergency call or is in the immediate pursuit of an actual or suspected violator of the law, in which case the driver of the emergency or public safety vehicle shall sound such equipment when it is necessary to warn pedestrians and other drivers of the approach thereof.

(c) No person shall use the horn of a motor vehicle except to give warning to other drivers or pedestrians.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.21)

337.20 MUFFLER; MUFFLER CUTOUT; EXCESSIVE SMOKE, GAS OR NOISE.

(a) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, by-pass or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

(b) No person shall own, operate or have in the person's possession any motor vehicle or motorcycle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any other way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.22)

337.21 REAR-VIEW MIRROR; CLEAR VIEW TO FRONT, BOTH SIDES AND REAR.

(a) Every motor vehicle and motorcycle shall be equipped with a mirror so located as to reflect to the operator a view of the street to the rear of such vehicle or motorcycle. Operators of vehicles and motorcycles shall have a clear and unobstructed view to the front and to both sides of their vehicles or motorcycles and shall have a clear view to the rear of their vehicles or motorcycles by mirror.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.23)

337.22 WINDSHIELD AND WINDSHIELD WIPER; SIGN OR POSTER THEREON.

(a) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.

(b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.

(2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:

A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.

B. It does not conceal the vehicle identification number.

(3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:

A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.

B. It is mounted not more than six inches below the upper edge of the windshield and is outside the area swept by the vehicle's windshield wipers.

(c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

(d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.24)

337.23 LIMITED LOAD EXTENSION ON LEFT SIDE OF PASSENGER VEHICLE.

(a) No passenger-type vehicle shall be operated on a street with any load carried on such vehicle which extends more than six inches beyond the line of the fenders on the vehicle's left side. (ORC 4513.30)

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

337.24 MOTOR VEHICLE STOP LIGHTS.

(a) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a street or highway shall be equipped with two or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least one stop light. Stop lights shall be mounted on the rear of the vehicle, actuated upon application of the service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the stop lights on the rear-most vehicle need be visible from the distance specified.

Such stop lights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.

When stop lights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under Ohio R.C. 4513.19.

Historical motor vehicles as defined in Ohio R.C. 4503.181, not originally manufactured with stop lights, are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.071)

337.25 AIR CLEANER REQUIRED.

(a) No person shall operate a motor vehicle with an internal combustion engine unless the carburetion system of the vehicle is protected with an air filter, a flame arresting device, or any other accepted method of protection that is adequate for this purpose. If the original device or system is replaced, it shall be replaced with one that is equal to or better than the original equipment.

(b) This section does not apply to a person doing automotive repair work on a motor vehicle that necessitates this device being removed while the work is performed.

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

337.26 CHILD RESTRAINT SYSTEM USAGE.

(a) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor safety standards:

(1) A child who is less than four years of age;

(2) A child who weighs less than forty pounds.

(b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased or otherwise under the control of a nursery school, or day-care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

(1) A child who is less than four years of age;

(2) A child who weighs less than forty pounds.

(c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsection (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01 or a vehicle that is regulated under Ohio R.C. 5104.011, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.

(d) When any child who is at least eight years of age but not older that fifteen years of age and who is not otherwise required by subsection (a), (b) or (c) hereof to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in Ohio R.C. 4513.263.

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

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

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

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

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

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

(1) Except as otherwise provided in subsection (j)(2) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars ($25.00) nor more than seventy-five dollars ($75.00).

(2) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a), (b), (c) or (d) of this section or of a state law or municipal ordinance that is substantially similar to any of those subsections, the offender is guilty of a misdemeanor of the fourth degree.
(ORC 4511.81)

337.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.

(a) As used in this section:

(1) "Automobile" means any commercial tractor, passenger car, commercial car or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.

(2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum Federal vehicle safety standards established by the United States Department of Transportation.

(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) 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. 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. 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 that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

(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 sunscreening

material, or other product or material which has the effect of making the windshield or windows nontransparent or would alter the windows' color, increase its reflectivity, or reduce its light transmittance, unless the product or material satisfies one of the following exceptions:

A. Any manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle until such standard is subsequently repealed or reduced. In "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale.

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 tranmsmittance of less than fifty per cent plus or minus three per cent.

E. Any sunscreening material or other product or material applied along the top of the windshield and that does not extend downward beyond the AS-1 line or five inches from the top of the windshield, whichever is closer to the top, is not regulated by this section.

(2) No person shall install in any motor vehicle any glass or other material that fails to conform to the specifications of this section.

(3) No used motor vehicle dealer or new motor vehicle dealer, as defined in Ohio R.C. 4517.01, shall sell any motor vehicle that fails to conform to the specifications of this section.

(4) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings or rear window.

(5) No person shall operate on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State that is equipped with privacy drapes, louvers, curtains or blinds unless the drapes, louvers, curtains or blinds are open and secure during vehicle operation.

(6) All motor vehicles, beginning with the 1990 model year, must be equipped with labels identifying sunscreening material. All sunscreening material must indicate the manufacturer's name and the percentage level of light transmission of the material permanently installed between the material and the surface to which the material is applied or affixed. Such label must be legible and must be placed in the lower left-hand corner of the vehicle window when viewed from the outside. (OAC 4501-41-03)

(b) Exemptions. The provisions of this section do not apply to:

(1) A motor vehicle registered in this State in the name of a person, or the person's parent, legal guardian or spouse who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or an affidavit signed by an optometrist licensed to practice in this State under Ohio R.C. Chapter 4725 that states that the person has a physical condition that makes it necessary to equip such motor vehicle with sunscreening material which would be of a light transmittance and/or luminous reflectance in violation of this section. Such affidavit shall be in the possession of the person so afflicted or the driver at all times while in the motor vehicle;

(2) The windows to the rear of the driver in chauffeured limousines as defined herein;

(3) The windows to the rear of the driver in those vehicles designed and used to transport corpses which include hearses and other vehicles adapted for such use; and

(4) The manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle as provided in subsection (a) hereof. (OAC 4501-41-05)

(c) Definitions. As used in this section, certain terms are defined as follows:

(1) "Motor vehicle" has the same meaning as specified in Section 301.20.

(2) "Sunscreening material" means products or materials, including film, glazing and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduce the effects of the sun with respect to light reflectance or transmittance.

(3) "Transmittance" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.

(4) "Windshield" means the front exterior viewing device of a motor vehicle.

(5) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield or any roof-mounted viewing device.

(6) "Manufacturer" unless otherwise specified in this section, means any person who engages in the manufacturing or assembling of sunscreening products or materials or any person who fabricates, laminates or tempers a safety glazing material, incorporating, during the manufacturing process, the capacity to reflect or reduce the transmission of light.

(7) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an arrangement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing. (OAC 4501-41-02)

(d) Penalty. Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.241)

337.29 BUMPER HEIGHTS.

(a) Definitions.

(1) "Passenger car" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.

(2) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.

(3) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.

(4) "Manufacturer" has the same meaning as in Ohio R.C. 4501.01.

(5) "Gross vehicle weight rating" means the manufacturer's gross vehicle weight rating established for the vehicle.

(6) "Body floor height" means the vertical distance between top of the frame rail and the bottom of the passenger compartment (cab) floor. In the event that the vehicle is a truck body, floor height will be measured by the vertical distance between the passenger compartment (cab) floor and the floor of the truck bed.

(7) "Bumper height" means the vertical distance between the ground and the highest point of the bottom of the bumper, measured when the vehicle is laden on a level surface with the vehicle tires inflated to the manufacturer's recommended pressure.

(8) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.

(9) "Wheel track distance" means the distance on the ground between the center of the tire tread on one side of the vehicle, and the center of the tire tread on the opposite side. (OAC 4501-43-02)

(b) Prohibitions; Application.

(1) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State that does not conform to the requirements of this section.

(2) No person shall modify any motor vehicle registered in this State in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system including the installation of inverted, altered or modified suspension system component parts which results in elevation of the height of the vehicle bumper or frame unit which is not in compliance with this section.

(3) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State without a bumper on the front and rear of the vehicle if such vehicle was equipped with bumpers as standard equipment by the manufacturer.

(4) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State if the difference in height between the body floor and the top of the frame exceeds four inches.

(5) Nothing contained in this section shall be construed to prohibit either of the following:

A. The installation upon a passenger car, multipurpose passenger vehicle or truck registered in this State of heavy duty equipment, including shock absorbers and overload springs as long as such equipment does not cause the vehicle to be in violation of this section;

B. The operation on a street or highway of a passenger car, multipurpose passenger vehicle or truck registered in this State with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.

(6) This section does not apply to any specially designed or modified passenger car, multipurpose passenger vehicle or truck when operated off a street or highway in races and similar events.

(7) A specially designed or modified passenger car, multipurpose passenger vehicle or truck which does not conform to this section shall not be operated on a street or highway.

(OAC 4501-43-03)

(c) Specifications.

(1) The horizontal bumper shall be at least 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers shall be horizontal load bearing bumpers and attached to the vehicle frame to effectively transfer impact when engaged.

(2) Maximum bumper heights shall be determined by the type of vehicle at time of manufacture. If other than a passenger vehicle, the maximum bumper height shall be determined by the gross vehicle weight rating (GVWR) at the time of manufacture. The height shall be measured in terms of the vertical distance between the ground and the bottom of the bumper. Maximum bumper heights are as follows:

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

(3) If the body and/or truck bed height is altered the difference in height between the body floor and/or the truck bed floor to the top of the frame rail shall not exceed four inches.

(4) For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design in order to conform with the maximum bumper requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail at the most forward and rearward points of the frame rail. Frame rail height if bumper modified or altered:

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

(5) The height restriction in this subsection (c) applies to the distance from the ground to the bottom of the frame rail under any one or more of the following conditions:

A. A motor vehicle is not equipped with a front and rear bumper.

B. The bumper height relative to the frame rails has been altered.

C. A supplemental bumper has been installed or an addition to the original or replacement has been made.

(OAC 4501-43-04)

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

337.30 DIRECTIONAL SIGNALS REQUIRED.

(a) (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)

CHAPTER 339
Commercial and Heavy Vehicles

339.01 Oversize or overweight vehicle operation on State routes; State permit.
339.02 Use of local streets; use of commercial access routes; local permits 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.
339.99 Penalty.

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) Whoever violates the weight provisions of Section 339.01 or the weight provisions in regard to highways under Ohio R.C. 5577.04 shall be fined eighty dollars for the first two thousand pounds, or fraction thereof, of overload; for overloads in excess of two thousand pounds, but not in excess of five thousand pounds, such person shall be fined one hundred dollars, and in addition thereto one dollar per one hundred pounds of overload; for overloads in excess of five thousand pounds but not in excess of ten thousand pounds, such person shall be fined one hundred thirty dollars and in addition thereto two dollars per one hundred pounds of overload, or imprisoned not more than thirty days, or both. For all overloads in excess of ten thousand pounds such person shall be fined one hundred sixty dollars, and in addition thereto three dollars per one hundred pounds of overload, or imprisoned not more than thirty days, or both. Whoever violates the weight provisions of vehicle and load relating to gross load limits shall be fined not less than one hundred dollars. No penalty prescribed in this division shall be imposed on any vehicle combination if the overload on any axle does not exceed one thousand pounds, and if the immediately preceding or following axle, excepting the front axle of the vehicle combination, is underloaded by the same or a greater amount. For purposes of this division, two axles on one vehicle less than eight feet apart, shall be considered as one axle.

(2) Whoever violates the weight provisions of Ohio R.C. 5577.071 or 5577.08 or the weight provisions in regard to bridges under Ohio R.C. 5577.09, and whoever exceeds the carrying capacity specified under Ohio R.C. 5591.42 shall be fined eighty dollars for the first two thousand pounds, or fraction thereof, of overload; for overloads in excess of two thousand pounds, but not in excess of five thousand pounds, the person shall be fined one hundred dollars, and in addition thereto one dollar per one hundred pounds of overload; for overloads in excess of five thousand pounds, but not in excess of ten thousand pounds, the person shall be fined one hundred thirty dollars, and in addition thereto two dollars per one hundred pounds of overload, or imprisoned not more than thirty days, or both. For all overloads in excess of ten thousand pounds, the person shall be fined one hundred sixty dollars, and in addition thereto three dollars per one hundred pounds of overload, or imprisoned not more than thirty days, or both.

(3) Whoever violates any other provision of Ohio R.C. 5577.01 to 5577.09 shall be fined not more than twenty-five dollars for a first offense; for a second offense within one year thereafter, such person shall be fined not less than ten nor more than one hundred dollars, or imprisoned not more than ten days, or both; for a subsequent offense within one year after the first offense, such person shall be fined not less than twenty-five nor more than two hundred dollars, or imprisoned not more than thirty days, or both. (Ord. 25-2004. Passed 5-24-04.)

339.02 USE OF LOCAL STREETS; USE OF COMMERCIAL ACCESS ROUTES; 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, designated truck routes which are marked as such by appropriate traffic signs, commercial access routes which have been designated and marked 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, a designated truck route, or a commercial access route within the Municipality shall confine such deviation to that required in order to accomplish the purpose of the departure.

(b) Use of Commercial Access Route. No person shall operate a vehicle exceeding a size as specified in Section 339.03 or exceeding a gross weight of twenty-two tons, upon any street within the Municipality which as been designated as a commercial access route and marked as such by appropriate traffic signs.

(c) Local Permit and Conditions. Upon application and for good cause, the Safety Director may issue a local permit authorizing an applicant to move an oversize or overweight vehicle or combination of vehicles upon local streets or upon commercial access routes.

No permittee shall be required to obtain a special permit from the 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 Safety Director may grant a permit for a single or round trip or for periodic trips for such time periods, not to exceed one year, as the Safety Director, in his discretion deems advisable, or for the duration of any construction project. The Safety Director may limit or prescribe terms or conditions of operation for such vehicle or combination of vehicles by designating the route, hours, speed, weight, number of repetitions, or such other restrictions as may be necessary for the preservation of the public peace, property, health and safety. The Safety Director may require the posting of bond or other security necessary to compensate for any damage to a roadway or structure. For each such permit, the Safety Director shall charge five dollars ($5.00), 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 ten dollars ($10.00).

Signs shall be posted on State routes at the corporate limits indicating "no through trucks over five tons gross weight on local streets" or words or similar import to apprise drivers of the limitations imposed by this section. Signs shall be posted upon each commercial access route indicating "commercial access route--limit gross weight twenty-two tons without permit" or words of similar import to apprise drivers of the limitations imposed by this section. 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 Safety Director 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 Section 303.99.
(Ord. 95-77. Passed 11-28-77.)

(d) 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.

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-semitrailer-trailer or commercial tractor-semitrailer-semitrailer combination, except that the Director may prohibit the operation of any such commercial tractor-semitrailer-trailer or commercial tractor-semitrailer-semitrailer combination on such State highways or portions of State highways as the Director designates;

(5) A. 97 feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations when operated on any interstate, United States route, or State route, including reasonable access travel on all other roadways for a distance not to exceed one road mile from any interstate, United States route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;

B. 75 feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations, when operated on any roadway not designated as an interstate, United States route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;

(6) 65 feet for any other combination of vehicles coupled together, with or without load, except as provided in subsections (c)(3) and (4) and in subsection (e) hereof;

(7) 45 feet for recreational vehicles.

(8) 50 feet for all other vehicles except trailers and semitrailers, with or without load.

(d) No such vehicle shall have a height in excess of thirteen feet six inches, with or without load.

(e) An automobile transporter or boat transporter shall be allowed a length of sixty-five feet and a stinger-steered automobile transporter or stinger-steered boat transporter shall be allowed a length of seventy-five feet, except that the load thereon may extend no more than four feet beyond the rear of such vehicles and may extend no more than three feet beyond the front of such vehicles, and except further that the Director may prohibit the operation of any stinger-steered automobile transporter or stinger-steered boat transporter or a B-train assembly on any State highway or portion of any State highway that the Director designates.

(f) The widths prescribed in subsection (b) shall not include side mirrors, turn signal lamps, marker lamps, handholds for cab entry and egress, flexible fender extensions, mud flaps, splash and spray suppressant devices, and load-induced tire bulge.

The width prescribed in subsection (b)(5) shall not include automatic covering devices, tarp and tarp hardware, and tiedown assemblies, provided these safety devices do not extend more than three inches from each side of the vehicle.

The lengths prescribed in subsections (c)(2) to (8) hereof shall not include safety devices, bumpers attached to the front or rear of such bus or combination, nonproperty carrying devices or components that do not extend more than twenty-four inches beyond the rear of the vehicle and are needed for loading or unloading, B-train assembly used between the first and second semitrailer of a commercial tractor-semitrailer-semitrailer combination, energy conservation devices as provided in any regulations adopted by the Secretary of the United States Department of Transportation, or any noncargo-carrying refrigeration equipment attached to the front of trailers and semitrailers. In special cases, vehicles whose dimensions exceed those prescribed by this section may operate in accordance with rules adopted by the Ohio Director of Transportation.

(g) This section does not apply to fire engines, fire trucks or other vehicles or apparatus belonging to any municipal corporation or to the volunteer fire department of any municipal corporation or used by such department in the discharge of its functions. This section does not apply to vehicles and pole trailers used in the transportation of wooden and metal poles, nor to the transportation of pipes or well-drilling equipment, nor to farm machinery and equipment. The owner or operator of any vehicle, machinery or equipment not specifically enumerated in this section but the dimensions of which exceed the dimensions provided by this section, when operating the same on the highways and streets of this State shall comply with the rules of the Director governing such movement, that the Director may adopt. Ohio R.C. 119.01 to 119.13 apply to any rules the Director adopts under this section, or the amendment or rescission of the rules, and any person adversely affected shall have the same right of appeal as provided in those sections.

This section does not require the State, the Municipality, County, township or any railroad or other private corporation to provide sufficient vertical clearance to permit the operation of such vehicle, or to make any changes in or about existing structures now crossing streets, roads and other public thoroughfares in the Municipality.

(h) As used in this section, "recreational vehicle" has the same meaning as in Ohio R.C. 4501.01. (ORC 5577.05)

(i) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense or subsequent offense, the person is guilty of a misdemeanor of the fourth degree. (ORC 5577.99)

339.04 ROUTE AND LOAD INFORMATION.

Drivers of vehicles described in this chapter shall be required, upon request by a police officer, to give full and true information as to the route they are following and the name of the consignor and consignee and place of delivery or removal and the location of any consignment being hauled or goods being removed, and upon a designation by such police officer of a route to be followed, shall immediately adopt and pursue such route.

339.05 WHEEL PROTECTORS.

(a) No person shall drive or operate, or cause to be driven or operated, any commercial car, trailer or semitrailer, used for the transportation of goods or property, the gross weight of which, with load, exceeds three tons, upon the streets, bridges and culverts within this Municipality unless such vehicle is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels of such vehicle or combination of vehicles to prevent, as far as practicable, the wheels from throwing dirt, water or other materials on the windshields of following vehicles. Such protectors or flaps shall have a ground clearance of not more than one-third of the distance from the center of the rearmost axle to the center of the flaps under any conditions of loading of the vehicle, and they shall be at least as wide as the tires they are protecting. If the vehicle is so designed and constructed that such requirements are accomplished by means of fenders, body construction or other means of enclosure, then no such protectors or flaps are required. Rear wheels not covered at the top by fenders, bodies or other parts of the vehicle shall be covered at the top by protective means extending at least to the center line of the rearmost axle.
(ORC 5577.11)

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

339.06 VEHICLES TRANSPORTING EXPLOSIVES.

(a) Any person operating any vehicle transporting explosives upon a street or highway shall at all times comply with the following requirements:

(1) Such vehicle shall be marked or placarded on each side and on the rear with the word "EXPLOSIVES" in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag not less than twenty-four inches square marked with the word "DANGER" in white letters six inches high, or shall be marked or placarded in accordance with Section 177.823 of the United States Department of Transportation Regulations.

(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)

339.99 PENALTY.

In addition to any other penalty provided in this chapter, whoever violates any weight provisions of Chapter 339 shall be fined twenty-five dollars ($25.00) for the first 2,000 pounds, or fraction thereof, of overload; for overloads in excess of 2,000 pounds but not in excess of 5,000 pounds, he shall be fined twenty-five dollars ($25.00) and in addition thereto one dollar ($1.00) per 100 pounds of overload; for overloads in excess of 5,000 pounds, but not in excess of 10,000 pounds, he shall be fined twenty-five dollars ($25.00) and in addition thereto two dollars ($2.00) per 100 pounds of overload, or imprisoned not more than thirty days, or both. For all overloads in excess of 10,000 pounds, he shall be fined twenty-five dollars ($25.00) and in addition thereto, three dollars ($3.00) per 100 pounds of overload, or imprisoned not more than thirty days, or both. Whoever violates the weight provisions of vehicle and load relating to gross load limits shall be fined not less than one hundred dollars ($100.00) provided that no penalty prescribed shall be imposed on any vehicle combination if:

(a) The overload on any axle does not exceed 1,000 pounds; and if

(b) The immediately preceding or following axle, excepting the front axle of the vehicle combination, is underloaded by the same or a greater amount.

For purposes of this section, two axles on one vehicle less than eight feet apart, shall be considered as one axle. (ORC 5577.99)

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.

(l) "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, or joint fire district;

(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)

TITLE SEVEN - Parking

Chap. 351. Parking Generally.
Chap. 353. Parking Meters.
Chap. 355. Parking in Central Business District.

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 Night parking of commercial vehicles in residential districts.
351.14 Parking commercial vehicles on streets.
351.15 Night parking.
351.16 Parking of trailers and motorless vehicles.
351.17 Removal of vehicles from street during periods of emergency.
351.18 Snow emergency.
351.19 City Hall and safety forces reserved parking.
351.20 Parking on posted private property.
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, provided that the motor-driven cycle, motor scooter, or 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 the vehicle parallel with and not more than twelve inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.

(b) (1) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a state route unless an unoccupied roadway width of not less than twenty-five feet is available for free-moving traffic.

(2) A. No angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least twenty-five feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space.

B. Replacement, repainting or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.

(c) (1) A. Except as provided in subsection (c)(1)B. hereof, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.

B. The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.

(2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in subsection (c)(2) of this section irrespective of whether or not the space is metered.

(d) Notwithstanding any provision of this Code or any rule, air compressors, tractors, trucks and other equipment, while being used in the construction, reconstruction, installation, repair or removal of facilities near, on, over or under a street, may stop, stand or park where necessary in order to perform such work, provided a flagperson is on duty, or warning signs or lights are displayed as may be prescribed by the Ohio Director of Transportation.

(e) Special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces shall be provided and designated by the Municipality and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators and ramps. All elevated signs

posted in accordance with this subsection and Ohio R.C. 3781.111 (C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.

(f) (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.

(i) (1) Whoever violates subsection (a) or (c) of this section is guilty of a minor misdemeanor.

(2) A. Whoever violates subsection (f)(1)A.1. or 2. of this section is guilty of a misdemeanor and shall be punished as provided in subsection (i)(2)A. and B. of this section. Except as otherwise provided in subsection (i)(2)A. of this section, an offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not less than two hundred fifty dollars ($250.00) nor more than five hundred dollars ($500.00). An offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not more than one hundred dollars ($100.00) if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:

1. At the time of the violation of subsection (f)(1)A.1. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or special license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in subsection (f)(1)A.1. of this section.

2. At the time of the violation of subsection (f)(1)A.2. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or special handicapped license plates that then were valid but the offender or the person neglected to display the card or license plates as described in subsection (f)(1)A.2. of this section.

B. In no case shall an offender who violates subsection (f)(1)A.1. or 2. of this section be sentenced to any term of imprisonment.

An arrest or conviction for a violation of subsection (f)(1)A.1. or 2. of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(3) Whoever violates subsection (f)(2) of this section shall be fined not less than two hundred fifty dollars ($250.00) nor more than five hundred dollars ($500.00).

In no case shall an offender who violates subsection (f)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of subsection (f)(2) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 4511.69)

351.05 MANNER OF ANGLE PARKING.

(a) In the three corners of Public Square, vehicles shall be parked at right angles to the curb, and the front wheels thereof shall be against the curb.

(b) Where angle parking is designated by signs or street markings, vehicles shall park at an angle of thirty degrees with the curb and in the direction in which traffic on that side of the street is moving, and the front right wheel of the vehicle shall stand against the curb.

(c) Where parking spaces are designated by painted lines, the wheels of vehicles shall not stand beyond the edge of the lines, except in cases where the width of the vehicle requires the same.

(d) Vehicles which are of such length that if parked at an angle of thirty degrees on such streets, the rear of such vehicles would be less than nine feet from the center line of the street, then such vehicles shall be parked at a lesser angle regardless of the markings on the streets, so that there shall be not less than nine feet from the rear of the vehicle to the center line of the street. (Ord. 2065. Passed 6-26-39.)

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.

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 shall not apply to an emergency vehicle or a public safety vehicle. (ORC 4511.661)

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 for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a truck loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty minutes.

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 ever 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 NIGHT PARKING OF COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS.

No person shall park a school bus, commercial tractor, agricultural tractor, truck of more than one-half ton capacity, bus, trailer, semitrailer, pole trailer or moving van on any street within the Residential Districts of the Municipality between one hour after sunset and one hour before sunrise. (Ord. 2838. Passed 12-28-59.)

351.14 PARKING COMMERCIAL VEHICLES ON STREETS.

No operator of any vehicle, including trucks, tractor trucks, trailers or semitrailers, either single or in combination, designed to carry or pull a load of two tons or more, shall park such a vehicle upon any street or thoroughfare for a period of time longer than is necessary for the expeditious loading or unloading of merchandise, except in the case of any emergency.
(Ord. 53-74. Passed 11-14-74.)

351.15 NIGHT PARKING.

No person shall park a vehicle in Public Square or on either side of Broadway or High Avenue within one block of Public Square between the hours of 3:00 a.m. and 5:00 a.m.
(Ord. 2173. Passed 5-11-42.)

351.16 PARKING OF TRAILERS AND MOTORLESS VEHICLES.

No person shall park a trailer or motorless vehicle on the streets of the City when such trailer or motorless vehicle is not attached to its motor vehicle or propulsion unit.
(Ord. 2673. Passed 7-11-55.)

351.17 REMOVAL OF VEHICLES FROM STREET DURING PERIODS OF EMERGENCY.

Whenever, in the opinion of the Mayor, there is an actual or threatened local emergency such as riot, fire, flood, other act of God, common disaster or act of the enemy, the Mayor may require the removal of motor vehicles parked upon the affected streets of the City. The Mayor shall inform the public of the aforementioned conditions through reasonable and usual methods of communication. If the owner or operator of the vehicle does not remove it within a reasonable time the vehicle may be removed by the Police Department.
(Ord. 2838. Passed 12-28-59.)

351.18 SNOW EMERGENCY.

(a) In order to facilitate the cleaning of certain streets and to expedite the free flow of vehicular traffic, motor vehicles shall not be parked on the streets designated herein and all cul-de-sacs at such times as the United States Weather Bureau records indicate that two inches of snow has fallen and there is a prospect of a further snowfall. All cars parked prior to the time weather conditions prohibit parking must be removed by the owners or operators. Any motor vehicle parked in violation of this prohibition shall be removed at the order of the Chief of Police and shall subject the owner or operator of the fines provided herein. When such accumulation of snow exists, an emergency is declared to exist in that such accumulation of snow constitutes a serious public hazard and such emergency shall continue until an announcement by the Mayor that snow removal operations have been completed.

(b) It is the responsibility of the owners or operators of motor vehicles to ascertain whether weather conditions require the removal of their motor vehicles from the streets designated and to remove all cars parked in violation of the provisions set forth in this section. While the City will make every effort to inform the public of the existence of weather conditions requiring the removal of parked automobiles from the street designated herein, the owners and operators of motor vehicles parked in these areas have full responsibility to determine existing weather conditions and to remove parked automobiles if the weather conditions are such as require their removal under the terms of this section.

(c) After the United States Weather Bureau records indicate that two inches of snow has fallen and there is a prospect of further snowfall, the Chief of Police shall order the removal of all vehicles parked on the streets designated herein and all cul-de-sacs which have not been removed by the owners or operators. Any motor vehicle parked in violation of this prohibition is hereby declared to be a public nuisance and may be removed from the streets and impounded at such place as may be directed by the Director of Public Safety at the cost and expense of the owner or operator thereof.

(d) The Mayor shall use all available means of disseminating information as to the existence of weather conditions requiring removal of parked motor vehicles from the areas designated. Such notice shall be disseminated through the radio, newspaper and all other available media to the extent feasible. The dissemination of this information, however, shall not relieve owners or operators of motor vehicles from the responsibility of ascertaining the existence of weather conditions requiring the removal of parked motor vehicles from the areas designated.

(e) The streets where parking is prohibited after two inches of snow has fallen and there is a prospect of further snowfall, are as follows:

North and South Broadway, both sides;
East and West High Avenue, both sides;
Fourth Street NW from its intersection with West High Avenue, both sides;
Third Street NW from its intersection with West High Avenue;
Tuscarawas Avenue, both sides;
Front Avenue, both sides;
Fair Avenue from its intersection with Beaver Avenue to its intersection with Tuscarawas Avenue, both sides;
Ray Avenue from its intersection with Beaver Avenue to its intersection with Tuscarawas Avenue, both sides;
Beaver Avenue, both sides;
Wabash to Tuscarawas Avenue;
Union Avenue from Avenue to the corporation limits;
All Cul-de-sacs

(f) In addition to the cost incurred for the removal of an illegally parked vehicle, any person violating any provision of this section shall be subject to the penalty provided under Section 303.99(a). (Ord. 100-2002. Passed 1-27-03.)

351.19 CITY HALL AND SAFETY FORCES RESERVED PARKING.

No person shall park a vehicle for any purpose or any length of time in the municipally owned parking lot located at the rear or side of the Municipal Building, Fire Department, Police Department, or the City Hall Employee Parking Lot located at the southeast corner of First Drive SE and Allen Lane SE in the City, except in those spaces clearly marked "Visitors" unless that vehicle displays a current City of New Philadelphia City Hall Reserved Parking sticker or a City of New Philadelphia Safety Forces Reserved Parking sticker.
(Ord. 28-82. Passed 4-26-82.)

351.20 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)

351.99 PENALTY.

(a) Any person charged with parking in violation of any provision of this Traffic Code, unless a specific penalty is otherwise provided, may pay a fine of twenty dollars ($20.00) for each offense by appearing at the Police Station within twenty-four hours of the time appearing on the parking citation issued. After the twenty-four hour period expires, the fine will become thirty dollars ($30.00) for each offense.

(b) Any person charged with parking in violation of New Philadelphia Ordinance 351.04 (e) shall be fine the amount of two hundred fifty dollars ($250.00). Any vehicle found in violation of Section 351.04 (e) may be towed by the New Philadelphia City Police Department.

(c) Such payment shall be deemed a plea a guilty, waiver of court appearance and acknowledgment of conviction of the alleged offense and may be accepted in full satisfaction of the prescribed penalty for such violation.

(d) Payment of the prescribed fine need not be accepted when laws specify that a certain number of such offenses shall require a Court appearance.
(Ord. 35-2001. Passed 8-13-01.)

CHAPTER 353
Parking Meters

EDITOR'S NOTE: This chapter regulates only those parking meter areas not covered by the regulations set forth in Chapter 355, Parking in Central Business District.

353.01 Definitions.
353.02 Parking meter zones designated.
353.03 Marking of parking spaces; illegal parking.
353.04 Installation of parking meters.
353.05 Depositing of coins; emergencies.
353.06 Hours and days of meter parking.
353.07 Violations.
353.08 Purpose of funds.
353.09 Waiver.
353.99 Penalty.

CROSS REFERENCES
Regulation of Municipal parking lots - see TRAF. 305.03
Moving vehicle of another to cause violation - see TRAF. 331.41
Prohibited standing or parking places - see TRAF. 351.03

353.01 DEFINITIONS.

As used in this chapter:

(a) "Parking meter" means any mechanical device or meter not inconsistent with the provisions of this chapter, placed or erected for the regulation of parking by authority of this chapter. Each parking meter installed shall indicate by proper legend the legal parking time established by the Municipality and when operated shall at all times indicate the balance of legal parking time, and at the expiration of such period shall indicate illegal or overtime parking.

(b) "Parking meter space" means any space within a parking meter zone, adjacent to a parking meter which is duly designated for the parking of a single vehicle by a line painted or otherwise durably marked on the curb or on the surface of the street adjacent to or adjoining the parking meter.

(c) "Parking meter zone" means any part of a street upon which parking meters are installed and in operation. (Ord. 2838. Passed 12-28-59.)

353.02 PARKING METER ZONES DESIGNATED.

The streets or portions of streets or areas designated as parking meter zones on the Traffic Control Map and File in conformity with Chapter 305 shall constitute the parking meter zones of the Municipality. (Ord. 2838. Passed 12-28-59.)

353.03 MARKING OF PARKING SPACES; ILLEGAL PARKING.

The Director of Public Safety is directed and authorized to cause to be marked off individual parking spaces in the parking meter zone, the parking spaces to be designated by lines painted or durably marked on the curbing or surface of the street. At a space so marked off no person shall park any vehicle in such a way that the vehicle will not be entirely within the limits of the space so designated, except as herein otherwise provided.
(Ord. 2838. Passed 12-28-59.)

353.04 INSTALLATION OF PARKING METERS.

In a parking meter zone, the Director of Public Safety shall cause parking meters to be installed upon the curb or sidewalk immediately adjacent to the parking meter spaces, and the Chief of Police shall be responsible for the regulation, control, operation, maintenance and use of such parking meters. Each parking meter shall be so set as to display a signal showing legal parking upon the deposit of the appropriate coin or coins, lawful money of the United States of America, for the period of time prescribed by the provisions of this chapter. Each parking meter shall be so arranged that, upon the expiration of the lawful time limit, it indicates by a proper visible signal that the lawful parking period has expired and in such cases the right of such vehicle to occupy such space shall cease and the operator or owner thereof shall be subject to the penalty provided.
(Ord. 2838. Passed 12-28-59.)

353.05 DEPOSITING OF COINS; EMERGENCIES.

When any vehicle is parked in any parking meter space, the operator of the vehicle shall, upon entering the space, immediately deposit or cause to be deposited in the meter such proper coin of the United States as may be required for the parking meter and as specified by directions on the meter. Failure to deposit the proper coin or coins shall constitute a violation of the provisions of this chapter. Upon the deposit of such coin, the parking space may be lawfully occupied by the vehicle during the maximum period of time which has been prescribed for the particular meter space, provided that any person placing a vehicle in a parking meter space adjacent to a meter which indicates that unused time has been left in the meter by the previous occupant of the space, is not required to deposit a coin so long as his occupancy of the space does not exceed the indicated unused parking time. If the vehicle remains parked in any parking meter space beyond the maximum parking time limit paid for, as is designated by directions on the meter, and if the meter indicates illegal or overtime parking, such vehicle shall be considered as parking overtime and beyond the period of legal parking time, and such parking shall be deemed a violation of this chapter.

In case of an emergency determined by an officer of the Fire or Police Departments, the privilege of parking in any parking meter space may be withdrawn and the operator of any vehicle shall comply with the orders and directions of such officer or shall comply with any traffic control sign or signal placed on the street or curb indicating that parking is temporarily prohibited; parking in such a prohibited area shall be deemed a violation of this chapter.
(Ord. 2838. Passed 12-28-59.)

353.06 HOURS AND DAYS OF METER PARKING.

In a parking meter zone, all parking is prohibited between 8:00 a.m. and 6:00 p.m. on Mondays through Fridays and between 8:00 a.m.and 9:00 p.m. on Saturdays, unless the owner or operator of a vehicle parked in a parking meter space shall, upon enter the space, deposit coins in the parking meter as specified in Section 353.05. Provisions for the use of parking meters do not apply to parking on Sundays, and on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas Days.

During the times when the parking meters are not in operation under the provisions of this section, vehicles may be parked in parking meter spaces without the deposit of any coin in parking meters unless such parking would be in violation of any other provision of this Traffic Code.
(Ord. 2838. Passed 12-28-59.)

353.07 VIOLATIONS.

No person shall:

(a) Cause, allow or permit any vehicle registered in the name of such person or operated by such person to be parked overtime in any parking meter zone.

(b) Permit any vehicle, registered in the name of or operated by such person, to remain in any parking space adjacent to any parking meter while the meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period prescribed for such parking space.

(c) Cause, allow or permit any vehicle registered in the name of such person or operated by such person to be parked across any line or marking of a parking meter space or in such position that the vehicle is not entirely within the area designated by such lines or markings, except as otherwise provided in this chapter. (Ord. 2838. Passed 12-28-59.)

353.08 PURPOSE OF FUNDS.

The coins deposited in parking meters shall be used for purchasing, and defraying the expenses of the operation and maintenance of the parking meters, and the proper regulations of traffic on public streets, providing street markings, traffic signs and the control devices and maintaining the same, and for similar purposes. (Ord. 2838. Passed 12-28-59.)

353.09 WAIVER.

(a) The owner or operator of a vehicle which has been ticketed for violation of this chapter other than for a violation of the two hour limit as specified in subsections (c) and (d) hereof may, within twenty-four hours of the time of such offense, appear at the Police Department and pay the sum of two dollars ($2.00) for full satisfaction of such violation.

(b) After the passage of twenty-four hours from the time of such violation a person may appear and pay at the Police Department the sum of ten dollars ($10.00).

(c) The owner or operator of a vehicle who remains in a two hour parking meter area in excess of three hours shall pay a fine of one dollar ($1.00) for each succeeding hour or portion thereof for the balance of the parking hours for the day of violation. Such violator shall be issued a parking ticket at the end of the three hour period and each succeeding hour or portion thereof for the balance of the parking hours for the day of violation at the rate of one dollar ($1.00) per hour, not to exceed five dollars ($5.00).

(d) The owner or operator of a vehicle who remains in an express meter (thirty minute) parking area in excess of three hours shall pay a fine of one dollars ($1.00) for each succeeding hour or portion thereof for the balance of the parking hours for the day of violation. Such violator shall be issued a parking ticket at the end of the three hour period and each succeeding hour or portion thereof for the balance of the parking hours for the day of violation at the rate of one dollar ($1.00) per hour, not to exceed five dollars ($5.00).

(e) The failure of the owner or operator to make a payment as specified herein shall render such owner or operator subject to the penalty provided in Section 303.99.
(Ord. 64-97. Passed 12-22-97.)

(e) The failure of the owner or operator to make a payment as specified herein shall render such owner or operator subject to the penalty provided in Section 303.99.
(Ord. 2838. Passed 12-28-59.)

353.99 PENALTY.
(EDITOR'S NOTE: See Section 303.99 for misdemeanor classifications and penalties.)

CHAPTER 355
Parking in Central Business District

355.01 Removal of parking meters.
355.02 Angle parking.
355.03 Metered parking.
355.04 Parking control officer.
355.05 Chalking tires to control parking.
355.06 Funds.
355.07 Hours.
355.08 Designation on Traffic Control Map.
355.09 Prohibitions.
355.10 Definitions.

CROSS REFERENCES
Parking generally - see TRAF. Ch. 351

355.01 REMOVAL OF PARKING METERS.

The Director of Public Safety is hereby directed to remove all parking meters from the following sections of the Central Business District.

(a) West from the Public Square on West High Avenue to Third Street;
(b) East from the Public Square on East High Avenue to Second Street;
(c) North from the Public Square on North Broadway to Fair Avenue; and
(d) South from the Public Square on South Broadway to Front Street.

(Ord. 56-92. Passed 10-12-92.)

355.02 ANGLE PARKING.

(a) The Director of Public Safety is hereby directed to install angle parking in all of the above designated areas with the exception of the east side of North Broadway, where parallel parking will be retained. On the west side of North Broadway, the line outlining the parking spaces on the pavement will be painted at a 37 degree angle from the curb and will be at least eight feet in width.

(b) In all other angle parking areas, the line outlining the parking spaces on the pavement will be painted at a 45 degree angle from the curb and will be at least eight feet in width. The parallel parking spaces on the east side of North Broadway will be marked off as double nineteen foot spaces with a six foot area in between. This area will be marked with an "X" and no parking will be permitted in this space so delineated. Each parking space in this five block area listed in Section 1 above will be numbered on the curb.
(Ord. 56-92. Passed 10-12-92.)

355.03 METERED PARKING.

(a) All other areas now controlled by parking meters within the Central Business District will continue to be so controlled and will continue to be parallel parking spaces. The Director of Public Safety is hereby directed to install two hour meter hands uniformly in all of these locations.

(b) The Public Parking lot owned by the City on South Broadway and any other cooperative metered parking lots still under the jurisdiction of the City will also be metered by two (2) hour meter heads.
(Ord. 56-92. Passed 10-12-92.)

355.04 PARKING CONTROL OFFICER.

The "Parking Control Officer" shall have the authority to enforce parking restrictions in all metered and nonmetered areas within the Central Business District as defined by the Zoning Regulations of the City and in such other areas as may be assigned to that office by the Director of Public Safety.
(Ord. 56-92. Passed 10-12-92.)

355.05 CHALKING TIRES TO CONTROL PARKING.

In the nonmetered five block section outlined in Section 355.01, parking will be controlled by chalking the right front tire of the vehicle with the chalk mark extending from the tire onto the pavement area.

(a) Vehicles parked in these areas will be permitted two hours of free parking.

(b) The time count will start at the moment the right front tire is chalked by the Parking Control Officer. Any effort to erase the chalk mark will be an additional violation and a fine of five dollars ($5.00) will be assigned by the Parking Control Officer.

(c) If the vehicle is still parked at the same location at least two hours after the right front tire is chalked, the Parking Control Officer shall issue a citation showing the date, time of the issuance of the citation and the parking space number and section in which it is located. (Ord. 56-92. Passed 10-12-92.)

(d) When a violation occurs, the driver or owner shall pay a fine of five dollars ($5.00) at the Police Station within one hour from the time the citation was issued. If the driver or owner does not appear within the one hour period allotted, the fine will become ten dollars ($10.00). If the driver and/or owner does not appear at the Police Station within twenty-four hours, an additional ten dollars ($10.00) will be added to the fine. A maximum of twenty dollars ($20.00) shall be charged for any single violation, except in instances where tampering with the chalk mark has occurred when the maximum fine for each violation will become twenty-five dollars ($25.00).

(e) Any vehicle which is parked in the same section but at a different space for the two hour period will be considered to have been parked at the same space for the purpose of issuing a citation. When a violation of this section occurs the fine shall be twenty dollars ($20.00).
(Ord. 51-97. Passed 11-10-97.)

(f) Violations of the parking privileges, as outlined for meters in Section 355.03, will be fined the same as the violators of the nonmetered sections as described in subsection (d) hereof.

(g) If, for any reason considered as being valid by the Chief of Police, the owner or driver of a vehicle must leave a vehicle parked in a certain space or section for longer than the allotted time, that owner or driver may request a parking permit from the Chief of Police, Police Officer in charge, or the Parking Control Officer for a fee of two dollars ($2.00) for each two hours the vehicle must remain parked. This must be done before the vehicle is parked, and the permit must be prominently displayed in the front window of the parked vehicle.

(h) Any owner or driver who must park in a space for more than the allotted time for official government business other than being a witness in a trial or legal proceeding or being a participant in a legal proceeding in any Court located within the Central Business District as outlined by the Zoning Regulations of the City, may obtain a permit from the Chief of Police, the Police Officer in charge or the Parking Control Officer, free of charge for a period of twenty-four hours, providing it does not infringe on any other parking restrictions in force.

(i) Parking spaces will be rented out at the City-owned parking lot on South Broadway for reserved parking at the rate of ten dollars ($10.00) per month. Persons holding these permits may park at any meter on the lot. The Parking Permit issued must be prominently displayed in the front window of the vehicle. If it is not so displayed, the owner of the vehicle may be found in violation.
(Ord. 56-92. Passed 10-12-92.)

355.06 FUNDS.

All funds from parking violations of controlled parking spaces in the Central Business District shall be used to defray the costs of providing parking control in the Central Business District, including necessary signs, materials and supplies needed in the enforcement of the parking laws and the salary and fringe benefits of the full-time Parking Control Officer.
(Ord. 56-92. Passed 10-12-92.)

355.07 HOURS.

Hours for controlled parking on dedicated City streets and City-owned or controlled parking lots in the Central Business District are established as being from 8:00 a.m. to 4:30 p.m. Monday through Friday.

(a) Parking on dedicated City streets and City-owned or controlled parking lots in the Central Business District will be free after 4:30 p.m. daily, on Saturday and Sunday and on all holidays observed by the City of New Philadelphia, Ohio.
(Ord. 56-92. Passed 10-12-92.)

355.08 DESIGNATION ON TRAFFIC CONTROL MAP.

The streets or portion of streets and parking lot areas designated as controlled parking zones will be so marked on the Traffic Control Map and filed in conformity with Chapter 305 of the Codified Ordinances.
(Ord. 56-92. Passed 10-12-92.)

355.09 PROHIBITIONS.

No person shall:

(a) Cause, allow or permit any vehicle registered in the name of such person or operated by such person to be parked overtime in any controlled parking space.

(b) Permit any vehicle, registered in the name of or operated by such person to be parked across any line or marking of a controlled parking space or in such a position that the vehicle is not entirely within the area designated by such lines or markings.

(c) Park any vehicle so that the front wheels are not against the curb in any angle parking space or more than twelve inches from the curb in any parallel parking space unless the parking spaces are completely outlined. In such case, the vehicle must be parked so that it is completely within the lines so marked.

(Ord. 56-92. Passed 10-12-92.)

355.10 DEFINITIONS.

As used in this chapter:

(a) "Central Business District" means that section of the City of New Philadelphia, Ohio, as outlined in Ordinance Number 4-87, passed March 23, 1987, as the Central Business District.

(b) "Controlled Parking Space" means a parking space in the Central Business District which is numbered consecutively for the purpose of employing parking control.

(c) "Parking Control Officer" means that person in the Police Department designated as the person who will implement control over parking in the Central Business District.

(d) "Traffic Control Map" means that map outlined in Section 305.04 of the Codified Ordinances.

(e) "Angle Parking" means parking permitted on certain streets in the Central Business District with lines painted outlining a space which is at a 37 or 45 degree angle from the curb.

(f) "Parallel parking" means parking permitted in the Central Business District and its fringe areas in which lines are painted outlining an area parallel to the curb.

(g) "Cooperative Parking Lots" means those parking lots which are not owned by the City but which control for policing has been given to the City and where fees paid for parking privileges are shared between the City and the owner of the lot.

(h) "Parking permit" means that printed card for which a vehicle owner pays a specified sum for the parking privileges on a given lot or controlled parking area.

(i) "Parking violation ticket" means a ticket which contains the date, time and number of parking space and section in which a vehicle is said to have been parked illegally.

(j) "Uniformed Officer in Charge" means the uniformed police officer who is in charge of the shift or who holds the authority as Senior Officer Present in the absence of the Police Chief.

(k) "Section" is a half-block area from the main thoroughfare to the lane or drive bisecting the block.

(Ord. 56-92. Passed 10-12-92.)

TITLE NINE - Pedestrians, Bicycles and Motorcycles

Chap. 371. Pedestrians.
Chap. 373. Bicycles and Motorcycles.
Chap. 374. Motorized Bicycles.
Chap. 375. Snowmobiles, Off-Highway Motorcycles, and All Purpose Vehicles.

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 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. (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. (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. (ORC 4511.48)

(f) A pedestrian and/or any person operating a non-motorized form of transportation such as bicycle, skateboard, skates, and similar items is prohibited from crossing at any place except in a marked crosswalk within any school zone one-half hour before school starts through one-half hour after school ends on school days. Violation of this section shall be a minor misdemeanor. (Ord. 96-2002. Passed 1-27-03.)

(g) 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. (ORC 4511.441)

371.08 YIELDING TO PUBLIC SAFETY VEHICLE.

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

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

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

371.09 WALKING ON HIGHWAY WHILE UNDER THE INFLUENCE.

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

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

371.10 ON BRIDGES OR RAILROAD CROSSINGS.

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

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

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.511)

371.11 PERSONS OPERATING MOTORIZED WHEELCHAIRS.

(a) Every person operating a motorized wheelchair shall have all of the rights and duties applicable to a pedestrian that are contained in this Traffic Code, except those provisions which by their nature can have no application.
(ORC 4511.491)

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

371.12 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.

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

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

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

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

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

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

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

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.
373.06 Lights and reflector on bicycle; brakes.
373.07 Riding bicycle on right side of roadway; obedience to traffic rules; passing.
373.08 Reckless operation; control, course and speed.
373.09 Parking of bicycle.
373.10 Riding on sidewalks.
373.11 Impounding.
373.12 Registration.
373.13 Motorized bicycle operation, equipment and license.
373.14 Paths exclusively for 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 apply whenever a 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 who violates any section of this Traffic Code described in subsection (a) of this section that is applicable to 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 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 or by a motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of 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 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 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 shall ride other than upon or astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle other than upon a firmly attached and regular seat thereon, and no person shall ride upon a 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 shall carry any package, bundle or article that prevents the driver from keeping at least one hand upon the handle bars.

(g) No 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) Except as provided in subsection (i)(3) 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 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. 165

(i) (1) Except as provided in subsection (i)(3) of this section, 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 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.

(3) Subsections (h) and (i)(1) of this section do not apply to a person who operates or is a passenger in a 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.

(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, coaster, roller skates, sled 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, coaster, roller skates, sled 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. (ORC 4511.54)

373.04 RIDING BICYCLES AND MOTORCYCLES ABREAST.

(a) Persons riding 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 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. (ORC 4511.55(B))

373.05 SIGNAL DEVICE ON BICYCLE.

(a) A bicycle may be equipped with a device capable of giving an audible signal, except that a bicycle shall not be equipped with nor shall any person use upon a 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 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 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 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 and white lamps and white reflectors shall not be used on the rear of the bicycle.

(c) Every 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 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 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 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. (ORC 4511.55(A))

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

(a) No person shall operate a 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;

(3) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;

(4) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 373.02(d);

(5) At a speed greater than is reasonable and prudent under the conditions then existing.

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

373.09 PARKING OF BICYCLE.

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

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

373.10 RIDING ON SIDEWALKS.

(a) No person shall operate a bicycle upon the sidewalks of the Public Square, or upon the sidewalks of High Avenue and Broadway Street within one block of the Public Square. (Ord. 2035. Passed 12-5-38.)

(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.

373.11 IMPOUNDING.

Whenever any bicycle is operated by any person under the age of eighteen years, in violation of any provision of this chapter, in addition to the penalty imposed under Section 303.99, such bicycle may be seized by any member of the Police Department and impounded in the Municipal Building. The bicycle so impounded shall be surrendered to the parent or guardian of the minor without charge, after a full explanation, to such parent or guardian, of the reason for impounding the bicycle. (Ord. 2838. Passed 12-28-59.)

373.12 REGISTRATION.

(a) All bicycles owned by residents of the City shall be registered with the Police Department.

(b) Registration of bicycles shall be on such forms as prescribed by the Police Department and shall contain sufficient information to correctly establish ownership of the bicycle.

(c) The Department shall notify the owner of any bicycle recovered by or turned in to such Department and the owner upon satisfactory proof of ownership may claim the same. Any bicycle unclaimed for the period of ninety days may be disposed of in accordance with the provisions of Ohio R.C. 737.32 and 737.33.

(d) All bicycles acquired after January 1, 1974, shall be registered within thirty days from the date of purchase. (Ord. 50-73. Passed 9-10-73.)

(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.

373.13 MOTORIZED BICYCLE OPERATION, EQUIPMENT AND LICENSE.

(EDITOR'S NOTE: Former Section 373.13 is now codified as Section 374.03.)

373.14 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. (ORC 4511.713)

CHAPTER 374
Motorized Bicycles

374.01 Parent's responsibility.
374.02 Traffic Code application.
374.03 Motorized bicycle operation, equipment and license.
374.04 Restrictions and operation.
374.05 Attaching to vehicle.
374.06 Riding abreast.
374.07 Audible signaling device.
374.08 Exhaust systems.
374.09 Riding on right side of the roadway; obedience to traffic rules; passing.
374.10 Control and speed.
374.11 Following too closely.
374.12 Parking.
374.13 Riding on sidewalks.
374.14 Use of fictitious license; lending prohibited.
374.15 Possession of license.
374.16 Stopping after an accident upon streets; collision with unattended vehicle.
374.17 Stopping after accident upon property other than streets.
374.18 Fleeing prohibited.
374.19 Impounding.
374.99 Penalty.

CROSS REFERENCES
Motorized bicycle defined - see TRAF. 301.04
Lighted lights required - see TRAF. 337.02
Brakes required - see TRAF. 337.18
Reckless operation - see TRAF. 333.02

374.01 PARENT'S RESPONSIBILITY.

The parent or guardian of any minor under the age of eighteen years shall not authorize or permit such minor to violate any provision of this chapter under circumstances where the parent or guardian knew or should have known of such violation.
(Ord. 11-83. Passed 3-14-83.)

374.02 TRAFFIC CODE APPLICATION.

Every person operating a motorized bicycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State, or by the traffic ordinances of the Municipality applicable to the driver of a vehicle, except as to special regulations which, by their nature can have no application.
(Ord. 11-83. Passed 3-14-83.)

374.03 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 possesses a valid license or permit authorizing such operation and which is issued by the Ohio Registrar of Motor Vehicles under Ohio R.C. Chapter 4506 or 4507 or 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 he is under eighteen years of age, is wearing a protective helmet on his 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) Each probationary motorized bicycle license or motorized bicycle license shall be laminated with a transparent plastic material.
(ORC 4511.521)

374.04 RESTRICTIONS ON OPERATION.

(a) A person operating a motorized bicycle shall not ride other than upon the permanent and regular seat attached thereto and meeting the specifications promulgated by the Ohio Director of Highway Safety.

(b) No motorized bicycle shall be operated carrying any person other than the operator.

(c) A person shall ride upon a motorized bicycle only while sitting astride the seat facing forward with one leg on each side of the motorized bicycle.

(d) No person operating a motorized bicycle shall carry any package, bundle or article that prevents the driver from keeping at least one hand upon the handle bars.

(e) No motorized bicycle shall be operated with any part of the handlebar more than fifteen inches above that portion of the seat occupied by the operator when the seat is fully depressed.

(f) No person shall operate a motorized bicycle without using safety glasses or other protective eye devices. No person who is under the age of eighteen shall operate a motorized bicycle unless wearing a protective helmet. The helmet, safety glasses or other protective eye device shall conform with regulations prescribed and promulgated by the Director of Highway Safety. The provisions of this subsection or a violation thereof shall not be used in trial in any civil action.
(Ord. 11-83. Passed 3-14-83.)

374.05 ATTACHING TO VEHICLE.

No person riding upon any motorized bicycle shall attach the same or himself to any vehicle upon a roadway. No operator of a motorized bicycle shall knowingly permit any person riding upon a motorcycle, motorized bicycle, bicycle, coaster, roller skates, sled or toy vehicle to attach the same to himself or to any vehicle while it is moving upon a roadway.
(Ord. 11-83. Passed 3-14-83.)

374.06 RIDING ABREAST.

Persons riding motorized bicycles upon a roadway shall ride not more than two abreast in a single line. (Ord. 11-83. Passed 3-14-83.)

374.07 AUDIBLE SIGNALING DEVICE.

No person shall operate a motorized bicycle unless it is equipped with at least one audible signaling device capable of giving a signal audible for a distance of at least 100 feet, activated by pushing a self-returning device located on the left handle bar. Such signaling device shall not consist of a siren or whistle.
(OAC 4501-23-15; Ord. 11-83. Passed 3-14-83.)

374.08 EXHAUST SYSTEMS.

Motorized bicycles shall be equipped with an exhaust system, where applicable, incorporating a muffler or other mechanical device for the purpose of reducing engine noise. Cutouts and by-passes in the exhaust are prohibited. The system shall be securely attached and located so as not to interfere with the operation of the motorized bicycle. Shielding shall be provided to prevent inadvertent bodily contact with the exhaust system during normal operation.
(OAC 4501-23-09; Ord. 11-83. Passed 3-14-83.)

374.09 RIDING ON RIGHT SIDE OF THE ROADWAY; OBEDIENCE TO TRAFFIC RULES; PASSING.

Every person operating a motorized bicycle upon a roadway shall ride as near to the right side of the roadway as practical obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction.
(Ord. 11-83. Passed 3-14-83.)

374.10 CONTROL AND SPEED.

No person shall operate a motorized bicycle:

(a) Without both hands upon the handle grips except when necessary to give the required hand and arm signals or as provided in Section 374.04(d).
(b) At a speed greater than is reasonable and prudent under conditions then existing.
(c) At a speed exceeding twenty miles per hour.

(d) Without exercising reasonable and ordinary control over such motorized bicycle.
(e) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law.
(Ord. 11-83. Passed 3-14-83.)

374.11 FOLLOWING TOO CLOSELY.

The operator of a motorized bicycle 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 street.
(Ord. 11-83. Passed 3-14-83.)

374.12 PARKING.

No person shall park a motorized bicycle upon a sidewalk in such a manner so as to unduly interfere with pedestrian traffic, or upon a roadway so as to unduly interfere with vehicular traffic.
(Ord. 11-83. Passed 3-14-83.)

374.13 RIDING ON SIDEWALKS.

No person shall operate a motorized bicycle upon a sidewalk.
(Ord. 11-83. Passed 3-14-83.)

374.14 USE OF FICTITIOUS LICENSE; LENDING PROHIBITED.

(a) No person shall display or cause or permit to be displayed or possessed any motorized bicycle knowing the same to be fictitious, canceled, revoked, suspended or altered.

(b) No person shall lend to a person not entitled thereto or knowingly permit such other person to use any motorized bicycle license issued to the person so lending or permitting the use thereof. (OAC 4501-23-25; Ord. 11-83. Passed 3-14-83.)

374.15 POSSESSION OF LICENSE.

The motorized bicycle license or operator's license issued under Ohio R.C. Chapter 4507 shall be in the immediate possession of the operator of the motorized bicycle while operating such vehicle.
(OAC 4501-23-32; Ord. 11-83. Passed 3-14-83.)

374.16 STOPPING AFTER AN ACCIDENT UPON STREETS; COLLISION WITH UNATTENDED VEHICLE.

In case of accident to or collision with persons or property upon any of the public streets or highways, due to the driving or operation thereon of any motorized bicycle, the person so driving or operating such motorized bicycle, having knowledge of such accident or collision shall immediately stop his motorized bicycle at the scene of the accident or collision and shall remain at the scene of such accident or collision until he has given his name and address, if he is not the owner, the name and address of the owner of such motorized bicycle together with the registered number of such motorized bicycle to any person injured in such accident or collision or to the operator, occupant, owner or attendant of any motor vehicle damaged in such accident or collision or to any police officer at such accident or collision. In the event the injured person is unable to comprehend and record the information required to be given by this section, the other driver involved in such accident or collision shall forthwith notify the nearest police authority concerning the location of the accident or collision, and his

name and his address and the registered number of the motorized bicycle he was operating and then 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. If such accident or collision is with an unoccupied or unattended motor vehicle the operator so colliding with such motor vehicle shall securely attach the information required to be given in this section, in writing to a conspicuous place in or on such unoccupied or unattended motor vehicle. (Ord. 11-83. Passed 3-14-83.)

374.17 STOPPING AFTER ACCIDENT UPON PROPERTY OTHER THAN STREETS.

In case of accident or collision resulting in the injury or damage to persons or property upon any public or private property other than public streets or highways due to the driving or operation thereon of any motorized bicycle, the person so driving or operating such motorized bicycle, having knowledge of such accident or collision, shall stop and upon request of the person injured or damaged or any other person shall give such person's name and address, and if he is not the owner, the name and address of the owner of such motorized bicycle together with the registered number of such motorized bicycle, and if available, exhibit his operator's or motorized bicycle operator's license. If the owner or person in charge of such damaged property is not furnished such information the driver of the motorized bicycle involved in the accident or collision shall, within twenty-four hours of such accident or collision, forward to the Police Department the same information required to be given to the owner or person in control of such damaged property and give the date, time and location of accident or collision. If such accident or collision is with an unoccupied or unattended motor vehicle the operator so colliding with such motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on such unoccupied or unattended motor vehicle. (Ord. 11-83. Passed 3-14-83.)

374.18 FLEEING PROHIBITED.

No person shall operate a motorized bicycle so as to willfully elude or flee a police officer after receiving a visible or audible signal from a police officer to bring his motorized bicycle to a stop. (Ord. 11-83. Passed 3-14-83.)

374.10 IMPOUNDING.

(a) Whenever any person operates a motorized bicycle in violation of any section of this Traffic Code, the motorized bicycle may be seized by any police officer and the Chief of Police shall have the authority to impound any motorized bicycle at the Police Station. An impounded motorized bicycle shall not be released to a minor under the age of eighteen years.

(b) When any motorized bicycle has been seized and so impounded, notice shall be made forthwith by the officer in charge to the owner of the motorized bicycle or, in the event the person is a minor, such notice shall be made to the parent or guardian of the owner of the motorized bicycle. The notice shall contain a full explanation of the reason for seizing and impounding the motorized bicycle.

(c) Any motorized bicycle impounded under the provisions of this Traffic Code shall be surrendered to the owner or to the parents or guardian of any minor upon showing sufficient proof of ownership of the motorized bicycle, but nothing herein shall relieve the offender of any penalty that may be imposed under this chapter.

(d) It shall be the duty of the police officer or the person in charge of records to keep in an appropriate book or file the name and address of each owner of a motorized bicycle impounded, the name and address of the violator if he is not the owner, and license number and serial number of the motorized bicycle, together with the nature and circumstances of each violation, as well as the disposition of each case.
(Ord. 11-83. Passed 3-14-83.)

374.99 PENALTY.

(a) Whoever violates any provision of this chapter for which no other penalty is provided shall be subject to the general Traffic Code penalty provided under Section 303.99(a)(1).

(b) Whoever violates any provision of Section 374.14 to 374.18 is guilty of a misdemeanor of the first degree.

(c) In addition to or in lieu of the penalty imposed under subsection (a) or (b) hereof, the court may prohibit such violator from riding a motorized bicycle for a period not to exceed six months or authorize a motorized bicycle to be impounded for a period not exceeding thirty days.
(Ord. 11-83. Passed 3-14-83.)

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. “All-purpose vehicle” does not include a utility vehicle as defined in Ohio R.C. 4501.01 or 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) While transporting any firearm, bow or other implement for hunting, that is not unloaded and securely encased;

(7) For the purpose of chasing, pursuing, capturing or killing any animal or wild fowl;

(8) During the time from sunset to sunrise, unless displaying lighted lights as required by Section 375.02.

(b) Whoever violates this section shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), imprisoned not less than three nor more than thirty days, or both. (ORC 4519.40)

375.04 PERMITTED OPERATION.

Snowmobiles, off-highway motorcycles, and all purpose vehicles may be operated as follows:

(a) To make a crossing of a highway, other than a freeway or limited access highway, whenever the crossing can be made in safety and will not interfere with the movement of vehicular traffic approaching from any direction on the highway, and provided that the operator yields the right of way to any approaching traffic that presents an immediate hazard;

(b) On highways in the County or Township road systems whenever the local authority having jurisdiction over such highway so permits;

(c) Off and alongside a street or highway for limited distances from the point of unloading from a conveyance to the point at which the snowmobile, off-highway motorcycle, or all purpose vehicle is intended and authorized to be operated.

(d) On the berm or shoulder of a highway, other than a highway as designated in Ohio R.C. 4519.40(A), when the terrain permits such operation to be undertaken safely and without the necessity of entering any traffic lane;

(e) On the berm or shoulder of a county or township road, while traveling from one area of operation of the snowmobile, off-highway motorcycle, or all-purpose vehicle to another such area. (ORC 4519.41)

375.05 LICENSING REQUIREMENTS OF OPERATOR.

(a) No person who does not hold a valid, current motor vehicle driver's or commercial driver's license, motorcycle operator's endorsement or probationary license issued under Ohio R.C. Chapter 4506 or 4507, or a valid, current driver's license issued by another jurisdiction, shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any street or highway, on any portion of the right of way thereof, or on any public land or waters. This subsection shall not be construed to permit the holder of such a license to operate a snowmobile, off-highway motorcycle, or all purpose vehicle in violation of Section 375.03.

(b) No person who is less than sixteen years of age shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any land or waters other than private property or waters owned by or leased to such person's parent or guardian, unless 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)

CODIFIED ORDINANCES OF NEW PHILADELPHIA

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CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART FIVE - GENERAL OFFENSES CODE

CHAPTER 501
General Provisions and Penalty

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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 that carries a substantial risk that it will proximately result in the death of any person.

(c) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.

(d) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(e) "Serious physical harm to persons" means any of the following:
(1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
(2) Any physical harm that carries a substantial risk of death;
(3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
(4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
(5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.

(f) "Serious physical harm to property" means any physical harm to property that does either of the following:
(1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
(2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.

(g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

(h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

(i) "Offense of violence" means any of the following:
(1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 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 mentally retarded, developmentally disabled, or physically impaired child 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 that, if successful, would constitute or result in the offense.

(b) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(c) No person who is convicted of committing a specific offense or of complicity in the commission of an offense, shall be convicted of an attempt to commit the same offense in violation of this section.

(d) It is an affirmative defense to a charge under this section that the actor abandoned the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(e) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other misdemeanor is a misdemeanor of the next lesser degree than the misdemeanor attempted. In the case of an attempt to commit an offense other than a violation of Ohio R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony under the Ohio Revised Code, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. An attempt to commit a minor misdemeanor is not an offense under this section.

(f) As used in this section, "drug abuse offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.02)

501.10 COMPLICITY.

(a) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

(1) Solicit or procure another to commit the offense;
(2) Aid or abet another in committing the offense;
(3) Cause an innocent or irresponsible person to commit the offense.

(b) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(c) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of Section 501.09.

(d) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense or an offense, the court when it charges the jury, shall state substantially the following:

> "The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.

"It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(e) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(f) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense. (ORC 2923.03)

501.11 ORGANIZATIONAL CRIMINAL LIABILITY.

(a) An organization may be convicted of an offense under any of the following circumstances:

(1) The offense is a minor misdemeanor committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.

(2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.

(3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.

(4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated or performed by the board of directors, trustees, partners or by a high managerial officer, agent or employee acting in behalf of the organization and within the scope of such a board's or person's office or employment.

(b) If strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

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

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

501.12 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

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

(1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility;

(2) He has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

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

501.13 PAYMENT OF COST OF CONFINEMENT.

(a) Any person convicted of a criminal offense other than a minor misdemeanor and who as a consequence thereof, is confined in the Tuscarawas County Jail, shall reimburse the City for its expenses incurred by reason of his or her confinement, including but not limited to, the expenses relating to the provisions of food, clothing, medical care and shelter.

(b) The Law Director is hereby authorized to institute any appropriate civil suit in the Tuscarawas County Court of Common Pleas for recovery of the expenses referred to in subsection (a) hereof, the amount of the reimbursement to be determined by the Court pursuant to Ohio R.C. 2929.15. (Ord. 25-85. Passed 4-22-85.)

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)

501.99 PENALTIES FOR MISDEMEANORS.

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

(1) Restitution. 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. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section.
(ORC 2929.28)

(b) Jail Terms.

(1) Except as provided in Ohio R.C. 2929.22 or 2929.23 of the Revised Code, and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this General Offenses Code, the court shall impose a definite jail term that shall be one of the following:

A. For a misdemeanor of the first degree, not more than one hundred eighty days;

B. For a misdemeanor of the second degree, not more than ninety days;

C. For a misdemeanor of the third degree, not more than sixty days;

D. For a misdemeanor of the fourth degree, not more than thirty days.

(2) A. A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in Ohio R.C. 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

B. 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the

offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.

2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.

(3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.

(4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:

A. The court shall specify both of the following as part of the sentence:

1. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.

2. If the person does not dispute the bill described in subsection (b)(4)A.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.

B. The sentence automatically includes any certificate of judgment issued as described in subsection (b)(4)A.2. of this section. (ORC 2929.24)

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

Type of Misdemeanor	Maximum Fine
First degree	$5000.00
Second degree	4000.00
Third degree	3000.00
Fourth degree	2000.00
Minor	1000.00
Misdemeanor not specifically classified	2000.00
Minor misdemeanor not specifically classified	1000.00

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

(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 Dogs and other animals running at large.
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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 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person being the owner or having charge of a cat or cats, cattle, sheep, geese, ducks, goats, turkeys, chickens or other fowl or animals shall permit them to run at large upon a public place, or upon any unenclosed lands or upon the premise of another.

(b) Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, harborer, or handler of the dog, no owner, keeper, or harborer of any dog shall fail at any time to do either of the following:

(1) Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harborer by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape.

(2) Keep the dog under the control of some person.

(3) It is unlawful for any person to suffer or permit any dog owned, harbored, or controlled by him to be on any public street, alley, lane, park or place of whatever nature open to and used by the public in the incorporated area of the City unless such dog is securely leashed and the leash is held continuously in the hand of a responsible person capable of controlling such dog, or unless the dog is securely confined in a vehicle unless the dog is at “heel” beside a competent person and obedient to that person’s command.

(c) 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.

(d) Whoever violates this section is guilty of a misdemeanor of the fourth degree for a first offense and a misdemeanor of the first degree for each subsequent offense.
(Ord. 19-2015. Passed 12-14-15.)

505.02 IMPOUNDING AND DISPOSITION; RECORDS.

(a) A police officer or animal warden may impound every animal or dog found in violation of Section 505.01. If the dog is not wearing a valid registration tag and the owner is not otherwise reasonably determined, notice shall be posted in the pound or animal shelter both describing the dog and place where seized and advising the unknown owner that unless the dog is redeemed within three days, it may thereafter be sold or destroyed according to law. If the dog is wearing a valid registration tag or the identity of the owner, keeper or harborer is otherwise reasonably determined, notice shall be given by certified mail to such owner, keeper or harborer that the dog has been impounded and unless redeemed within fourteen days of the date of notice, it may thereafter be sold or destroyed according to law. Any dog seized and impounded may be redeemed by its owner, keeper or harborer at any time prior to the applicable redemption period upon payment of all lawful costs assessed against the animal and upon providing the dog with a valid registration tag if it has none.

(b) A record of all dogs impounded, the disposition of the same, the owner's name and address where known, and a statement of any costs assessed against the dog shall be kept by any poundkeeper.

505.03 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.

(a) Except for guide dogs registered under Ohio R.C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R.C. 955.16.

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.
(ORC 955.99(D)).

505.04 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)

(b) Whoever violates this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
(ORC 959.99)

505.05 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a farm animal, dog, cat or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity, or to trespassing animals as set forth in Ohio R.C. 959.04.
(ORC 959.02)

(b) Except as otherwise provided herein, whoever violates this section is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars ($300.00) or more, such person is guilty of a misdemeanor of the first degree. (ORC 959.99(B))

505.06 POISONING ANIMALS.

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

(4) Keep animals other than cattle, poultry or fowl, swine, sheep or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;

(5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water and attention, nor permit such livestock to be so crowded as to overlie, crush, wound or kill each other.

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

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

505.071 CRUELTY TO COMPANION ANIMALS.

(a) As used in this section:

(1) "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. "Companion animal" does not include livestock or any wild animal.

(2) "Cruelty", "torment" and "torture" have the same meanings as in Ohio R.C. 1717.01.

(3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.

(4) "Practice of veterinary medicine" has the same meaning as in Ohio R.C. 4741.01.

(5) "Wild animal" has the same meaning as in Ohio R.C. 1531.01.

(6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.

(7) "Dog kennel" means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.

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

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

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

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

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

(4) Needlessly kill the companion animal;

(5) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment in any of those specified manners.

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

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

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

(e) Subsections (b), (c) and (d) of this section do not apply to any of the following:
(1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Chapter 4741;
(3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
(4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
(5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Chapter 4741.
(ORC 959.131)

(f) (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.
(2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
(3) Whoever violates subsection (d) hereof is guilty of a misdemeanor of the first degree.
(4) A. A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

B. A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.

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

505.08 NUISANCE CONDITIONS PROHIBITED.

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

(b) 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 is guilty of a minor misdemeanor.

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. The dog or other animal inflicting a bite shall immediately be examined by a qualified veterinarian and results of such examination shall be reported to the Health Commissioner within twenty-four hours. At the direction of the Health Commissioner, the dog or other animal shall either be confined by its owner or harborer to his premises away from the public at large, or be placed under supervision of a veterinarian at the owner's or harborer's expense. The isolation or observation period shall not be less than ten days from the date the person was bitten at which time report of the condition of the animal shall be made to the Health Commissioner.

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.

(a) No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms, bow and arrow, air rifle or any other means within the corporate limits of the Municipality.

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

505.12 COLORING RABBITS OR BABY POULTRY; SALE OR DISPLAY OF POULTRY.

(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times.
(ORC 925.62)

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

505.13 REPORT OF ESCAPE OF EXOTIC OR DANGEROUS ANIMAL.

(a) The owner or keeper of any member of a species of the animal kingdom that escapes from his custody or control and that is not indigenous to this State or presents a risk of serious physical harm to persons or property, or both, shall, within one hour after he discovers or reasonably should have discovered the escape, report it to:

(1) A law enforcement officer of the Municipality and the sheriff of the county where the escape occurred; and

(2) The Clerk of the Municipal Legislative Authority.

(b) If the office of the Clerk of the Legislative Authority is closed to the public at the time a report is required by subsection (a) hereof, then it is sufficient compliance with subsection (a) hereof if the owner or keeper makes the report within one hour after the office is next open to the public.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 2927.21)

505.14 VICIOUS ANIMALS.

(a) Definitions.

(1) A "vicious animal" as the term is used in this section shall be defined as any of the following:

A. Any animal known to have a propensity, tendency or disposition to attack, to cause injury, or to otherwise endanger the safety of human beings or other domestic animals, or

B. Any animal which attacks a human being or another domestic animal one or more times without provocation, or

C. Any animal that has killed a human being or another domestic animal.

(2) A vicious animal is "unconfined" as the term is used in this section if such animal is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the person described in subsection (b) hereof. Such pen or structure must have secure sides.

(b) No person owning or harboring or having the care and/or control of a vicious animal shall suffer or permit such animal to go unconfined on the premises of such person.

(c) No person owning or harboring or having the care and/or control of a vicious animal shall suffer or permit such animal to go beyond the premises of such person unless such animal is securely leashed or otherwise securely restrained.

(d) "Vicious animal" does not include either of the following:

(1) A police dog that has killed or caused serious injury to any person or that has caused injury, other than killing or serious injury, to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

(2) A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harborer of the dog.

(e) "Without provocation" means that the animal was not teased, tormented or abused by a person, or that the animal was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the animal as a means of carrying out such activity.

(f) Whoever violates this section is guilty of a misdemeanor of the first degree. (Ord. 30-90. Passed 7-9-90.)

505.141 MENACING AND AGGRESSIVE ANIMALS; ANIMAL OWNER RESPONSIBILITY.

(a) It is unlawful for any person to keep, harbor, or maintain any aggressive or menacing animal which threatens, harasses, or intimidates a person who is peaceably and lawfully upon public or private property, unless it is contained in an enclosure of a construction adequate to keep it securely confined and prevent its escape.

(b) It is unlawful for any person to permit any animal owned, harbored, or controlled by him or her to attack and cause severe bodily injury or death to another domestic or captive animal while off the property of its owner or keeper.

(c) Upon notification of a violation of subsection (a), the animal owner(s) must immediately confine the animal to an enclosure or location which mitigates the aggressive and menacing behavior.

(d) For the purposes of this section, the following definitions apply:

(1) "Aggressive animal" means any animal whose observable behavior causes a person observing that behavior reasonably to believe that the animal may attack a person or another animal without provocation. Police or military service canines being utilized in an official capacity are excluded from this definition.

(2) "Menacing animal" means any animal which, through its behavior, causes a person observing or subject to that behavior to be in reasonable fear for his or her safety, or the safety of animals kept by him or her. Police or military service canines being utilized in an official capacity are excluded from this definition.

(3) "Severe bodily injury" means any physical injury which results in deep lacerations with separation of subcutaneous tissues, muscle tears or lacerations, fractures or joint dislocations, or permanent impairment of locomotion or special senses.

(e) Whoever violates this section is guilty of misdemeanor of the first degree. The penalties for a violation of this section, in addition to any others imposed by the Court shall include the following fines:

(1) Three hundred fifty dollars ($350.00) for the first violations.

(2) Seven hundred dollars ($700.00) for the second violations of subsection (a) or (b) within one (1) year.

(3) One thousand dollars ($1,000.00) for each additional violation of subsection (a) or (b) within one (1) year.

(4) For the purposes of this section, a first violation of subsection (a) will be deemed to have occurred if the menacing or aggressive animal is not confined as required by subsection (c) within twenty-four (24) hours of notification; a separate violation of subsection (a) shall be deemed to exist for each twenty-four (24) hour period following notification in which an animal's menacing or aggressive behavior continues unmitigated. (Ord. 19-2015. Passed 12-14-15.)

505.15 ANIMAL EXCRETION REMOVAL.

(a) The owner or person in charge of every animal shall be responsible for the immediate removal of any excreta deposited by his animal or animals on property, public or private, not owned or possess by such person.

(b) No person, being the owner or person in charge of any animal, shall fail to immediately remove excreta deposited by his animal or animals on property, public or private, not owned or possessed by such person.

(c) Whoever violates this section is guilty of a minor misdemeanor. (Ord. 27-97. Passed 6-9-97.)

505.16 DANGEROUS ANIMALS.

(a) No person shall knowingly keep, maintain or have in his possession or under his control within the City any dangerous or carnivorous wild animal or reptile, or dangerous domesticated animal, or any other animal or reptile of wild, vicious or dangerous propensities, except to the extent that an exemption may be applicable pursuant to subsections (d) or (e) hereof. As used in this section, "dangerous animal" means and includes the following:

(1) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(2) Any animal which attacks a human being or domestic animal without provocation; or

(3) Any animal owned or harbored primarily or in part for purpose of fighting or any animal trained for fighting.

(b) The prohibitions of subsection (a) hereof shall not be applicable to the owners or keeps of domesticated dogs or cats; provided, however, that the owners or keepers of a domesticated dog or cat which by its characteristics meets the definitions of a dangerous animal set forth in subsections (a)(1) through (3) hereof shall be subject to the following requirements:

(1) No such person shall suffer or permit such animal to go unconfined on the land or building of such person.

(2) No such person shall permit such animal to run on the property of the owner other than in the back yard of the property, in residential districts.

(3) Such person in residential districts shall maintain fencing in the back yard which is not less than six (6) feet in heights; which shall be constructed from stockade or solid screening material; which shall fully confine the animal and prevent the animal from reaching over, under or through the fence with its jaws, teeth or claws; and which fencing shall be set back a minimum of four (4) feet from any adjacent property lines.

(4) No such personal shall suffer or permit such animal to go beyond the land or building of such person unless such animal is securely restrained and muzzled.

(5) Such person is residential districts shall possess at a minimum of one hundred thousand dollars ($100,000) liability insurance policy.

(c) For purposes of this section, there shall be an irrebuttable presumption that, when kept or maintained within the City, the animals listed below are considered dangerous animals to which the prohibition of subsection (a) hereof, in the absence of an exemption pursuant to subsections (d) or (e) hereof, applies:

(1) All crotalid, elapid and venomous colubroid snakes;
(2) Apes: Gribbons (hylobates); gorillas (Gorilla); orangutans (Pongo); and stamangs (Symphalangus);
(3) Baboons (Papoi, Mandrillus);
(4) Bears (Ursidae);
(5) Bison (Bison);
(6) Cheetahs (Acinonyx jabatus);
(7) Crocodilians (Corcodilia) when twenty-four (24) inches in length or more;
(8) Constrictor snakes exceeding six (6) feet in length;
(9) Coyotes (Canis Latrans);
(10) Deer (Cervidae), includes all members of the deer family, for example white-tailed deer, elk, antelope and moose;
(11) Elephants (Elepas and Loxodonta);
(12) Foxes (Canis Vulpes);
(13) Game Cocks and other fighting birds;
(14) Hippopotami (Hippopotamidae);
(15) Hyenas (Hyaenidae);
(16) Jaguars (Panthera onca);
(17) Leopards (Panthera pardus);
(18) Lions (Panthera leo)
(19) Lynxes (Lynx);
(20) Ostriches (Struthio);
(21) Piranha fish (Characidae), except those considered vegetarians;
(22) Pumas (Felis concolor), also known as cougars, mountain lions and panthers;
(23) Rhinoceroses (Rhinocero tidae);
(24) Sharks (Class Chondrichthyes);
(25) Snow leopards (Panthera uncia);
(26) Swine (Suidae);
(27) Tigers (Panthera tigris);
(28) Wolves or Wolf Hybrid Canines (Canis lupus);
(29) Scorpions;
(30) Birds of prey, except for those held by licensed falconers;
(31) Venomous fish;
(32) Poisonous spiders, except for tarantulas;

(33) Stinging insects (expect for honey bees);
(34) Bats;
(35) Reptiles.

(d) Licensed menageries, zoological gardens, and circuses shall be exempt from the provisions of subsection (a) hereof if all of the following conditions are applicable:

(1) The location conforms to the provisions of the City Zoning Code;
(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors;
(3) Animals are maintained in quarters so constructed as to prevent their escape; and
(4) No person resides within fifty (50) feet of th quarters in which the animals are kept.

(e) Notwithstanding any of the foregoing, the Director of Safety may grant a specific exemption, on a temporary or permanent basis, from nay of the provisions of this sections to any person with a legitimate scientific, educational, commercial or other purposes for maintaining the prohibited animals, in accordance with the following provisions:

(1) Written application for exemption shall be filed by any person desiring to obtain an exemption with the Director of Safety. The application shall state the applicant's name, address, type and number of animals desired to be kept, general purpose for which the animals will be kept, and a general description of provisions which will be made for safe, sanitary and secure maintenance of the animals.
(2) The Director of Safety may grant, deny or restrict the terms of an application for exemption; provided, however, that he shall take some official action on an application within 30 days of its filing.
(3) In considering the merits of an application for exemption, the Director of Safety may cause one or more inspections of the applicant's premises to be made by appropriate City employees or representatives, and may also refer the application to persons technically knowledgeable with respect to the animals involved for an advisory opinion.
(4) In evaluating an application for exemption, the Director of Safety shall give consideration to the following criteria:
    A. The experience and knowledge of the applicant relative to the animals involved;
    B. Whether the applicant has obtained a federal or state permit relative to the animals involved;
    C. The relative danger, safety and health risks to the general public, to persons residing or passing near the applicant's premises, and to the applicant in connection with the animals involved;
    D. The provisions which have been or will be made for the safe, sanitary and secure maintenance of the animals for the protection of the general public, persons residing or passing near the applicant's premises, and the applicant;
    E. The provisions which have been made or will be made to protect the safety and health of the animals involved;
    F. Any other logically relevant information.

(5) An application for exemption under this subsection (c) shall be denied unless the Director of Public Safety determines that, in view of all the relevant criteria and any restrictions which he may provide, reasonably appropriate measures commensurate with the degree of risk associated with the animals involved have been or will be taken to assure at least a minimum acceptable level of protection from danger to the health and safety of the general public, persons residing or passing near the applicant's premises, and the applicant.

(6) An exemption granted pursuant to this subsection (e) may be withdrawn by action of the Director of Public Safety in the event that the Director determines that there has been a change in the conditions or assumption under which it was originally granted or in the event hat the applicant fails to comply with restrictions originally placed on the exemption.

(f) No exemption granted pursuant to any provision of this section shall be construed, nor is it intended by the City as a guaranty or warranty of any kind, whether express or implied, to any person, including without limitation the general public, persons residing or passing near the applicants' premises, or the applicant, either in general or individually, as to the danger or lack thereof, or degree of risk or health or safety of any animal, specifically or generally, or any premises where any animal is maintained or kept pursuant to such exemption.

(g) Impounding Dangerous and Vicious Animals. The police officers and/or dog wardens of the County shall impound any dangerous or carnivorous wild animal or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, or vicious or dangerous propensities as described herein and kept and maintained in violation of this section.

(h) (1) Whoever violates any provision of this section shall be guilty of a misdemeanor of the first degree. Each day that such violation continues shall be considered a separate violation.

(2) In addition to any penalty provided in this chapter, and Judge of the Municipal Court or the Common Pleas Court may order that any dangerous animal, or wild or exotic animal which attacks a person or domestic animal, be destroyed if the Court finds that such dangerous animal, or wild or exotic animal represents a continuing threat of serous harm to persons or domestic animals. In addition, any person found guilty of violating any provision of this chapter shall pay all expenses, including shelter, food, boarding and veterinary expenses necessitated by the seizure of any dangerous animal or wild or exotic animal for the protection of the public, and for such other expenses as may be required. (Ord. 13-2001. Passed 4-9-01.)

505.17 PROHIBITION AGAINST FEEDING AND MAINTAINING CANADIAN GEESE ON PUBLIC PROPERTY.

(a) Definition. "Canadian Geese" is defined as the common wild goose (Branta canadensis) of North America.

(b) Purpose. Canadian Geese are deemed to be a nuisance health risk animal whose presence is considered hazardous to the health and welfare of the citizens of New Philadelphia.

(c) Prohibited. From October 1st through April 1st of any given year, no person shall be permitted to feed, harbor, maintain, or provide bedding of any kind to any Canadian Geese on any public property located within the City of New Philadelphia.

(d) Penalty. Whoever violates this section is guilty of a minor misdemeanor on a first offense, and a misdemeanor of the fourth degree for any subsequent offense.
(Ord. 10-2015. Passed 5-28-15.)

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 Emergency powers of Mayor.
509.09 Curfew hours for minors.
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 that conduct is likely to provoke a violent response;

(4) Hindering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender;

(5) Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.

(6) Damaging, befouling or disturbing public property or the property of another, so as to create a hazardous, unhealthy or physically offensive condition. (Ord. 36-82. Passed 7-26-82.)

(b) No person, while voluntarily intoxicated shall do either of the following:

(1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if the offender were not intoxicated, should know is likely to have that effect on others;

(2) Engage in conduct or create a condition that presents a risk of physical harm to the offender or another, or to the property of another.

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

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

(e) (1) Whoever violates this section is guilty of disorderly conduct.
(2) Except as otherwise provided in 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) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;
(3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.

(b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.

(c) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this subsection, misconduct at an emergency is a misdemeanor of the fourth degree. If a violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.

(d) As used in this section:
(1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
(2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
(3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.

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 EMERGENCY POWERS OF MAYOR.

(a) The Mayor may, in case of riot or insurrection, or when there is clear and present danger of a riot or insurrection, proclaim in writing a state of emergency.

(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 riot or insurrection, and restrict or prohibit the movement of persons into, from or within such area.

(2) Establish a curfew within such area, and prohibit persons from being out of doors during such curfew.

(3) Prohibit the sale, offering for sale, dispensing and transportation of firearms and other deadly weapons, ammunition, dynamite and other dangerous explosives, incendiary devices and any necessary ingredient thereof.

(4) Issue reasonable regulations to suppress such riot or insurrection, or to protect persons or property from harm by reason of such riot or insurrection.

(c) Public notice of the state of emergency shall be given by the sounding of the fire siren for two continuous minutes.

(d) As soon as a state of emergency exists, the Mayor shall call a special meeting of Council as soon as permitted by law, for the purpose of securing Council's approval to the imposition of a curfew under the provisions of this section.

(e) The emergency powers herein granted to the Mayor shall be limited to the twenty-four hour period immediately following the declaration of emergency by the Mayor.

(f) When the danger from riot or insurrection has passed, the Mayor shall immediately make a proclamation that the emergency has ended and any proclamation, order or regulation issued pursuant to this section shall then become void.

(g) 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. 3199. Passed 9-23-68.)

(h) 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, is guilty of a misdemeanor of the fourth degree.

509.09 CURFEW HOURS FOR MINORS.

(a) Definitions. In this section:

(1) "Curfew hours" means:

A. 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and

B. 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

C. During the period from October 1 to November 1 of each year, the hours shall be 7:00 p.m. through 6:00 a.m., except for home football games played at Quaker Stadium when the hours shall be between 11:00 p.m. and 6:00 a.m.

(2) "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) "Establishment" means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(4) "Guardian" means:

A. A person who, under court order, is the guardian of the person of a minor; or

B. A public or private agency with whom a minor has been placed by a court.

(5) "Minor" means any person under eighteen years of age.

(6) "Operator" means any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(7) "Parent" means a person who is:

A. A natural parent, adoptive parent or step-parent of another person; or

B. At least eighteen years of age and authorized by a parent or guardian to have the care and custody of a minor.

(8) "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

(9) "Remain" means to:

A. Linger or stay; or

B. Fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

(10) "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(b) Offenses.

(1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the Municipality during curfew hours.

(2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the Municipal during curfew hours.

(3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(c) Defenses.

(1) It is a defense to prosecution under subsection (b) hereof that the minor was:

A. Accompanied by the minor's parent or guardian;

B. On an errand at the direction of the minor's parent or guardian, without any detour or stop;

C. In a motor vehicle involved in interstate travel;

D. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

E. Involved in an emergency;

F. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;

G. Attending an official school, religious or other recreational activity supervised by adults and sponsored by the Municipality, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the Municipality, a civic organization, or another similar entity that takes responsibility for the minor.

H. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

I. Married or had been married.

(2) It is a defense to prosecution under subsection (b)(3) hereof that the owner, operator or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(d) Enforcement. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (c) hereof is present.

(e) Penalty. Whoever violates a provision of this section is guilty of a minor misdemeanor. A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. (Ord. 41-2001. Passed 8-27-01.)

509.99 PENALTY.

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

CHAPTER 513
Drug Abuse Control

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CROSS REFERENCES

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

513.01 DEFINITIONS.

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

(a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.

(b) "Controlled substance" means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.

(c) "Dispense" means sell, leave with, give away, dispose of or deliver.

(d) "Distribute" means to deal in, ship, transport or deliver but does not include administering or dispensing a drug.

(e) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication.

(f) "Manufacturer" means a person who manufactures a controlled substance as "manufacture" is defined in Ohio R.C. 3715.01.

(g) Except as provided in subsection (g)(2) hereof:

(1) "Marihuana" means all parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. (ORC 3719.01)

(2) "Marihuana" does not include hashish. (ORC 2925.01)

(h) "Controlled substance analog" has the same meaning as provided in Ohio R.C. 3719.01.

(i) "Official written order" means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by Federal law.

(j) "Pharmacist" means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.

(k) "Pharmacy" has the same meaning as in Ohio R.C. 4729.01.

(l) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.

(m) "Licensed health professional authorized to prescribe drugs", "prescriber" and "prescription" have the same meanings as in Ohio R.C. 4729.01.

(n) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.

(n) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.

(o) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" and "Schedule V" mean controlled substance Schedules I, II, III, IV, and V respectively, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44.

(p) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in Ohio R.C. 4729.01. (ORC 3719.01)

(q) "Drug of abuse" means any controlled substance as defined in subsection (b) hereof, any harmful intoxicant as defined in subsection (x) hereof and any dangerous drug as defined in subsection (r) hereof. (ORC 3719.011)

(r) "Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

A. Under the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

B. Under Ohio R.C. Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a Schedule V narcotic drug and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply;

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body. (ORC 4729.02)

(s) "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 controlled substance analogs, marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in subsection (s)(2) or (5) hereof, whichever of the following is applicable:

A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;

B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;

C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol, or lysergic acid amide, or a Schedule I stimulant or depressant;

D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;

E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;

F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the Federal Drug Abuse Control laws as defined in Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;

G. An amount equal to or exceeding three grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the Federal Drug Abuse Control laws;

(2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;

(3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;

(4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance.

(5) An amount equal to or exceeding 200 solid dosage units, sixteen grams or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid.

(t) "Unit dose" means an amount or unit of a compound, mixture or preparation containing a controlled substance, that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

(u) "Cultivate" includes planting, watering, fertilizing or tilling.

(v) "Drug abuse offense" means any of the following:

(1) A violation of Ohio R.C.. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs;

(2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (v)(1) hereof;

(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;

(4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (v)(1), (2) or (3) hereof.

(w) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this State, any other state or the United States.

(x) "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.

(y) "Manufacture" means to plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.

(z) "Possess" or "possession" means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

(aa) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

(bb) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.

(cc) "Juvenile" means a person under eighteen years of age.

(dd) "School" means any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.

(ee) "School premises" means either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the premises at the time a criminal offense is committed;

(2) Any other parcel of real property that is owned or leased by a board of education of a school, any 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.

(ff) "School building" means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

(gg) "Counterfeit controlled substance" means:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.

(hh) An offense is “committed in the vicinity of a school” if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

(ii) An offense is “committed in the vicinity of a juvenile” if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

(jj) “Hashish” means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

(kk) “Public premises” means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

(ll) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.

(mm) "Lawful prescription" means a prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.

(nn) "Deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01. (ORC 2925.01)

513.02 GIFT OF MARIHUANA.

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

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

(c) The court shall suspend for not less than six months or 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. 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) This section does not apply to the following:

(1) 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.

(2) 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;

(3) 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;

(4) Any person who obtained the controlled substance pursuant to a lawful prescription issued by a licensed health professional authorized to prescribe drugs.

(c) Whoever violates subsection (a) hereof is guilty of one of the following:

(1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate State law.

(2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:

A. Except as otherwise provided in subsection (c)(2)B. hereof, possession of marihuana is a minor misdemeanor.

B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.

(3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:

A. Except as otherwise provided in subsection (c)(3)B. hereof, possession of hashish is a minor misdemeanor.

B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(d) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit.

(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 less than six months or more than five years the offender's driver's or commercial driver's license or permit. (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 or 2925.03, 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 less than six months or more than five years the offender's driver's or commercial driver's license or permit.

(e) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767.
(ORC 2925.13)

513.06 ILLEGAL CULTIVATION OF MARIHUANA.

(a) No person shall knowingly cultivate marihuana.

(b) This section does not apply to any person listed in Ohio R.C. 2925.03(B)(1) to (3) to the extent and under the circumstances described in those divisions.

(c) Whoever commits a violation of subsection (a) hereof is guilty of illegal cultivation of marihuana. Illegal cultivation of marihuana is a misdemeanor if the amount of marihuana involved does not exceed 200 grams.

(1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.

(2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of Ohio R.C. 2925.03. If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in an application for employment, a license, or any other right or privilege or made in connection with the person's appearance as a witness. (ORC 2925.04)

513.07 POSSESSING OR USING HARMFUL INTOXICANTS.

(a) Except for lawful research, clinical, medical, dental or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess or use a harmful intoxicant.

(b) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony and shall be prosecuted under appropriate State law.

(c) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit. (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 less than six months or more than five years the offender's driver's or commercial driver's license or permit. (ORC 2925.36)

513.09 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

(a) No person shall alter, deface or remove any label affixed by a manufacturer, wholesaler, pharmacist or licensed health professional authorized to prescribe drugs who dispenses a controlled substance in a package or container, as long as any of the original contents remain, except when lawfully filling a prescription. (ORC 3719.08)

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

513.10 HYPODERMIC POSSESSION, DISPLAY AND DISPENSING.

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

(1) A manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;

(2) Terminal distributor of dangerous drugs, in the regular course of business;

(3) A person authorized to administer injections, in the regular course of the person's profession or employment;

(4) A person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;

(5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;

(6) A farmer, for the lawful administration of a drug to an animal;

(7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.

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

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

513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE IN MOTOR VEHICLE.

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

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

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

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

(c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.
(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 less than six months or more than five years the offender's driver's or commercial driver's license or permit. 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 shall suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit. 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)

513.14 LOITERING FOR THE PURPOSE OF ENGAGING IN DRUG-RELATED ACTIVITY.

(a) No person shall loiter in or near any thoroughfare, place open to the public, or any public or private place in a manner and under circumstances manifesting the purpose to commit a drug abuse offense.

(b) Among the circumstances which may be considered in determining whether such purpose is manifested are:

(1) Such person is a known unlawful drug user, possessor or seller. For purposes of this section a "known unlawful drug user, possessor or seller" is: a person who has, within the knowledge of the arresting officer, been found guilty in any court of a drug abuse offense; or a person who displays physical characteristics of drug intoxication or

usage, including but not limited to dilated pupils, glassy eyes, slurred speed, loss of coordination or motor skills, or a person who possesses drug paraphernalia.

(2) Such person is currently subject to an order prohibiting his/her presence in a high drug activity geographic area.

(3) Such person behaves in such a manner so as to raise a reasonable suspicion that he or she is about to commit, or is then engaged in the commission of, a drug abuse offense, including, by way of example only, such person acting as a "lookout" or such person flagging down vehicles or pedestrians.

(4) Such person is physically identified by the arresting officer as a member of a gang or association which has as its principal purpose illegal drug activity.

(5) Such person transfers small objects or packages for currency or any other thing of value in a furtive fashion.

(6) Such person takes flight upon the appearance of a police officer.

(7) Such person manifestly endeavors to conceal himself or herself or any object which reasonably could be involved in the commission of a drug abuse offense.

(8) The area involved is by public repute known to be an area of unlawful drug use and trafficking.

(9) The premises involved are known to the arresting officer to have been reported to any law enforcement agency as a place where the commission of a drug abuse offense has been suspected.

(10) Any vehicle involved is registered to a known unlawful drug user, possessor, or seller or a person for whom there is an outstanding warrant involving a drug abuse offense.

(c) Whoever violates this section is guilty of a misdemeanor of the third degree. (Ord. 62-89. Passed 9-25-89.)

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. (Ord. 63-89. Passed 9-25-89.)

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)

513.99 PENALTY.

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

CHAPTER 517
Gambling

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CROSS REFERENCES

See sectional histories for similar State law
Lotteries prohibited; exception - see Ohio Const., Art. XV, Sec. 6
Contributing to delinquency of minors - see Ohio R.C. 2151.41
Search warrants - see Ohio R.C. 2933.21(E)
Licensing charitable bingo games - see Ohio R.C. 2915.08
Internet sweepstakes cafes and sweepstakes businesses - see BUS. REG. Ch. 788

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 purportely sold;
(3) More than fifty per cent of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a “casino game” as defined in Ohio R.C. 3772.01;
(4) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
(5) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
(6) A participant may use the electronic device to purchase additional game entries;
(7) A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
(8) A scheme of chance operator pays out in prize money more than twenty per cent of the gross revenue received at one location; or
(9) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.

As used in this subsection, “electronic device” means a mechanical, video, digital or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased or otherwise possessed by any person conducting a scheme of chance, or by that person’s partners, affiliates, subsidiaries or contractors.

(d) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

(e) "Game of chance conducted for profit” means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

(f) "Gambling device" means any of the following:
(1) A book, totalizer or other equipment for recording bets;
(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.

(rr) “Net profit from the proceeds of the sale of instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies, and, in the case of instant bingo conducted by a veteran’s, fraternal or sporting organization, minus the payment by that organization of real property taxes, and assessments levied on a premises on which instant bingo is conducted.

(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.

(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) Firearms, tobacco, or alcoholic beverages; or

(4) A redeemable voucher that is redeemable for any of the items listed in subsection (vv)(1), (2) or (3) of this section.

(ww) "Redeemable voucher" means any ticket, token, coupon, receipt, or other noncash representation of value.

(xx) "Pool not conducted for profit" means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

(yy) "Sporting organization" means a hunting, fishing or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the league of Ohio sportsmen, and that has been in continuous existence in this State for a period of three years.

(zz) "Community action agency" has the same meaning as in Ohio R.C. 122.66.

(aaa) (1) "Sweepstakes terminal device" means a mechanical, video, digital or electronic machine or device that is owned, leased or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:

A. The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.

B. The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.

C. The device selects prizes from a predetermined finite pool of entries.

D. The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.

E. The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.

F. The device utilizes software to create a game result.

G. The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.

H. The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

(2) As used in this subsection and in Section 517.02:

A. "Enter" means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.

B. "Entry" means one event from the initial activation of the sweepstakes terminal device until all of the sweepstakes prize results from that activation are revealed.

C. "Prize" means any gift, award, gratuity, good, service, credit, reward or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

D. "Sweepstakes terminal device facility" means any location in this Municipality where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in Ohio R.C. 2915.02(G).

(bbb) "Sweepstakes" means any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. "Sweepstakes" does not include bingo as authorized under this chapter, pari-mutuel wagering as authorized by Ohio R.C. Chapter 3769, lotteries conducted by the State Lottery Commission as authorized by Ohio R.C. Chapter 3770, and casino gaming as authorized by Ohio R.C. Chapter 3772.
(ORC 2915.01)

517.02 GAMBLING.

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

(1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;

(2) Establish, promote, or operate or knowingly engage in conduct that facilitates any game of chance conducted for profit or any scheme of chance;

(3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or any scheme of chance;

(4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood;

(5) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility and either:

A. Give to another person any item described in subsection (vv)(1), (2), (3) or (4) of Section 517.01 as a prize for playing or participating in a sweepstakes; or

B. Give to another person any merchandise prize, or a redeemable voucher for a merchandise prize, the wholesale value of which is in excess of ten dollars and which is awarded as a single entry for playing or participating in a sweepstakes. Redeemable vouchers shall not be redeemable for a merchandise prize that has a wholesale value of more than ten dollars.

(6) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility without first obtaining a current annual "certificate of registration" from the Attorney General as required by division (F) of Ohio R.C. 2915.02.

(7) With purpose to violate subsection (a)(1), (2), (3), (4), (5) or (6) of this section, acquire, possess, control, or operate any gambling device.

(b) For purposes of subsection (a)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of subsection (a)(2) of this section, a person facilitates a game of chance conducted for profit or a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme.

(c) This section does not prohibit conduct in connection with gambling expressly permitted by law.

(d) This section does not apply to any of the following:

(1) Games of chance, if all of the following apply:

A. The games of chance are not craps for money or roulette for money.

B. The games of chance are conducted by a charitable organization that is, and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is, exempt from Federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.

C. The games of chance are conducted at festivals of the charitable organization that are conducted not more than a total of five days a calendar year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance.

A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof if the veteran's or fraternal organization has already leased the premises twelve times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under Section 517.06(b)(1) when it leases premises from another charitable organization to conduct bingo games.

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, etc.
521.09 Noxious or offensive odors.
521.10 Maintenance of foundations, walls, doors, etc.
521.11 Water conservation.
521.12 Oil and gas wells.
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) No person who is aware that he has removed or damaged any barrier, light or other warning device, or who has extinguished any light, shall fail to stop and immediately replace such barrier or other warning device, or relight the light, if extinguished, or in lieu thereof immediately notify the Police Department that such barrier, light or other warning device has been damaged, removed or extinguished.

(d) 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.

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

521.04 SIDEWALK OBSTRUCTIONS; DAMAGE OR INJURY.

(a) No person shall place or knowingly drop upon any part of a sidewalk, playground or other public place any tacks, bottles, wire, glass, nails or other articles which may damage property of another or injure any person or animal traveling along or upon such sidewalk or playground.

(b) No person shall walk on, or allow any animal upon, or injure or deface in any way, any soft or newly laid sidewalk pavement.

(c) No person shall place, deposit or maintain any merchandise, goods, material or equipment upon any sidewalk so as to obstruct pedestrian traffic thereon except for such reasonable time as may be actually necessary for the delivery or pickup of such articles. In no such case shall the obstruction remain on such sidewalk for more than one hour.

(d) No person shall unload upon, or transport any heavy merchandise, goods, material or equipment over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury. The affected area shall be rendered safe and free from danger.

(e) No person shall allow any cellar or trap door, coal chute or elevator or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous condition.

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

521.05 NOTICE TO FILL LOTS, REMOVE PUTRID SUBSTANCES.

(a) No person shall fail to comply with the following requirements within the lawful time after service or publication of the notice or resolution is made as required by law:

To fill or drain any lot or land or remove all putrid substances therefrom, or remove all obstructions from culverts, covered drains or natural watercourses as provided in Ohio R.C. 715.47.

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

521.06 DUTY TO KEEP SIDEWALK IN REPAIR AND CLEAN.

(a) No owner of any lot or land abutting upon any street shall refuse, fail or neglect to repair or keep in repair and free from nuisance and obstruction, the sidewalk in front of such lot or land after due notice of a resolution of Council ordering the repair of such sidewalk, the removal of such obstruction or the abatement of such nuisance.

If the owner or person having charge of such land fails to comply with the notice, Council shall cause the sidewalks to be repaired, the obstruction removed or the nuisance abated. All expenses and labor costs incurred shall, when approved by Council, be paid out of Municipal funds not otherwise appropriated. Council shall make a written return to the County Auditor of its action, with a statement of the charges for the service, the amount paid for labor, the fees of the officers serving notices and a proper description of the premises. Such amounts shall be entered upon the tax duplicate and be a lien upon such lands from and after the date of entry and be collected as other taxes and returned to the Municipality with the General Fund.

(b) It shall be the duty of the owner of each and every parcel of real estate in the Municipality abutting upon any sidewalk to keep the sidewalk abutting his premises free and clear of snow and ice, and to remove all snow and ice accumulated thereon within a reasonable time, which will ordinarily not exceed twelve hours after the abatement of any storm during which the snow and ice may have accumulated.
(Ord. 2838. Passed 12-28-59.)

(c) 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.

Barbed wire partition fences may be erected and maintained as provided in Ohio R.C. 971.03.

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

521.08 LITTERING AND DEPOSIT OF GARBAGE, RUBBISH, JUNK, ETC.

(a) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property not owned by the person, or in or on waters of the State, or Municipality, unless one of the following applies:

(1) The person is directed to do so by a public official as part of a litter collection drive;

(2) Except as provided in subsection (b) hereof, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements;

(3) The person is issued a permit or license covering the litter pursuant to Ohio R. C. Chapter 3734 or 6111.

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

(1) The litter was generated or located on the property on which the litter receptacle is located.

(2) The person is directed to do so by a public official as part of a litter collection drive.

(3) The person is directed to do so by a person whom the person reasonably believes to have the privilege to use the litter receptacle.

(4) The litter consists of any of the following:

A. The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle;

B. The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;

C. Beverage containers and food sacks, wrappings and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;

D. Beverage containers, food sacks, wrappings, containers and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.

(c) (1) As used in subsection (b)(1) hereof, "public property" includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee but does not include any private property to which the public otherwise does not have a right of access.

(2) As used in subsection (b)(4) hereof, "casual passerby" means a person who does not have depositing litter in a litter receptacle as the person's primary reason for traveling to or by the property on which the litter receptacle is located.

(d) As used in this section:

(1) "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.

(2) "Deposit" means to throw, drop, discard or place.

(3) "Litter receptacle" means a dumpster, trash can, trash bin, garbage can or similar container in which litter is deposited for removal. (ORC 3767.32)

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

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

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

521.09 NOXIOUS OR OFFENSIVE ODORS.

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

(b) No person shall carry, or cause to be carried, in any vehicle of any type whatsoever, upon the public streets, highways and alleys of the City, any substances or material which by its nature or condition gives off noxious or offensive odors, fumes, smoke or gases.

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

521.10 MAINTENANCE OF FOUNDATIONS, WALLS, DOORS, WINDOWS, ETC.

(a) The owner of any structure within the corporate limits of the City shall cause every foundation, exterior wall, basement hatchway, windows, doors and roofs to be in good repair and rodent-proof. On all vacant structures, all windows and doors must be closed and locked. There shall be no openings of any kind that would allow the entry of persons or animals into the structure.

(b) Rodent-proof means a form of construction which will prevent the ingress or egress of rats or other rodents to or from a given space or building. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior walls, roofs, basement hatchways or by any other possible means of entry, by the use of materials impervious to rodent gnawing and other methods approved by the Director of Environmental Health of the City Health Department.

(c) The structure must be in compliance with this section within five days of the receipt of the notice of violation. The Director of Environmental Health for the City Health Department and the Service Director for the City of New Philadelphia shall be responsible for the enforcement of this section.

(d) Whoever violates this section is 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. (Ord. 6-97. Passed 3-24-97.)

521.11 WATER CONSERVATION.

(a) The Director of Public Service is hereby authorized and directed to implement water conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain non-essential purposes in the manner hereinafter set out.

(b) Upon a determination by the Director of Public Service of the existence of the following conditions, the Director of Public Service shall take the following actions:

(1) Level 1 Water Alert: When moderate but declining supplies of water are available and/or mild strains are placed on the distribution capabilities of the City water supply system, the Director of Public Service shall, through appropriate means, call upon the general population to employ prudent restraint in water usage, and to conserve water voluntarily by whatever methods available.

(2) Level 2 Water Alert: When limited supplies of water are available and/or moderate strains are placed on the distribution capabilities of the City water supply system, the Director of Public Service shall, through appropriate means, institute mandatory water conservation measures, including the following:

A. The watering or irrigation of lawns, shrubbery, trees, grass, plants, gardens or any other vegetation may occur at an even numbered street address on an even numbered day between the hours of 7:00 a.m. - 9:00 a.m. and 7:00 p.m. - 9:00 p.m.

B. The watering or irrigation of lawns, shrubbery, trees, grass, plants, gardens or any other vegetation may occur at an odd-numbered street address on an odd numbered day between the hours of 7:00 a.m. - 9:00 a.m. and 7:00 p.m. - 9:00 p.m.

C. Prohibit the residential/individual washing of mobile equipment.

(3) Level 3 Water Alert: When water plant production is 2.9 million gallons/day (MGD) or greater for ten consecutive days as shown on the Drinking Water Operation Report, mandatory water conservation measures including the following will automatically go into effect:

A. The watering or irrigation of lawns, shrubbery, trees, grass, plants, gardens or any other vegetation may occur at an even numbered street address on an even numbered day between the hours of 7:00 a.m. - 9:00 a.m. and 7:00 p.m. - 9:00 p.m.

B. The watering or irrigation of lawns, shrubbery, trees, grass, plants, gardens or any other vegetation may occur at an odd numbered street address on an odd numbered day between the hours of 7:00 a.m. - 9:00 a.m. and 7:00 p.m. - 9:00 p.m.

C. Prohibit the residential/individual washing of mobile equipment.

The above mandatory measures will remain in effect until the water plant production goes below 2.9 million gallons/day (MGD) as shown on the Drinking Water Operation Report for ten consecutive days. This criteria may not be overridden, however, the Director of Public Service may go to any higher level Water Alert to bring production below 2.9 million gallons/day.

(4) Level 4 Water Alert: When very limited supplies of water are available and/or severe strains are placed on the distribution capabilities of the City water supply system, the Director of Public Service shall, through appropriate means, prohibit less essential usages of water, including, but not limited to the following:

A. The watering or irrigation of lawns, grass, shrubbery, trees, plants or any other vegetation except:

1. Gardens, which may continue watering on the odd/even address/date system described in the Level 2 Water Alert;
2. Greenhouse or nursery stocks;
3. Watering by commercial nurseries of freshly planted vegetation.

B. The washing of residential/individual mobile equipment, except:

1. Commercial enterprises for washing motor vehicles for the public, whereby persons pay a charge or fee for each vehicle washed, shall not be restricted in operation, provided such facilities of the enterprises have a water recycling system approved by the Service Director. Each such facility or washing location shall post a conspicuous sign so identifying the use of a recycling process. Where there is not installed or in operation a recycling process, each such facility or location shall operate or be open to the public during hours so determined by the Director of Public Services.

C. The washing of streets, driveways, parking lots, sidewalks, exterior of homes, apartments and office buildings or other outdoor surfaces by residential, commercial or institutional customers.

D. The operation of any ornamental fountains or other structure making a similar use of water.

E. The use of water from fire hydrants for any purpose other than fire suppression or public emergency.

F. The filling of swimming pools or the refilling of swimming pools which were drained after the effective date of the order. Normal requirements to maintain operating levels within swimming pools will be permitted. Such normal requirements being that usually attributed to replacement of water lost because of evaporation or overflow resulting in, from or caused by use.

(5) Level 5 Water Alert: When critically limited supplies of water are available and/or critical strains are placed on the distribution capabilities of the City water supply system, the Director of Public Service may institute mandatory reductions on each customer, including but not limited to the following: Rate penalties for exceeding specified water allotments provided, however, any plan proposed under this Water Alert Level must be submitted to and approved by Council.

(6) Level 6 Water Alert: When crucial supplies of water are available and/or extremely critical strains are placed on the distribution capabilities of the City water supply system, the Director of Public Service shall restrict the use of water to purposes which are absolutely essential to life, health and safety.

(c) Penalties for violation of any of the provisions of this section shall be:

(1) A first violation shall result in a written warning and a copy of this section delivered to the offender.

(2) A second violation shall result in a fine of twenty-five dollars.

(3) A third and any additional violations shall result in a fine of one hundred dollars ($100.00).

Each act or each day's continuation of a violation shall be considered a separate offense.

(d) The Director of Public Service shall notify Council and the general public as to the date and what level of water alert is needed and to any changes to a different level. The Director of Public Service shall also notify Council and the public when a resource shortage is over and when an emergency situation no longer exists.
(Ord. 69-88. Passed 11-28-88.)

521.12 OIL AND GAS WELLS.

(a) No well shall be drilled nearer than 100 feet from any inhabited private dwelling house; nearer than 100 feet from any public building which may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic or occupancy by the public nearer than 50 feet from the traveled part of any public street, road, or highway; nearer than 50 feet from a railroad track; nor nearer than 100 feet from any other well.

(b) No building shall be constructed nearer than 75 feet from any existing oil or gas well within the City.

(c) All wells within the City shall be enclosed with a six foot high wooden fence with a locked doorway. (Ord. 16-97. Passed 5-12-97.)

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.
525.02 Falsification.
525.03 Impersonation of peace officer.
525.04 Compounding a crime.
525.05 Failure to report a crime, injury or knowledge of death.
525.06 Failure to aid a law enforcement officer.
525.07 Obstructing official business.
525.08 Obstructing justice.
525.09 Resisting arrest.
525.10 Having an unlawful interest in a public contract.
525.11 Soliciting or receiving improper compensation.
525.12 Dereliction of duty.
525.13 Interfering with civil rights.
525.14 Unauthorized display of law enforcement emblems on motor vehicles.
525.15 Assaulting police dog or horse or an assistance dog.
525.16 False allegation of peace officer misconduct.
525.17 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

525.01 DEFINITIONS.

As used in this chapter:

(a) "Public official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision thereof, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges and law enforcement officers. “Public official” does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.

(b) "Public servant" means any of the following:

(1) Any public official;

(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 physician, limited practitioner, nurse, or other 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 physician, limited practitioner, nurse, or person, or any serious physical harm to persons that the physician, limited practitioner, nurse, or 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 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.

(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, 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 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, registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.

(2) Notwithstanding Ohio R.C. 4731.22, the doctor-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted 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; doctor and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.

(2) The information would tend to incriminate a member of the actor's immediate family.

(3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.

(4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as 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 services provider certified pursuant to Ohio R.C. 5119.36.

(6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide 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.
(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, or political action committee 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, or political action committee or prohibit a political party, campaign committee, legislative campaign fund, or political action committee from accepting voluntary contributions. (ORC 2921.43)

525.12 DERELICTION OF DUTY.

(a) No law enforcement officer shall negligently do any of the following:

(1) Fail to serve a lawful warrant without delay;

(2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in the law enforcement officer's power to do so alone or with available assistance.

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

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

(1) Allow the detention facility to become littered or unsanitary;

(2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention;

(3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;
(4) Allow a prisoner to escape;
(5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.

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

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

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

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

525.13 INTERFERING WITH CIVIL RIGHTS.

(a) No public servant, under color of 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 ASSAULTING POLICE DOG OR HORSE OR SERVICE DOG.

(a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:
(1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.
(2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

(b) No person shall recklessly do any of the following:
(1) Taunt, torment, or strike a police dog or horse;
(2) Throw an object or substance at a police dog or horse;
(3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:
A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;
B. Deprives the law enforcement officer of control of the police dog or horse;
C. Releases the police dog or horse from its area of control;
D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;
E. Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.
(4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse.
(5) If the person is the owner, keeper, or harborer of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.

(c) No person shall knowingly cause, or attempt to cause, physical harm to a service dog in either of the following circumstances:
(1) The service dog is assisting or serving a blind, deaf, or mobility impaired person or person with a seizure disorder at the time the physical harm is caused or attempted.
(2) The service dog is not assisting or serving a blind, deaf, or mobility impaired person or person with a seizure disorder at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is a service dog.

(d) No person shall recklessly do any of the following:
(1) Taunt, torment, or strike a service dog;
(2) Throw an object or substance at a service dog;

(3) Interfere with or obstruct a service dog, or interfere with or obstruct a blind, deaf or mobility impaired person or person with a seizure disorder who is being assisted or served by a service dog, in a manner that does any of the following:
   A. Inhibits or restricts the assisted or served person's control of the service dog;
   B. Deprives the assisted or served person of control of the service dog;
   C. Releases the service dog from its area of control;
   D. Enters the area of control of the service 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 service dog to assist the assisted or served person.

(4) Engage in any conduct that is likely to cause serious physical injury or death to a service dog;

(5) If the person is the owner, keeper or harborer of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a service dog that at the time of the conduct is assisting or serving a blind, deaf or mobility impaired person or person with a seizure disorder or that the person knows is a service 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 a service dog. If the violation results in physical harm to the dog, assaulting a service 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 a service 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 a service dog. Except as otherwise provided in this subsection, harassing a service dog is a misdemeanor of the second degree. If the violation results in the death of the service dog, harassing a service dog is a felony and shall be prosecuted under appropriate State law. If the violation results in serious physical harm to the service dog but does not result in its death, harassing a service dog is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the service dog but does not result in its death or in serious physical harm to it, harassing a service 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 mobility impaired person or person with a seizure disorder assisted or served by the service 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 service 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 a service 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 mobility impaired person or person with a seizure disorder assisted or served by the service dog;

D. If the violation resulted in the death of the police dog or horse or the service dog that was the subject of the violation or resulted in serious physical harm to that dog or horse 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 service dog by a law enforcement officer or by the blind, deaf, or mobility impaired person or person with a seizure disorder assisted or served by the service 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 service dog that is the subject of a violation under this section is a police dog or horse or service 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) "Service dog" means a dog that serves as a guide or leader for a blind person, serves as a listener for a deaf person, provides support or assistance for a mobility impaired person, or serves as a seizure assistance, seizure response or seizure alert dog for a person with any seizure disorder.

(5) "Blind" and "mobility impaired person" have the same meanings as in Ohio R.C. 955.011.

(ORC 2921.321)

525.16 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)

525.17 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 and public consumption prohibited.
529.08 Hours of sale or consumption.
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) "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, but not more than twelve percent (12%) of alcohol by volume.

(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 AND PUBLIC CONSUMPTION PROHIBITED.

(a) As used in this section:

(1) "Chauffeured limousine" means a vehicle registered under Ohio R.C. 4503.24.

(2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.

(b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) In a State liquor store;

(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-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 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 an orchestral performance and the holder the F-9 permit 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.

As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.

(6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:

1. The person is attending a racing event at the facility; and

2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;

B. As used in subsection (c)(6)A. of this section:

1. "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.

2. "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:

a. It is two and four-tenths miles or more in length.

b. It is located on two hundred acres or more of land.

c. The primary business of the owner of the facility is the hosting and promoting of racing events.

d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.

(7) A. A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under Ohio R.C. 4301.82, if the opened container of beer or intoxicating liquor was purchased from a qualified permit holder to which both of the following apply:

1. The permit holder's premises is located within the outdoor refreshment area.
2. The permit held by the permit holder has an outdoor refreshment area designation.

B. Subsection (c)(7) of this section does not authorize a person to do either of the following:

1. Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;
2. Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under subsection (d) or (e) of this section.

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

(1) The person or guest is a passenger in the limousine;

(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;

(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

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

(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

(2) The opened bottle of wine that is resealed in accordance with subsection (e)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver. (ORC 4301.62)

(f) 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-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-5G, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, 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-5I, D-5J, or D-7 permit holder:

(1) From Monday to Saturday between the hours of two thirty a.m. and five thirty a.m.

(2) On Sunday between the hours of two thirty a.m. and Sunday midnight, unless statutorily authorized otherwise.

(3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages or spirituous liquor for on-premises consumption.

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

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

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

529.99 PENALTY.

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

CHAPTER 531
Noise Control

531.01 Definitions.
531.02 Specific prohibitions.
531.99 Penalty.

CROSS REFERENCES
Disturbing the peace - see GEN. OFF. 509.03

531.01 DEFINITIONS.

As used in this chapter, the following terms are defined as set forth below:

(a) "Construction" means any sire preparation, assembly, erection, substantial repair, alteration or similar action, for or on public or private rights of way, structures, utilities or similar property.

(b) "Demolition" means any dismantling or intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

(c) "Gross vehicle weight rating" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the maximum loaded weight of the combination vehicle, shall be used.

(d) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.

(e) "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

(f) "Motor vehicle" means every vehicle defined as a motor vehicle in the Traffic Code.

(g) "Motorcycle" means every vehicle defined as a motorcycle in the Traffic Code.

(h) "Motorized bicycle" or "moped" means every vehicle defined as such in the Traffic Code.

(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 or which unreasonably interferes with the peace and serenity of residents.

(j) "Noise disturbance" means any sound which:

(1) Endangers or injures the safety or health of humans or animals;

(2) Disturbs a reasonable person or normal sensitivity; or

(3) Endangers or injuries personal or real property.

(k) "Person" means any individual, association, partnership or corporation and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

(l) "Place of public entertainment" means any commercial facility open to the general public for purposes of entertainment.

(m) "Powered model vehicle" means any self-propelled, airborne, water-borne or land-borne plane, vessel or vehicle which is not designed to carry persons including but not limited to any model airplane, boat car or rocket.

(n) "Public right of way" means any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

(o) "Real property boundary" means any imaginary line along the ground surface at its vertical extension which separates the real property owned by one person from that owned by another person.

(p) "Receiving property" means any property which is affected by sound originating of or from another location.

(Ord. 25-2010. Passed 12-13-10.)

531.02 SPECIFIC PROHIBITIONS.

The following acts and the causing or permitting thereof are declared to be a violation of this chapter:

(a) Construction. Operating or permitting the operation of any tools or equipment in construction, drilling building or demolition work between the hours of 11:00 p.m. and 7:00 a.m. weekdays or on Sundays or on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day except for emergency work, public service utilities or by special permission approved by the Chief of Police. Minor construction such as room additions, sheds, fences, decks, etc., shall be permitted on Sundays or holidays but only within the hours of 10:00 a.m. and 6:00 p.m.

(b) Domestic Power Tools. Operating or permitting the operation of mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawnmower or other similar device used outdoors, other than powered snow removal equipment, outdoors between the hours of 11:00 p.m. and 7:00 a.m. or on Saturday or Sunday before the hour of 9:00 a.m. Operators of golf courses and recreational facilities may operate lawn mowers outdoors between the hours of 7:00 a.m. to 9:00 p.m.

(c) Emergency Signaling Devices.

(1) The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency purposes or for testing as provided in this section. Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not after 11:00 p.m. or before 7:00 a.m. In no case shall such a test exceed ten minutes.

(2) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within two minutes of activation, or within a reasonable time after notification of activation.

(3) The repeated or continual sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right of way or public space except as a warning of danger.

(d) Explosives, Firearms and Similar Devices. The using or firing of explosives, firearms or similar devices which create an impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right of way, except Licensed City Fireworks.

(e) Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to cause a noise disturbance across a residential real property boundary.

(f) Loudspeakers, Public Address Systems.

(1) Using, operating or permitting the operation of any loudspeaker, Public address system, mobile sound vehicle or similar device amplifying sound there from on a public right of way or public space for any commercial purpose except as otherwise provided in any section of the Codified Ordinances.

(2) Using, operating or permitting for any noncommercial purpose any loudspeaker, public address system, mobile sound vehicle or similar device between the hours of 11:00 p.m. and 7:00 a.m. such as the sound there from creates a noise disturbance across a residential real property boundary.

(g) Powered Model Vehicle or Go-carts. Operating or permitting the operation of powered model vehicles, go-carts, snowmobiles, off-highway motorcycles or all-purpose model vehicles, so as to create a noise disturbance across a residential real property boundary or in a public space between hours of 11:00 p.m. to 7:00 a.m.

(h) Radios, Television Sets, Musical Instruments and Similar Devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument or similar device which produces or reproduces or amplifies sound:

(1) Between the hours of 11:00 p.m. and 7:00 a.m. on weekdays and before 7:00 a.m. and after 11:00 p.m. on Sundays in such a manner as to create a noise disturbance across a residential real property boundary or

(2) In such a manner as to create a continuing noise disturbance from such device when operated in or on a motor vehicle on a public right of way or public space during restricted times of 11:00 p.m. to 7:00 a.m.

(3) While operating a motor vehicle playing or allowing to be played any radio, music player or audio system at a volume which is plainly audible to persons other than the occupants of said vehicle or if the sound is audible to any person outside the limits of the roadway upon which the vehicle is operating or located; or, if the vehicle is not operating or located upon a roadway, either the sound is audible to any person not on the property upon which the vehicle is located or operating, or the sound is audible to any person more than fifty (50) feet from the vehicle.

(i) Vehicle or Motorboat Repairs and Testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle, motor bicycle or moped or motor boat in such a manner as to cause a noise disturbance across a residential real property boundary between 11:00 p.m. and 7:00 a.m.

(j) Motor Vehicles. Operating or permitting the operation of any motor vehicle with the gross vehicle weight rating in excess of 7,000 pounds or any auxiliary equipment attached to such vehicle is stationary for reasons other than traffic congestion between the hours of 11:00 p.m. and 7:00 a.m. This section shall not apply to public utilities vehicles, Municipal service vehicles or busses operated as common carriers.
(Ord. 25-2010. Passed 12-13-10.)

531.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor. (Ord. 25-2010. Passed 12-13-10.)

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.
533.99 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 a violation of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06 or 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. (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 a minor, who is not the spouse of the offender, and who resides in the person's household:
(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. (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)

533.99 PENALTY.

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

CHAPTER 537
Offenses Against Persons

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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 charged with or convicted of any crime, or subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.

D. The victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises.

(5) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation, a firefighter, or a person performing emergency medical service, while in the performance of their official duties.

(6) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation and if the victim suffered serious physical harm as a result of the commission of the offense.

(7) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties.

(8) If the victim of the offense is a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital whom the offender knows or has reasonable cause to know is a health care professional of a hospital; a health care worker of a hospital, or a security officer of a hospital, if the victim is engaged in the performance of the victim's duties, and if the hospital offers de-escalation or crisis intervention training for such professionals, workers or officers, assault is one of the following:

A. Except as otherwise provided in subsection (c)(8)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. Notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, in sentencing the offender under this subsection and if the court decides to impose a fine, the court may impose upon the offender a fine of not more than five thousand dollars ($5,000).

B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against hospital personnel, assault committed in the specified circumstances is a felony.

(9) If the victim of the offense is a judge, magistrate, prosecutor or court official or employee whom the offender knows or has reasonable cause to know is a judge, magistrate, prosecutor or court official or employee, and if the victim is engaged in the performance of the victim's duties, assault is one of the following:

A. Except as otherwise provided in subsection (c)(9)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. In sentencing the offender under this subsection, if the court decides to impose a fine, notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than five thousand dollars ($5,000).

B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against justice system personnel, assault committed in the specified circumstances is a felony.

(10) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1423 that was included in the indictment, count in the indictment or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of Ohio R.C. 2929.24.

(d) As used in this section:

(1) "Peace officer" has the same meaning as in Ohio R.C. 2935.01.

(2) "Firefighter" has the same meaning as in Ohio R.C. 3937.41.

(3) "Emergency medical service" has the same meaning as in Ohio R.C. 4765.01.

(4) "Local correctional facility" means a county, multicounty, municipal, municipal-county or multicounty-municipal jail or workhouse. A minimum security jail established under Ohio R.C. 341.23 or 753.21, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.

(5) "Employee of a local correctional facility" means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of the facility.

(6) "School teacher or administrator" means either of the following:

A. A person who is employed in the public schools of the State under a contract described in Ohio R.C. 3311.77 or 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.

B. A person who is employed by a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and who is certified in accordance with Ohio R.C. 3301.071.

(7) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01.

(8) "Escorted visit" means an escorted visit granted under Ohio R.C. 2967.27.

(9) "Post-release control" and "transitional control" have the same meanings as in Ohio R.C. 2967.01.

(10) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.

(11) "Health care professional" and "health care worker" have the same meanings as in Ohio R.C. 2305.234.

(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 cause mental distress to the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's mental distress, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(2) No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to urge or incite another to commit a violation of subsection (a)(1) of this section.

(3) No person, with sexual motivation, shall violate subsection (a)(1) or (2) of this section.

(b) Whoever violates this section is guilty of menacing by stalking.

(1) Except as otherwise provided in subsections (b)(2) and (3) of this section, menacing by stalking is a misdemeanor of the first degree.

(2) Menacing by stalking is a felony and shall be prosecuted under appropriate State law if any of the following applies:

A. The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of Section 541.051.

B. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.

C. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.

D. The victim of the offense is a minor.

E. The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.

F. While committing the offense under subsection (a)(1) of this section or a violation of subsection (a)(3) of this section is based on conduct in violation of subsection (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Subsection (b)(2)F. of this section does not apply in determining the penalty for a violation of subsection (a)(2) of this section or a violation of subsection (a)(3) of this section based on conduct in violation of subsection (a)(1) of this section.

G. At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.

H. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under subsection (a)(2) of this section, or an offense committed under subsection (a)(3) of this section based on a violation of subsection (a)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.

I. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.

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

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

(d) As used in this section:

(1) "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages or receipts of information or data through the use of an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct".

(2) "Mental distress" means any of the following:

A. Any mental illness or condition that involves some temporary substantial incapacity;

B. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.

(3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.

(4) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.

(5) "Public official" has the same meaning as in Ohio R.C. 2921.01.

(6) "Computer", "computer network", "computer program", "computer system" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

(7) "Post a message" means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communication, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.

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

(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 the other person's liberty.

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

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

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

537.09 COERCION.

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

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

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

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

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

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

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

(e) As used in this section:

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

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) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass, 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.

(b) 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.

(c) (1) Whoever violates this section is guilty of telecommunication harassment.

(2) A violation of subsections (a)(1), (2), (3) or (5) 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 or information service, or against any officer, employee, or agent of a telecommunication service 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 or information service, or an officer, employee, or agent of a telecommunications service or 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) 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.

(f) Nothing in this section prohibits a person from making a telecommunication call to a debtor that is in compliance with the "Fair Debt Collection Practices Act", 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act", 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended. (ORC 2917.21)

537.11 THREATENING OR HARASSING TELEPHONE CALLS.

(EDITOR'S NOTE: Former Ohio R.C. 4931.31 from which Section 537.11 was derived was repealed by Senate Bill 162, effective September 13, 2010. See now Section 537.10 "Telecommunication Harassment".)

537.12 MISUSE OF 9-1-1 SYSTEM.

(a) "9-1-1 system" means a system through which individuals can request emergency service using the telephone number 9-1-1. (ORC 128.01)

(b) No person shall knowingly use the telephone number of the 9-1-1 system established under Ohio R.C. Chapter 128 to report an emergency if he knows that no emergency exists.

(c) No person shall knowingly use a 9-1-1 system for a purpose other than obtaining emergency service.

(d) No person shall disclose or use any information concerning telephone numbers, addresses, or names obtained from the data base that serves the public safety answering point of a 9-1-1 system established under Ohio R.C. Chapter 128, except for any of the following purposes or under any of the following circumstances:

(1) For the purpose of the 9-1-1 system;

(2) For the purpose of responding to an emergency call to an emergency service provider;

(3) In the circumstance of the inadvertent disclosure of such information due solely to technology of the wireline telephone network portion of the 9-1-1 system not allowing access to the data base to be restricted to 9-1-1 specific answering lines at a public safety answering point;

(4) In the circumstance of access to a data base being given by a telephone company that is a wireline service provider to a public utility or municipal utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a data base shall be subject to the jurisdiction of the steering committee.

(5) In the circumstance of access to a data base given by a telephone company that is a wireline service provider to a state and local government in warning of a public emergency, as determined by the steering committee. The charge, terms, and conditions for the disclosure or use of that information for the purpose of access to a data base is subject to the jurisdiction of the steering committee. (ORC 128.32)

(e) (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree.

(2) Whoever violates subsection (c) or (d) hereof is guilty of a misdemeanor of the fourth degree on a first offense. For each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law. (ORC 128.99)

537.13 ADULTERATING OF OR FURNISHING ADULTERATED FOOD OR CONFECTION.

(a) No person shall do either of the following, knowingly or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:

(1) Place a pin, needle, razor blade, glass, laxative, drug of abuse, or other harmful or hazardous object or substance in any food or confection;

(2) Furnish to any person any food or confection which has been adulterated in violation of subsection (a)(1) hereof. (ORC 3716.11)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3716.99(C))

537.14 DOMESTIC VIOLENCE.

(a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(b) No person shall recklessly cause serious physical harm to a family or household member.

(c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(d) (1) Whoever violates this section is guilty of domestic violence.

(2) Except as otherwise provided in subsection (d)(3) to (5) of this section, a violation of subsection (c) of this section is a misdemeanor of the fourth degree, and a violation of subsection (a) or (b) of this section is a misdemeanor of the first degree.

(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) If the offender previously has been convicted of, pleaded guilty to or been adjudicated a delinquent child for a violation of a protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214, two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 that involved the same person who is the subject of the protection order or consent agreement, or one or more violations of this section, violating a protection order is a felony and shall be prosecuted under appropriate state law.

(4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.

(5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the Attorney General under Ohio R.C. 2903.214, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds

from the reparations fund created pursuant to Ohio R.C. 2743.191. The total amount paid from the reparations fund created pursuant to Ohio R.C. 2743.191 for electronic monitoring under this section and Ohio R.C. 2151.34 and 2903.214 shall not exceed three hundred thousand dollars per year.

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

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

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

(a) As used in this section:

(1) "Age verification" means a service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is eighteen years of age or older.

(2) A. "Alternative nicotine product" means, subject to subsection (a)(2)B. of this section, an electronic cigarette or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving or inhaling.

B. "Alternative nicotine product" does not include any of the following:

1. Any cigarette or other tobacco product;
2. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
3. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);
4. Any product that is a "combination product" as described in 21 U.S.C. 353(g).

(3) "Child" has the same meaning as in Ohio R.C. 2151.011.

(4) "Cigarette" includes clove cigarettes and hand-rolled cigarettes.

(5) "Distribute" means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.

(6) A. "Electronic cigarette" means, subject to subsection (a)(6)B. of this section, any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo or electronic pipe.

B. "Electronic cigarette" does not include any item, product or device described in subsections (a)(2)B.1. to 4. of this section.

(7) "Proof of age" means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.

(8) "Tobacco product" means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco or snuff.

(9) "Vending machine" has the same meaning as "coin machine" in Ohio R.C. 2913.01.

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

(1) Give, sell or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any child;

(2) Give away, sell or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under eighteen years of age is prohibited by law;

(3) Knowingly furnish any false information regarding the name, age or other identification of any child with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that child;

(4) Manufacture, sell or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;

(5) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;

(6) Give, sell or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.

(c) No person shall sell or offer to sell cigarettes, other tobacco products or alternative nicotine products by or from a vending machine, except in the following locations:

(1) An area within a factory, business, office, or other place not open to the general public;

(2) An area to which children are not generally permitted access;

(3) Any other place not identified in subsection (c)(1) or (2) of this section, upon all of the following conditions:

A. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway or outer-waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.

B. The vending machine is inaccessible to the public when the place is closed.

(d) The following are affirmative defenses to a charge under subsection (b)(1) of this section:

(1) The child was accompanied by a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

(2) The person who gave, sold or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a child under subsection (b)(1) of this section is a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

(e) It is not a violation of subsection (b)(1) or (2) of this section for a person to give or otherwise distribute to a child cigarettes, other tobacco products, alternative nicotine products or papers used to roll cigarettes while the child is participating in a research protocol if all of the following apply:

(1) The parent, guardian or legal custodian of the child has consented in writing to the child participating in the research protocol;

(2) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol;

(3) The child is participating in the research protocol at the facility or location specified in the research protocol.

(f) (1) Whoever violates subsection (b)(1), (2), (4), (5) or (6) or (c) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (b)(1), (2), (4), (5) or (6) or (c) of this section, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

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

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

537.17 CRIMINAL CHILD ENTICEMENT.

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

(1) The actor does not have the express or implied permission of the parent, guardian or other legal custodian of the child in undertaking the activity;

(2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of any Board of Education, or the actor is any of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.

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

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

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

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

(f) As used in this section:

(1) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.

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

(3) "Vessel" has the same meaning as in Ohio R.C. 1547.01.
(ORC 2905.05)

537.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

(a) 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 as defined in Ohio R.C. 2151.022, or a delinquent child as defined in Ohio R.C. 2152.02.

(2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child as defined in Ohio R.C. 2151.022 or a delinquent child as defined in Ohio R.C. 2152.02.

(3) 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.

(b) 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)

537.99 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.
541.07 Desecration.
541.08 Billposting.
541.09 Ethnic intimidation.
541.10 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) This section does not apply if the violation is done with purpose to defraud or the property involved is a statehouse or a courthouse, school building or other building or structure that is owned or controlled by the State, any political subdivision, or any department, agency or instrumentality of the State or a political subdivision, and that is used for public purposes.

(c) Whoever violates this section is guilty of arson, a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is one thousand dollars ($1,000) or more, arson is a felony and shall be prosecuted under appropriate State law.
(ORC 2909.03)

541.03 CRIMINAL DAMAGING OR ENDANGERING.

(a) No person shall cause, or create a substantial risk of physical harm to any property of another without the other person's consent:

(1) Knowingly, by any means;

(2) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.

(b) Whoever violates this section is guilty of criminal damaging or endangering, a misdemeanor 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 the property of another;

(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))

541.07 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 BILLPOSTING.

(a) Private Property. No person shall stick or post any advertisement, poster, sign or handbill or placard of any description upon any building, vehicle, or upon any tree, post, fence, billboard or any other structure or thing whatever, the private property of another without permission of the occupant or owner of the same, nor paint, mark, write, print or impress, or in any manner attach any notice or advertisement or the name of any commodity or thing or trade mark, symbol or figure of any kind upon anything whatever the property of another without first obtaining permission of the owner of such thing on which he desires to place such notice, advertisement, name, mark or figure.

(b) Public Property. No person shall stick, post or attach any advertisement, poster, sign, handbill or placard of any kind or description upon any telegraph, telephone, railway or electric light pole within the corporate limits or upon any public building, vehicle, voting booth, flagging, curb, tree lawn, walk, step, stone or sidewalk, or write, print or impress or in any manner attach any notice or advertisement of any kind upon any public building, voting booth, flagging, tree lawn, step, stone or sidewalk, the property of the Municipality or within the street lines of the Municipality or over which the Municipality or Council has the care, custody or control, except such as may be required by the laws of the State, or upon written permission of the Mayor.
(Ord. 2838. Passed 12-28-59.)

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

541.09 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)

541.10 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. 1547.01.

(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 543
Storage of Junk and Junk Vehicles

543.01 Definitions.
543.02 Abandonment of vehicles.
543.03 Storage declared a nuisance.
543.04 Storage prohibited; exception; notice.
543.05 Impounding.
543.99 Penalty.

CROSS REFERENCES

Junk yards - see BUS. REG. Ch. 735
Abandoned, junk vehicles on public or private property - see TRAF. 303.09
Garbage and rubbish collection - see S.U. & P.S. Ch. 971
Storing or keeping unlicensed motor vehicle in a residence district - see P. & Z. 1161.05(b)

543.01 DEFINITIONS.

As used in this chapter:

(a) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

(b) "Property" means discarded articles of all kinds which reasonably appear to be discarded or of no intrinsic value.

(c) "Junk" means any worn out, castoff or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some other use. Any article or material which, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new, shall not be considered junk.
(Ord. 3256. Passed 6-23-69.)

(d) "Junk car" means any used vehicle propelled or intended to be propelled by power other than human power, and which is in an inoperable or partially dismantled condition, or not currently licensed. Portions of junk cars, such as hoods, fenders, radiators, rims, motors, etc., not being used for the repair of a motor vehicle, shall be considered as junk.
(Ord. 71-96. Passed 12-23-96.)

(e) In an "inoperative condition" means a vehicle incapable of being propelled under its own power.

(f) In a "partially dismantled condition" means a vehicle having some part missing which is ordinarily an essential component.
(Ord. 3256. Passed 6-23-69.)

543.02 ABANDONMENT OF VEHICLES.

No person shall abandon any vehicle and no person shall leave any vehicle at any place for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. (Ord. 3256. Passed 6-23-69.)

543.03 STORAGE DECLARED A NUISANCE.

Except as otherwise provided in Section 543.04, the deposit, storage, maintenance or collection of junk or junk cars outside of a building is hereby declared to be a public nuisance and offensive to the public health, welfare and safety of the inhabitants of this Municipality. (Ord. 3256. Passed 6-23-69.)

543.04 STORAGE PROHIBITED; EXCEPTION; NOTICE.

No person in charge or control of any premises, whether as owner, tenant, lessee, occupant or otherwise shall allow any junk or junk car to remain upon such premises longer than ten days after receipt of written notice to remove the junk or junk car from the premises. The written notice shall be issued and delivered by the Chief of the Police Department or by any member of the Department duly designated by him.

The written notice shall be served upon the person in charge or control of the premises either personally or at the usual place of residence or by registered or certified mail addressed to the person's last known place of residence.

The provisions of this section, however, shall not apply to the deposit, storage, maintenance or collection of junk or junk cars in an enclosed building or in a container in a regularly established junk yard.
(Ord. 3256. Passed 6-23-69.)

543.05 IMPOUNDING.

The Chief of Police or any member of the Police Department designated by him is hereby authorized to remove or cause to be removed any junk car remaining at any place in violation of any provision of this chapter. Such junk care shall be impounded until lawfully claimed or disposed of in accordance with the provisions of Ohio R.C. 737.32 and 737.33. (Ord. 3256. Passed 6-23-69.)

543.99 PENALTY.

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

Whoever violates any provision of this chapter is guilty of a minor misdemeanor on a first offense; on each subsequent offense, such person is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

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.

(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.
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CROSS REFERENCES

See sectional histories for similar State law
License or permit to possess dangerous ordnance - see Ohio R.C. 2923.18
Hunting prohibited - see GEN. OFF. 505.11
Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)
Property destruction by tear gas device, etc. - see GEN. OFF. 541.04

549.01 DEFINITIONS.

As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.

(2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.

(c) "Handgun" means any of the following:

(1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;

(2) Any combination of parts from which a firearm of a type described in subsection (c)(1) of this section can be assembled.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;

(3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.

(k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:

(1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;

(2) Any explosive device or incendiary device;

(3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;

(5) Any firearm muffler or suppressor;

(6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

(l) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.

(6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C.921(a)(4), as amended, and regulations issued under that Act.

(m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.

(n) (1) "Concealed handgun license" or "license to carry a concealed handgun" means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

(2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a licence to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

(o) "Valid concealed handgun license" or "valid license to carry a concealed handgun" means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.

(p) "Misdemeanor punishable by imprisonment for a term exceeding one year" does not include any of the following:

(1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;

(2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.

(q) "Alien registration number" means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number".

(ORC 2923.11)

549.02 CARRYING CONCEALED WEAPONS.

(a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:

(1) A deadly weapon other than a handgun;

(2) A handgun other than a dangerous ordnance;

(3) A dangerous ordnance.

(b) No person who has been issued a concealed handgun license, shall do any of the following:

(1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;

(2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

(3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(c) (1) This section does not apply to any of the following:

A. An officer, agent or employee or this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;

B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.

C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;

D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.

(2) Subsection (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid concealed handgun license, unless the person knowingly is in a place described in division (B) of Ohio R.C. 2923.126.

(d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:

(1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.

(3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsection (f)(2) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsection (f)(2) of this section, if the offender previously has been convicted of a violation of this section or of any offense

of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsection (f)(2) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.

(2) If a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows:

A. The offender shall be guilty of a minor misdemeanor if both of the following apply:

1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars ($500.00) if all of the following apply:

1. The offender previously had been issued a concealed handgun license and that license expired within the two years immediately preceding the arrest.
2. Within forty-five days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

C. If neither subsection (f)(2)A. nor B. of this section applies, the offender shall be punished under subsection (f)(1) of this section.

(3) Except as otherwise provided in this subsection, carrying concealed weapons in violation of subsection (b)(1) hereof is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of subsection (b)(1) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128.

(4) Except as otherwise provided herein, carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of Ohio R.C. 2923.12(B)(2) or (B)(4) or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

(g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies. (ORC 2923.12)

549.03 USING WEAPONS WHILE INTOXICATED.

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

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

549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

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

(1) In a closed package, box or case;

(2) In a compartment which can be reached only by leaving the vehicle;

(3) In plain sight and secured in a rack or holder made for the purpose;

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

(b) No person who has been issued a concealed handgun license, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

(1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the motor vehicle;

(2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the commercial motor vehicle.

(3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.

(4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(c) (1) This section does not apply to any of the following:

A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;

B. Any person who is employed in this State, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.

(2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

A. The person transporting or possessing the handgun is carrying a valid concealed handgun license.

B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

(3) Subsection (a) of this section does not apply to a person if all of the following apply:

A. The person possesses a valid electric-powered all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.

B. The person is on or in an electric-powered all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.

C. The person is on or in an electric-powered all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

(d) (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

(e) (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (b) of this section on or after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section as the subsection existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (a) of this section on or after September 30, 2011, due to the application of subsection (b)(4) of this section as it exists on and after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

(f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) of this section is a misdemeanor of the fourth degree. Except as otherwise provided in this subsection, a violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in Ohio R.C. 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of subsection (b)(1) or (b)(2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128. A violation of subsection (b)(3) or (4) of this section is a misdemeanor of the first

degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(3) or (4) of this section, a felony and shall be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

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

(h) As used in this section:

(1) "Motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.

(2) A. "Unloaded" means:

1. With respect to a firearm other than a firearm described in subsection (h)(2)B. of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question and one of the following applies:

a. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.

b. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.

2. For the purposes of subsection (h)(2)A.1.b. of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

a. A package, box or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;

b. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.

3. For the purposes of subsection (h)(2)A. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

B. "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(3) "Commercial motor vehicle" has the same meaning as in Ohio R.C. 4506.25(A).

(4) "Motor carrier enforcement unit" means the motor carrier enforcement unit in the Department of Public Safety, Division of State Highway Patrol, that is created by Ohio R.C. 5503.34.

(i) Subsection (h)(2) of this section does not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in that subsection, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter or Ohio R.C. Chapter 2923. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter or Ohio R.C. Chapter 2923. (ORC 2923.16)

549.05 FAILURE TO SECURE DANGEROUS ORDNANCE.

(a) No person, in acquiring, possessing, carrying or using any dangerous ordnance shall negligently fail to take proper precautions:

(1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person;

(2) To insure the safety of persons and property.

(b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree. (ORC 2923.19)

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall:

(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 firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsections (a)(1) or (2) hereof is a misdemeanor of the second degree. Violation of subsection (a)(3) hereof is a misdemeanor of the fourth degree. (ORC 2923.20)

549.07 UNDERAGE PURCHASE OF FIREARM.

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

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

(1) The person is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.

(2) The person is an active or reserve member of the armed services of the United States or the Ohio national guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio national guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

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

549.08 SALE OF EXPLOSIVES TO MINORS.

(a) No person shall sell, give away or otherwise dispose of or deliver to any person under twenty-one years of age any explosives, as defined in Ohio R.C. 3743.01(A), whether such person is acting for himself or for any other person. (ORC 3743.02)

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

549.09 DISCHARGING FIREARMS.

(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality.

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

549.10 SLINGSHOT; BOW AND ARROW.

(a) No person shall maliciously or recklessly throw, shoot, cast or sling by hand, or by means of a slingshot, bow or otherwise, any stone, arrow, pellet or other missile. (Ord. 2838. Passed 12-28-59.)

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

549.11 POSSESSING REPLICA FIREARM IN SCHOOL.

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

(1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.

(2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

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

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

(d) As used in this section, "object that is indistinguishable from a firearm" means an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.
(ORC 2923.122)

549.12 POSSESSION, CONTROL OR CONVEYANCE OF DEADLY WEAPONS OR DANGEROUS ORDNANCES INTO OR WITHIN ALL CITY OWNED BUILDINGS.

(a) The City of New Philadelphia hereby prohibits possession, control or conveyance of deadly weapons or dangerous ordnance into or within all City-owned or occupied buildings.

(b) The Safety Director and/or Service Director is hereby authorized to prepare and post conspicuous notices clearly setting forth the above prohibition.
(Ord. 31-2009. Passed 12-14-09.)

549.13 DEFACING IDENTIFICATION MARKS OF A FIREARM; POSSESSING A DEFACED FIREARM.

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

(1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark or identification on a firearm.

(2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.

(b) (1) Whoever violates subsection (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this subsection, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(1) of this section, defacing identification marks of a firearm is a felony and shall be prosecuted under appropriate State law.

(2) Whoever violates subsection (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this subsection, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, possessing a defaced firearm is a felony and shall be prosecuted under appropriate State law. (ORC 2923.201)

549.99 PENALTY.

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

CHAPTER 553
Railroads

553.01 Obstructing streets by railroad companies.
553.011 Obstructing streets by abandoning the locomotive.
553.02 Climbing upon railroad cars.
553.03 Duties of locomotive engineer.
553.04 Railroad vandalism.
553.05 Grade crossing device vandalism.
553.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law
Lighting railroads - see Ohio R.C. 723.33 et seq.
Power to regulate train speed - see Ohio R.C. 723.48
Vehicular homicide - see GEN. OFF. 537.02
Criminal mischief - see GEN. OFF. 541.04

553.01 OBSTRUCTING STREETS BY RAILROAD COMPANIES.

(a) (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 of the corporation managing such railroad.

(b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4999.02)

553.03 DUTIES OF LOCOMOTIVE ENGINEER.

(a) No person in charge of a locomotive shall fail to bring the locomotive to a full stop at least 200 feet before arriving at a crossing with another track, or proceed through the crossing before signaled to do so or before the way is clear.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If violation of this misdemeanor causes physical harm to any person, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4999.04)

553.04 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)

553.05 GRADE CROSSING DEVICE VANDALISM.

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

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

553.99 PENALTY.

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

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART SEVEN - BUSINESS REGULATION CODE

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CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART SEVEN - BUSINESS REGULATION CODE

CHAPTER 703
Garage Sales

703.01 Definitions.
703.02 Garage sale regulations.
703.03 Permits, licenses and fees.
703.04 Persons and sales excepted.
703.99 Penalty.

CROSS REFERENCES

Handbills - see BUS. REG. Ch. 729
Peddlers, solicitors and canvassers - see BUS. REG. Ch. 753
Closing out and fire sales - see BUS. REG. Ch. 778

703.01 DEFINITIONS.

(a) "Garage sale" means and includes all sales entitled "garage sale", "lawn sale", "attic sale", "rummage sale", "flea market sale", "basement sale", "porch sale", "yard sale", or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of the sale.

(b) "Person" means and includes individuals, families living at the address at which a sale is to be held, partnerships, associations and corporations.
(Ord. 42-89. Passed 7-10-89.)

703.02 GARAGE SALE REGULATIONS.

(a) It shall be unlawful for any person to conduct more than three garage sales during any calendar year.

(b) No single garage sale may continue for more than three consecutive calendar days.

(c) Any single garage sale may be conducted only by the occupant residing at the address at which the sale is to be held or in conjunction with no more than six families not residing at that address.

(d) Any person conducting a garage sale may sell only property accumulated for personal use by the occupants residing at the address at which the sale is to be held or by those persons with whom such sale is to be conducted.

(e) Garage sales may be conducted only between the hours of 8:00 a.m. and 9:00 p.m. of any day.

(f) No person shall conduct a garage sale without a permit issued by the City and prominently displayed during the sale.
(Ord. 42-89. Passed 7-10-89.)

703.03 PERMITS, LICENSES AND FEES.

(a) The Mayor, or his representative, may upon written application and payment of a fee, authorize a single garage sale to continue for not more than three consecutive days, and may permit not more than six families, not residing at the address at which the sale is to be held to participate in any single garage sale.

(b) Each application for a permit shall be in writing and filed with the Mayor on forms provided therefor. The information to be filed with the Mayor pursuant to this chapter shall include:

(1) The name and address of the applicant and other persons, families, groups, associations etc. participating in the sale.
(2) The location at which the sale is to be conducted.
(3) The number of days of the sale.
(4) The date and nature of any past sale.

(c) The fee for such permit shall be one dollar ($1.00).

(d) Each permit issued under this chapter must be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the licensed sale. (Ord. 42-89. Passed 7-10-89.)

703.04 PERSONS AND SALES EXCEPTED.

The provisions of this chapter shall not apply to or affect the following persons or sales:

(a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
(b) Persons acting in accordance with their powers and duties as public officials.
(c) Any person selling or advertising for sale an item or items of personal property which are specifically named or described in an advertisement within the classified section of a local newspaper and not otherwise advertised as a garage sale.
(d) Sales by a religious, charitable or service organization, the proceeds of which are used for religious, charitable or community service purposes.
(e) Sales conducted by an auctioneer duly licensed under the laws of the State of Ohio. (Ord. 42-89. Passed 7-10-89.)

703.99 PENALTY.

Whoever violates any provisions of this chapter is guilty of a minor misdemeanor and each day of such violation may be considered a separate offense.
(Ord. 42-89. Passed 7-10-89.)

CHAPTER 711
Billiards and Pool

711.01 License and fee.
711.99 Penalty; license revocation.

CROSS REFERENCES
Power to regulate - see Ohio R.C. 715.51, 715.61

711.01 LICENSE AND FEE.

No person shall engage in or carry on the business of operating and conducting a billiard room or pool room without first securing a license from the Mayor, and paying a license fee as follows:

For the term commencing on the date of the issuance of such license and ending on December 31 of the year in which the license is issued, ten dollars ($10.00) for each billiard room or pool room. (Ord. 2856. Passed 3-14-60.)

711.99 PENALTY; LICENSE REVOCATION.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars ($50.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues. No person found guilty of violating any provision of this chapter shall be granted a license to operate a billiard room or pool room within one year after conviction, and the Mayor shall revoke any license heretofore issued to such person. (Ord. 2838. Passed 12-28-59.)

CHAPTER 717
Bowling Alleys

717.01 License and fee.
717.99 Penalty; license revocation.

CROSS REFERENCE
Power to regulate - see Ohio R. C. 715.51, 715.61

717.01 LICENSE AND FEE.

No person shall engage in or carry on the business of operating and conducting a bowling alley within the corporate limits without first securing a license from the Mayor and paying a license fee as follows:

For the term commencing on the date of the issuance of such license and ending on December 31 of the year in which such license is issued, ten dollars ($10.00) for each bowling alley establishment. (Ord. 2857. Passed 3-14-60.)

717.99 PENALTY; LICENSE REVOCATION.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars ($50.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues. No person found guilty of violating any provision of this chapter shall be granted a license to operate a bowling alley within one year after such conviction, and the Mayor shall revoke any license heretofore issued to such person.
(Ord. 2838. Passed 12-28-59.)

CHAPTER 723
Coin-Operated Devices

723.01 Definitions.
723.02 License required.
723.03 License application.
723.04 Issuance of license; fee.
723.05 License regulations.
723.06 Distance from school.
723.07 Giving prizes or awards prohibited. (Repealed)
723.99 Penalty; license revocation.

CROSS REFERENCES

Gambling - see GEN. OFF. Ch. 517
Use of counterfeit coins or slugs - see GEN. OFF. 545.11
Tampering with coin machines - see GEN. OFF. 545.12

723.01 DEFINITIONS.

For the purposes of this chapter:

(a) "Mechanical amusement device" means a machine which, upon the insertion of a coin or slug, operates and may be operated for use as a game, contest or amusement of any description or which may be used for any such game, contest or amusement. (Ord. 54-88. Passed 9-26-88.)

(b) "Juke box" means any music vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening, or by the payment of any price, operates or may be operated for the emission of songs, music or similar amusement. (Ord. 2838. Passed 12-28-59.)

723.02 LICENSE REQUIRED.

No person shall display or exhibit a mechanical amusement device or jukebox within corporate limits without first having obtained a license from the Mayor. A separate license shall be required for each mechanical amusement device or jukebox displayed at any one time. The owner and/or displayer shall be responsible to obtain and display the appropriate license. (Ord. 60-88. Passed 9-26-88.)

723.03 LICENSE APPLICATION.

Application for a license to display a mechanical amusement device or juke box must be made to the Mayor upon such forms as shall be prepared by the Mayor. The application must be made by the owner or proprietor of the business or place at which the mechanical amusement device or juke box is to be displayed. The application shall state the name of the owner of the place or business, the address of the place for which the license is applied, the residence address of the owner, the serial number and name of the manufacturer of the mechanical amusement device or juke box, the owner of such mechanical device or juke box, the name and address of the distributor of the mechanical amusement device or juke

box, the nature of the business in conjunction with which the mechanical amusement device or juke box is to be displayed and such other information as may be required by the Mayor.
(Ord. 2838. Passed 12-28-59.)

723.04 ISSUANCE OF LICENSE; FEE.

Upon approval of the application and upon payment of the annual license fee of twenty-five dollars ($25.00) per machine for mechanical amusement devices and twenty-five dollars ($25.00) per machine for juke boxes, a license to display one mechanical amusement device or juke box shall be issued to the applicant. The license fee shall be for a calendar year beginning January 1 or for any unexpired portion of any such calendar year. Such license shall entitle the licensee to display at or upon the premises therein described only the device which is licensed.
(Ord. 72-99. Passed 11-22-99.)

723.05 LICENSE REGULATIONS.

A separate license shall be required for each and every mechanical amusement device or juke box which is displayed by any person, at any one time, but any licensee may change from the display of one approved mechanical amusement device or juke box to the display of another approved mechanical amusement device or juke box at any time. A license issued under the provisions of this chapter shall not be transferred from one person to another person; but such license may be transferred by the licensee from the place specified in such license to another place owned by such licensee, should the licensee move his business from the address specified in the license to another location. The licensee shall conspicuously display the license issued under the provisions of this chapter.
(Ord. 2838. Passed 12-28-59.)

723.06 DISTANCE FROM SCHOOL.

No license shall be issued for the display of a mechanical amusement device at a place which is within 1,000 feet from any premises occupied by any school building unless it is noted on such license that all children of school age shall be prohibited from playing any licensed mechanical amusement device during the hours and terms within which such child should be in school under the regulations of the New Philadelphia school system.
(Ord. 15-75. Passed 4-14-75.)

723.07 GIVING PRIZES OR AWARDS PROHIBITED. (REPEALED)

(EDITOR'S NOTE: Former Section 723.07 was repealed by Ordinance 54-88, passed September 26, 1988.)

723.99 PENALTY; LICENSE REVOCATION.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars ($50.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition, the Mayor is authorized to revoke any license held by any person convicted of a violation of any provision of this chapter.
(Ord. 2838. Passed 12-28-59.)

CHAPTER 729
Handbills

729.01 License required.
729.02 Fees.
729.99 Penalty.

CROSS REFERENCES

Power to regulate advertising - see Ohio R. C. 715.65
Littering - see GEN. OFF. 521.08
Trespassing - see GEN. OFF. 541.05
Posting bills without consent of owner - see GEN. OFF. 541.04

729.01 LICENSE REQUIRED.

No person, agent or employee of any person shall throw, cast, deposit or distribute any handbill, circular, dodger or placard in or upon any door, doorstep, porch, veranda, ground or premises of any person, or in or upon any automobile, or in or upon the property, streets, avenues or alleys of the City for the purpose of advertising any entertainment, show, theater, wares or merchandise of any kind, unless such person has first obtained a license from the Mayor. (Ord. 1829. Passed 4-9-34.)

729.02 FEES.

The Mayor shall issue an annual handbill license upon the payment by the applicant of a fee of ten dollars ($10.00); or upon application, the Mayor shall issue a license at the rate of two dollars ($2.00) for each distribution made by the applicant. The Mayor shall have absolute discretion in the issuance of such a license, having due regard for the right of privacy of the residents of the City, and the merit and method of such advertising.
(Ord. 2858. Passed 3-14-60.)

729.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars ($100.00) for each offense.
(Ord. 1829. Passed 4-9-34.)

CHAPTER 735
Junk Yards

735.01 Fence required.
735.02 Fences to be safe; gates.
735.99 Penalty.

CROSS REFERENCES

Power to regulate secondhand dealers - see Ohio R.C. 715.61
State licensing and required fencing of junk yards - see Ohio R.C. 4737.05 et seq.
Abandoned junk motor vehicle on private or public property - see TRAF. 303.09
Fences - see GEN. OFF. 521.07

735.01 FENCE REQUIRED.

All owners, proprietors, lessees, tenants or any persons, partnerships and corporations who have under their direction and control any premises used for the purpose of accumulating or storing any and all waste or scrap materials, including scrap metal, wrecked cars and parts thereof, waste paper and any and all waste materials generally classed as junk, shall fence and enclose such premises by a substantial fence. Such fence, abutting or facing public streets, alleys and thoroughfares, shall be frame or metal construction, at least six feet in height and shall be semisolid with the proportion of open spaces to closed spaces at three inches to four inches. Such premises shall be fenced by frame or metal construction or by woven wire or cyclone fencing around all other parts of such premises not abutting or facing public streets, alleys or thoroughfares. All such material as herein defined shall be kept within the confines of such fence. In the event that one or more yards owned, occupied or controlled by a single proprietor or lessee are separated by public streets, alleys, drives or any public thoroughfares, such premises so abutting, fronting or adjoining public ways shall each be separately and completely enclosed by the six foot fence herein specified.
(Ord. 2752. Passed 8-26-57.)

735.02 FENCES TO BE SAFE; GATES.

Fences required by Section 735.01 must be of a substantial nature so that they will not constitute a hazard to children or persons using the streets of the City. The fences shall have no openings except for necessary gates suitable for business purposes. Gates so provided shall be securely closed and locked when the premises are not open for business.
(Ord. 2752. Passed 8-26-57.)

735.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars ($50.00) and costs for each day that the violation occurs or continues.
(Ord. 2752. Passed 8-26-57.)

CHAPTER 753
Peddlers, Solicitors and Canvassers

753.01 Definitions.
753.02 Permit required.
753.03 Permit fee, term.
753.04 Application information.
753.05 Investigation.
753.06 Change in application information must be reported.
753.07 Permit may be suspended or revoked.
753.08 Restrictions.
753.09 Trespassing in violation of posted signs.
753.10 Selling furniture, appliances from vehicles.
753.99 Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61 et seq.
Handbill license - see BUS. REG. Ch. 729
Home solicitation sales - see Ohio R.C. 1345.21 et seq.
Charitable solicitations - see Ohio R.C. Ch. 1716
Trespassing - see GEN. OFF. 541.05
Stands prohibited on sidewalks - see Ohio R.C. 2923.22

753.01 DEFINITIONS.

As used in this chapter:

(a) "Solicitor", "canvasser", "salesman" or "peddler", terms which may be used interchangeably, mean any person who solicits funds for any purpose whatsoever, or who sells or offers for sale within the City any goods or chattels of any kind or description by the use of the telephone, by going door-to-door, or from place to place through the streets of the City, taking such goods or chattels with him, or who sells by subscription or by taking orders for future delivery by any means whatsoever. This definition does not apply to: persons selling agricultural articles or products offered for sale by the producer; to local established service, fraternal, or charitable organizations; to minors under the age of eighteen, unless the same are employed by those to whom this definition does apply; or to newspapers of general circulation in the City; to school children; to political candidates or their representatives; or to public utilities operating in the City.

(b) "Solicitor's permit" means the person required by Section 753.02.

(Ord. 20-2009. Passed 6-22-09.)

753.02 PERMIT REQUIRED.

No person, corporation, association or any other group of persons, whether organized for profit, charitable purposes, or any other purpose, shall solicit for funds, sell by means of telephone calls, door-to-door canvassing or solicitation, or from a space or site temporarily rented, leased or used with the owner's expressed permission, without a solicitor's permit from the City. (Ord. 20-2009. Passed 6-22-09.)

753.03 PERMIT FEE; TERM.

(a) A solicitor's permit shall be issued by the Mayor upon filing with the Mayor a completed application for a permit at least three working days before, and not more than thirty calendar days prior to, the issuance date of the permit, and by paying at that time the permit fee shown on the following schedule:

Nature of Operation	Fee
Door-to-door	$30.00
Truck or other street vehicle	$30.00
Push or pedal cart	$30.00
Fixed but temporary location	$30.00

(b) The applicable fee shall be paid for each and every person, vehicle, car, or location being used by the permit applicant to transact business in the City.

(c) The permit shall be issued after compliance by the applicant with the provisions of this chapter, and shall be valid for a period of not more than thirty days.

(d) Permits shall be limited to a single issuance during any calendar year unless an exception is granted by the Mayor.

(e) Permits may not be transferred from the original applicant to any other party.

(f) Refunds on issued permits will not be permitted for any reason.
(Ord. 20-2009. Passed 6-22-09.)

753.04 APPLICATION INFORMATION.

The application for a solicitor's permit must contain the following information and be properly sworn to under oath according to law:

(a) The specific purpose or purposes of the solicitation, canvassing or selling;

(b) The names, addresses and telephone numbers of all persons connected in any way whatsoever with the solicitation, canvassing or selling, including all persons, corporations or associations who are to participate in any division of, or proceeds from, the solicitation, and the names, addresses and telephone numbers of all the solicitors, and/or sponsors;

(c) The percentage distribution to be made of funds collected, including the intermediate and ultimate use of all funds so collected; fees charged by the solicitors and/or managers of the solicitation, and the names, addresses and telephone numbers of all solicitors and/or managers collecting the funds;

(d) A financial statement of each of the sponsors, solicitors, salesmen, employers, managers and/or supervisors of solicitors within the City. The financial statement shall be complete, current and not older than sixty days preceding the date of the filing of the application;

(e) The permanent address of the manufacturer, distributor, sales agency, and any and all other persons, corporations or associations responsible for the quality of the merchandise sold and responsible for all of the representations made by the salesmen to the public of the products being sold;

(f) A copy of any and all written contract forms, agreements, or printed material of any kind and nature which are to be used in the soliciting or selling;

(g) The applicant for a solicitor's permit must show proof of registration with the Income Tax Administrator of the City confirming arrangements for payment of the City Income Tax on all income earned within the City if the permit request is for twelve (12) days or more in duration.

(h) Charitable, religious and not-for-profit organization applicants, must show IRS approved proof of their tax exempt status if the permit duration is for twelve (12) days or more.

(Ord. 20-2009. Passed 6-22-09.)

753.05 INVESTIGATION.

The Mayor shall, if necessary to compel compliance with the application requirements for a solicitor's permit, conduct investigations or inquiries for that purpose and shall have the full power to subpoena any witness or other persons connected in any way with the solicitation. Failure of any person so subpoenaed or requested to appear for inquiry by the Mayor shall be sufficient grounds for the refusal of the permit by the Mayor.
(Ord. 20-2009. Passed 6-22-09.)

753.06 CHANGE IN APPLICATION INFORMATION MUST BE REPORTED.

If, during the period for which a solicitor's or peddler's permit is issued, and while the solicitation is taking place, any fact set forth on the permit application is changed in any material way, such change shall be filed with the Mayor within one day after such change has taken place. Failure to do so on the part of the applicant shall immediately void the permit and no further permit shall be issued under the original application.
(Ord. 20-2009. Passed 6-22-09.)

753.07 PERMIT MAY BE SUSPENDED OR REVOKED.

The Mayor may suspend a solicitor's permit during its effective period upon evidence furnished by any resident of the City called upon by the permit holder, or by any persons included in the permit, as to any misrepresentation or undue pressure being applied to the resident by a salesman or solicitor, and the suspension shall continue until such time as such accusation has been investigated by the Mayor. Upon the completion of the investigation, at his discretion, the Mayor may permanently revoke the permit in order to protect the residents of the City from misrepresentations and/or undue pressure.
(Ord. 20-2009. Passed 6-22-09.)

753.08 RESTRICTIONS.

Every person to whom a permit is issued under the terms of this chapter shall be governed by the following rules and regulations:

(a) All circulars, samples, or other matter, shall be handed to an occupant of the property or left in a secure place on the premises.

(b) No person subject to the provisions of this chapter shall canvass, solicit, peddle or otherwise solicit except between the hours of 9:00 a.m. and 5:00 p.m. Monday through Saturday. No solicitor shall canvass, peddle or otherwise sell on legal State or national holidays.

(c) No solicitor shall enter, nor attempt to enter, the dwelling of any resident within the City without an express invitation of the occupant of that dwelling.

(d) No person subject to the terms of this chapter shall make any false, fraudulent, misleading, or deceptive statements during the course of that person's activity within the City.

(e) No person subject to this chapter shall make any solicitation where solicitors are notified by sign that soliciting is prohibited as provided in Section 753.09.

(f) No person subject to this chapter shall engage in any business other than that which is specified on the permit.

(Ord. 20-2009. Passed 6-22-09.)

753.09 TRESPASSING IN VIOLATION OF POSTED SIGNS.

No person shall engage in any profit or non-profit solicitation, shall knock at the door, nor ring the bell of any home, apartment, apartment building, dwelling or business establishment in the City upon which is displayed at the entrance a notice which reads "No Peddlers or Solicitors Allowed", or which otherwise clearly purports to prohibit solicitors on the premises, unless such solicitor is, or has been, invited upon the premises by the owner, lessee or occupant thereof.

(Ord. 20-2009. Passed 6-22-09.)

753.10 SELLING FURNITURE, APPLIANCES FROM VEHICLES.

(a) Every person, firm or corporation, who temporarily rents, leases, uses or has special permission to use a space or site to sell products or merchandise from a vehicle or mobile unit shall pay a monthly license in the sum of one hundred fifty dollars ($150.00) for one location in the City where the property will be sold, and seventy-five dollars ($75.00) monthly license for each additional place in the City where such property will be sold.

(b) Before the issuance of the license, the Mayor shall require the applicant to make application for the license, setting forth the applicant's full and correct name, street and post office address, and stating the place, or places, in the City where the goods will be offered for sale from a truck or mobile unit.

(c) Any person, firm or corporation who shall sell at retail, or offer to sell at retail, any of the property hereinabove described in subsection (a) hereof without proper license shall be guilty of a criminal offense against the City and upon conviction shall be fined not more than one thousand dollars ($1,000). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(d) Regardless of any other provisions of this chapter, the vendors regulated by this section only need obtain the license required by this section. Where there are any conflicts between this section and this chapter, the provisions of this section shall prevail.

(e) Permits shall be limited to a single issuance during any calendar year unless an exception is granted by the Mayor.
(Ord. 20-2009. Passed 6-22-09.)

753.99 PENALTY.
(a) Whoever violates any provision of this chapter shall be fined not less than fifty dollars ($50.00) for the first offense, and not less than one hundred dollars ($100.00) for the second and subsequent offenses.

(b) If one of multiple individuals listed on a permit violate any provision of this chapter, the fine prescribed by this article shall be increased by the multiple of the number of individuals soliciting under that permit or operating under that common cause.
(Ord. 20-2009. Passed 6-22-09.)

CHAPTER 759
Shows and Exhibitions

759.01 Definitions.
759.02 Permit required.
759.03 Fees.
759.04 Distance from dwellings.
759.05 Utility service charges.
759.06 Moving of show; route to be specified by Mayor.
759.99 Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.48, 715.63, 3765.02
State licensing of portable amusement devices - see Ohio R.C. 1711.11(H)
Obscene or harmful performances - see GEN. OFF. 533.11, 533.12

759.01 DEFINITIONS.

Whenever used in this chapter:

(a) "Circus", in addition to the definition commonly applied thereto, means a traveling show or entertainment which is exhibited under canvas or tents, which usually consists of a menagerie, aerial, acrobatic and animal feats, sideshows and related amusements, and the main attraction of which is normally conducted twice daily.

(b) "Carnival", in addition to the definition commonly applied thereto, means a group of two or more traveling shows, exhibitions, concessions, attractions or amusements usually operated under one sponsorship and exhibited in, on or about the same area, place or space.

(c) "Other show" means any single attraction, museum, show, religious revival or exhibition which is operated exclusively and directly for private gain or profit and which is not conducted in a duly licensed theater or hall, or pursuant to another form of license or permit required by the City.

(Ord. 2838. Passed 12-28-59.)

759.02 PERMIT REQUIRED.

No person shall open, conduct, operate or exhibit a circus, carnival or other show without first having obtained a permit from the Mayor and having paid the permit fee. (Ord. 2838. Passed 12-28-59.)

759.03 FEES.

Permits required by Section 759.02 shall be issued only upon payment in advance to the Mayor of the appropriate fee in accordance with the following schedule:

For each circus for each twenty-four hour day during which the same is maintained for exhibition: $100.00

For each carnival for each twenty-four hour day during which the same is maintained for exhibition: $25.00

For each other show for each twenty-four hour day during which the same is maintained for exhibition: $15.00

For each parade of any circus, carnival or other show, the route, nature and extent of which shall be designated by the Chief of Police and approved by the Mayor: $15.00. (Ord. 2838. Passed 12-28-59.)

759.04 DISTANCE FROM DWELLINGS.

No person shall hold, maintain or operate a carnival or other similar exhibition of a public nature, or rent, lease or hire any ground for such purpose, within a radius of 500 feet of any inhabited dwelling in the City. (Ord. 983. Passed 10-15-20.)

759.05 UTILITY SERVICE CHARGES.

No permit fee shall be deemed to include any charge of the City for water or other utility service furnished by it to any circus, carnival or other show. (Ord. 2838. Passed 12-28-59.)

759.06 MOVING OF SHOW; ROUTE TO BE SPECIFIED BY MAYOR.

Whoever obtains a permit required by Section 759.02 shall, if he desires to move any part of such show or exhibition, or the property thereof over any portion of a paved street or cement crosswalk, first apply to the Mayor for permission to do so. The Mayor shall designate in writing the route over which the show or exhibition or property thereof shall be taken and specify the methods to be employed by such person to prevent injury to the pavement or crosswalk. (Ord. 2838. Passed 12-28-59.)

759.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than thirty days, or both. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 2838. Passed 12-28-59.)

CHAPTER 765
Soft Drinks

765.01 License required.
765.02 Fee.
765.03 Denial of license.
765.04 Revocation of license.
765.99 Penalty.

CROSS REFERENCES
Definitions - see Ohio R. C. 913.22
Soft drink labeling and adulteration - see Ohio R. C. 913.25 et seq.

765.01 LICENSE REQUIRED.
No business establishment shall be operated, maintained or conducted where soft drink beverages are sold or offered for sale unless an annual license is first obtained from the Mayor. Such a license shall expire on December 31 of each year.
(Ord. 2838. Passed 12-28-59.)

765.02 FEE.
The fee for a soft drink license shall be five dollars ($5.00).
(Ord. 76-88. Passed 11-28-88.)

765.03 DENIAL OF LICENSE.
The Mayor may refuse to issue a soft drink license to any person of bad moral character or who has been convicted of an offense under any ordinance of the City or law of the State. (Ord. 2838. Passed 12-28-59.)

765.04 REVOCATION OF LICENSE.
The Mayor may revoke the soft drink license of any licensee who has violated any provision of this chapter, the ordinances of the City or laws of the State.
(Ord. 2838. Passed 12-28-59.)

765.99 PENALTY.
Whoever violates any provision of this chapter shall be fined not more than fifty dollars ($50.00) for the first offense, and for the second or subsequent offense not more than five hundred dollars ($500.00).
(Ord. 2838. Passed 12-28-59.)

CHAPTER 767
Tattooing/Body Piercing

767.01 Definitions.
767.02 Board of Health approval.
767.03 Fees.
767.04 General safety and sanitation standards.
767.05 Additional requirements for tattoo services.
767.06 Additional requirements for body piercing services.
767.07 Ear piercing gun standards.
767.08 Sterilization and disinfection procedures of tattoo and body piercing services.
767.09 Denying, suspending and revoking approvals.
767.10 Variance provision.
767.99 Penalty.

767.01 DEFINITIONS

(a) "Antibacterial" means a substance which inhibits and reduces the growth of bacteria.

(b) "Approval" means written approval from the New Philadelphia City Board of Health indicating that the tattoo and body piercing establishment has been inspected and meets all terms of this chapter.

(c) “Board of Health" means the Board of Health of the City of New Philadelphia, Ohio.

(d) “Body piercing" means the piercing of any part of the body by someone other than a physician licensed under Chapter 4731 of the Ohio Revise Code, who utilizes a needle or other instrument for the purpose of inserting an object into the body for non-medical purposes; body piercing includes ear piercing except when the ear piercing procedure is performed on the ear with an ear piercing gun.

(e) "Body piercing establishment" means any place whether temporary or permanent, stationary or mobile, wherever situated, where body piercing is performed including any area under the control of the operator.

(f) "Braiding" means the cutting and lifting of two or more strips of skin left attached at one end, then braided and packed close to the body, creating a scar resembling a braid.

(g) "Branding" means scarification through the application of a heated material (strike, cautery, laser), chemical agent, freezing agent to the skin, creating serious burns which eventually results in scarification.

(h) "Business" means any entity that provides tattoo, body piercing or tattoo and body piercing services for compensation.

(i) "Chemical rubbing" means that various chemicals/dyes are rubbed into traditional cuttings to induce exaggerated scarification.

(j) “Cutting" means a design cut into the skin or other soft tissue using a sharp blade, leaving scarification.

(k) “Custodian" has the same meaning as in Section 2151.011 of the Ohio Revised Code.

(l) “Cut and clamp” means clamping a small piece of skin, then cutting it off. Biopsy punches.

(m) “Disinfection” means a process that kills or destroys nearly all disease-producing microorganisms, with the exception of bacterial spores.

(n) "Ear piercing gun” means a mechanical device that pierces the ear by forcing a disposable, single-use stud or solid needle through the ear.

(o) "Guardian" has the same meaning as in Section 2111.01 of the Ohio Revised Code.

(p) “Health Commissioner” means the Health Commissioner of the New Philadelphia City Health District or her/his authorized representative.

(q) "Infectious waste" means waste as defined in Section 3734.01 of the Ohio Revised Code.

(r) “Injection scarification” means the injecting of chemicals under the skin to create blisters forming a permanent scarification.

(s) “Implant” means any object implanted fully under the skin.

(t) “Operator” means any person, firm, company, corporation or association that owns, controls, operates, conducts or manages a tattoo or body piercing establishment.

(u) "Packing" means cutting the skin on an angle and packing wounds with a relatively inert material to create scarification.

(v) "Patron" means a person requesting and receiving body piercing or tattooing services or ear piercing services by an ear piercing gun.

(w) "Premises" means the physical location of a body piercing establishment or tattoo establishment.

(x) "Skinning" is the removal of pieces of skin to create scarification.

(y) "Sterilize" means a process by which all forms of microbial life, including bacteria, viruses, spores and fungi are destroyed.

(z) "Stretching" means the stretching of a piercing, particularly of earlobes and nasal septum.

(aa) "Tattoo" means any method utilizing needles or other instruments by someone other than a physician licensed under Chapter 4731 of the Ohio Revised Code, to permanently place designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of a person with ink or any other substances resulting in an alteration of the appearance of the skin. (Ord. 36-2004. Passed 7-12-04.)

767.02 BOARD OF HEALTH APPROVAL

(a) No person, firm, association or corporation shall construct, install, operate, equip or extensively alter a business offering tattoo or body piercing services until the plans thereof have been submitted to and approved in writing by the New Philadelphia City Health District. When such plans are submitted to the New Philadelphia City Health District, the plans shall be acted upon within 30 days after the date of the receipt.

(b) Persons seeking approval to operate a business offering tattooing, body piercing or tattooing and body piercing services shall supply the New Philadelphia City Board of Health such information as requested on forms the Board shall prescribe and provide. The applicant shall submit all applicable fees and information the Board of Health determines is necessary to process the application. Information requested by the Board of Health as part of the application process shall include, but not be limited to the following;

(1) If the operator is an individual, his or her name, address, telephone number, business address, business telephone number and occupation. If the operator is an association, corporation, or partnership, the address and phone number of the entity and the name of every person who has an ownership interest of five percent or more in the entity;

(2) If the operator does not own the place of business, or if he or she owns only part of the place of business, the name of each person who has an ownership interest of five percent or more in the business;

(3) Statement of attestation that the operator intends to comply with all requirements established by Sections 3730.01 to 3730.11 of the Ohio Revised Code and this chapter.

(4) Plans and specifications of the place of business to clearly show that applicable provisions of this chapter can be met and shall include the following:

A. The total area to be used for the business;
B. Entrances and exits;
C. Number, location and types of plumbing fixtures, including all water supply facilities;
D. A lighting plan;
E. A floor plan showing the general layout of fixtures and equipment;
F. Listing of all equipment to be used;

(5) Evidence that the operator shall perform the following functions:

A. The operator shall maintain procedures ensuring that all persons performing body piercing or tattooing services on the business premises have received appropriate training in tattooing or body piercing, as evidenced by:
1. Records of completion of courses or seminars in tattooing or body piercing offered by authorities recognized by the Board of Health as qualified to provide such instruction;
2. Written statements of attestation by individuals offering tattoo or body piercing apprenticeships that the person has received sufficient training of adequate duration to competently perform tattoo or body piercing services; or
3. Other documentation acceptable to the Board of Health.

B. The operator shall maintain procedures ensuring that all persons performing tattooing or body piercing services for the business shall have received training, as evidenced by records of completion, courses or seminars provided by licensed physicians, registered nurses, organizations such as the American Red Cross, accredited learning institutions, appropriate government entities, or other authorities recognized by the Board of Health as being qualified to provide training in the following:
1. First Aid;
2. Safety and sanitation requirements for preventing transmission of infectious diseases;
3. Universal precautions against bloodborne pathogens;
4. Appropriate tattoo and piercing aftercare.

C. The operator shall maintain written records of equipment utilized by the business, including manufacturer and model numbers.

D. The operator shall maintain procedures acceptable to the Board of Health ensuring that persons performing tattooing or body piercing services on the premises of the business shall disinfect and sterilize all non-disposable equipment or parts of equipment used in performing procedures, by utilizing methods meeting disinfection and sterilization requirements in accordance with Section 767.08.

E. The operator shall maintain procedures ensuring the performance of weekly biological monitoring tests of the business's heat sterilization devices, to ensure that the devices thoroughly kill microorganisms. In accordance with division (A)(5) of Section 3730.09 of the Ohio Revised Code. These procedures shall include:

1. Maintenance of a log of all tests performed, the date of each test and the name of the person or independent testing entity performing the test; and
2. Procedures for remedial action on the part of the operator to assure compliance with all sterilization requirements in accordance with Section 767.08 , in the event a test indicates a health sterilization device is not functioning properly.

F. The operator shall maintain procedures ensuring the general health and safety of all individuals employed by the business.

G. For each tattoo service performed by the business, the operator shall maintain a written record of dye colors, manufacturer, and any available lot number or other identifier of each pigment used.

(6) The operator shall identify any previous, current of similar approvals held by the operator for tattooing and piercing services.

(7) The operator shall provide evidence and documentation of all applicable fee payments, inspections and approvals required by this chapter and shall post current approval in a conspicuous manner on the business premises.

(c) The New Philadelphia, Ohio, City Board of Health shall conduct at least one inspection of a business prior to approving it under Section 3730.03 of the Ohio Revised Code and this chapter. The Board may conduct additional inspections as necessary for the approval process.

(d) If the New Philadelphia City Board of Health determines, following an inspection conducted in accordance with Section 3730.04 of the Ohio Revised Code and this chapter, that a business meets the requirements for approval shall approve the business. Approval remains valid for one year, unless earlier suspended or revoked under Section 3730.05 of the Ohio Revised Code and Section 767.09. All permits issued by the New Philadelphia, Ohio, City Board of Health to operate a tattoo or body piercing establishment shall expire on December 31 of each year.

(e) In accordance with Section 3730.04 of the Ohio Revised Code and this chapter, the operator shall give the Board of Health access to the business premises and to all records relevant to an inspection. At least one inspection per year shall be conducted by the New Philadelphia, Ohio City Board of Health.

(f) Approval is not transferable. Any permanent change in address or change in ownership shall require the operator to apply for approval, with payment of all fees established by the Board of Health.

(g) The Board of Health in the jurisdiction in which a tattoo or body piercing business shall operate may approve such business for the purposes of operating on a time-limited basis in conjunction with a specific event. Time-limited piercing and tattooing establishments may be permitted at such events as fairs and other time-limited gatherings of people, if the Board of Health determines that the operator can substantially meet provisions contained in this chapter. For the purpose of this approval, the following shall occur:

(1) Businesses having current approval from the Board of Health shall apply for time limited approval from the Board of Health in the jurisdiction in which a specific time-limited event shall take place. The applicable Board of Health may accept the business's current approval as evidence of substantial compliance with provisions contained in these rules. While accepting the approval of another Board of Health, the Board of Health in the jurisdiction in which a tattoo or body piercing business time-limited approval shall conduct an inspection of the site in which the operator intends to conduct the time-limited business to ensure that local standards will be met.

(2) Businesses which do not have current approval from a Board of Health, or Ohio businesses in jurisdictions from which approval is not accepted by the Board of Health in which time-limited approval is being sought, shall apply for time-limited approval from the Board of Health in the jurisdiction in which a specific, time-limited event shall take place. The applicant shall submit all applicable fees and information the Board of Health determines necessary to process the application.

A. Information requested shall assure the Board of Health being requested for time-limited approval that the business is capable of meeting the provisions of these rules.

B. The approval of a business may be renewed annually by the New Philadelphia, Ohio, City Board of Health upon assurance that all conditions set forth by Sections 3730.01 to 3730.11 of the Ohio Revised Code and this chapter have continued to be met and the payment of fees set by the Board have been received on or before December 31st of each year.

(Ord. 36-2004. Passed 7-12-04.)

767.03 FEES.

(a) The application and annual renewal fees for tattoo and body piercing businesses shall be established by the New Philadelphia, Ohio, City Board of Health within the following parameters:

(1) No fee shall exceed the total cost to the Board of Health to process the application, inspect the business, maintain appropriate records pertaining to the establishment, provide to the operator an approval document for display and provide other services deemed necessary by the Board to maintain the public health and safety. The owner, proprietor or manager of the establishment shall keep a copy of this chapter posted in a conspicuous place visible to the patrons in the tattoo and/or body piercing establishment. Such copy shall be supplied by the New Philadelphia City Health District.

(2) All fees collected by the Board of Health shall be deposited into the health fund of the New Philadelphia City Health District. The fees shall be used solely for the purpose of implementing and enforcing Sections 3730.01 to 3730.11 of the Ohio Revised Code and this chapter.

(3) Each fee established by the Board of Health pursuant to Section 3709.09 of the Ohio Revised Code shall be specified in accordance with the following categories:
A. Tattooing services;
B. Body piercing services;
C. Combined tattooing and body piercing services;
D. Time-limited approval for a specific event.

(b) The Board of Health shall utilize data from the previous year or approval period to determine the factors specified in this rule to calculate the actual cost of administering and enforcing Sections 3730.01 to 3730.11 of the Ohio Revised Code and the rules of this chapter pertaining to tattooing and body piercing. In the absence of such data, the Board of Health shall use reasonable estimates to provide information to determine the following:

(1) The percentage of time worked in the tattooing and body piercing program by each inspecting staff person employed by the Board of Health shall be calculated by dividing the amount determined in subsection (b)(1)B. hereof by the amount calculated in subsection (b)(1)A. hereof.
A. Total hours worked in the tattooing and body piercing program by each inspecting staff person;
B. The total hours for which each inspecting staff person was paid in the last year;

(2) The total annual wages or salary paid to each inspecting staff person;

(3) The total amount for fringe benefits paid on behalf of each inspecting staff person;

(4) The total travel costs for each inspecting staff person;

(5) The support costs for the program as determined by one of the following methods;
A. Uses of actual support cost items attributable to the tattooing and body piercing program which may include, but are not limited to, the salary and fringe benefits of the health commissioner, the director of environmental health, the director of nursing, supervisory staff, clerical staff, utilities, rent, supplies, equipment, liability insurance and training;
B. Use of an indirect cost rate of a percentage, determined by the Board, of the wages or salaries and fringe benefits of inspecting staff persons attributable to the tattooing and body piercing program. The wages or salaries and fringe benefits of inspecting staff persons attributable to the tattooing and body piercing program shall be determined for each staff person under subsections (b)(3) and (b)(4) hereof by the percentage for that staff person determined under subsection (b)(1) hereof and adding the products;
C. Application of a negotiated indirect cost rate and calculation method approved by an agency of the federal government for the local health district to the tattooing and body piercing program.

(c) The costs for the tattooing and body piercing program may also include, but are not limited to, the amounts of any known or anticipated increases in costs or expenses for such items as rent, utilities, equipment and personnel.

(d) The Board of Health in the jurisdiction in which a tattoo or body piercing business seeks time limited approval shall take into consideration the acceptance of another jurisdiction's approval and the number of similar inspections requested within a specific venue when determining an appropriate inspection fee.

(e) The total tattooing and body piercing program costs shall be calculated in the following manner:

(1) For each inspecting staff person, multiply the amount of total annual wages or salary determined under subsection (b)(2) hereof by the percentage determined pursuant to subsection (b)(1) hereof.

(2) For each inspecting staff person, multiply the fringe benefits determined under subsection (b)(3) hereof by the percentage determined pursuant under subsection (b)(1) hereof.

(3) For each inspecting staff person, multiply the total travel costs determined under subsection (b)(4) hereof by the percentage determined pursuant to subsection (b)(1) hereof. As an alternative, the actual travel cost for each inspecting staff person attributable to the tattooing and body piercing program may be used.

(4) Add the amounts determined under subsection (b)(5) and (c) hereof to the totals calculated in subsection (e)(1), (e)(2) and (e)(3) hereof. This total is the cost for the tattooing and body piercing program.

(Ord. 36-2004. Passed 7-12-04.)

767.04 GENERAL SAFETY AND SANITATION STANDARDS.

(a) A business offering tattoo or body piercing services shall comply with the following provisions:

(1) Any person operating tattoo or body piercing services shall not perform any of the following:

A. Skin stretching;
B. Implants;
C. Cutting;
D. Branding;
E. Injection scarification;
F. Braiding;
G. Skinning;
H. Packing;
I. Chemical rubbing;
J. Cosmetic tattooing: Unless it is performed only under the orders and direct supervision of a Medial Physician currently licensed to practice medicine in the State of Ohio.

(2) The premises in which tattooing or body piercing is conducted shall have an area of at least one hundred fifty (150) square feet. The floor space for each individual performing tattoo or body piercing services shall have an area of at least one hundred (100) square feet. These areas shall be separated from each other and from waiting patrons or observers by a panel or door. Complete privacy shall be available upon a patron's request.

(3) The entire procedure room and equipment shall be maintained in a clean, sanitary condition and in good repair.

(4) The tattoo or body piercing business shall be equipped with artificial light sources equivalent to at least twenty (20) foot-candles at a distance of thirty (30) inches above the floor throughout the establishment. A minimum of forty (40) foot candles of light shall be provided at the level where the tattooing or body piercing is being performed. Spotlighting may be used to achieve this required degree of illumination.

(5) The floors, walls and ceilings in a room used for tattooing or body piercing activities shall be an impervious, smooth, washable surface; have a minimum dimension of ten feet by ten feet and shall be maintained in a sanitary manner at all times.

(6) All tables and other equipment shall be constructed of easily cleanable material, with a smooth, washable finish.

(7) Restroom facilities shall be made available to the employees and customers of the business and must be located within the establishment. The restroom shall be accessible at all times the business is open for operation. The restroom shall be equipped with a toilet, toilet paper installed in a holder, lavatory supplied with hot and cold running water, liquid or granulated soap and single-use towels. Equipment and supplies used in the course of tattoo or body piercing services or disinfection and sterilization procedures shall not be stored or utilized within the restroom.

(8) A lavatory or hand washing sink, with hot and cold running water, liquid or granular soap, and single-use towels shall be located in close proximity of each individual performing tattoo or body piercing procedures.

(9) There shall be no overhead or otherwise exposed sewerage lines so as to create a potential hazard to the sanitary environment of the business.

(10) Sufficient and appropriate receptacles shall be provided for the disposal of used gloves, dressings, and other trash. Each receptacle shall have a lid and be kept closed at all times while not in use.

(11) The operator shall not allow live animals to enter areas used for tattoo or body piercing procedures. This requirement does not apply to patrol dogs accompanying security or police officers, guide dogs, or other support animals accompanying handicapped persons.

(12) At no time shall food or drink be consumed by the operator in rooms used specifically for tattoo or body piercing services.

(13) Smoking or use of any other tobacco product by the operator or the patron shall not be permitted in rooms used specifically for tattoo or body piercing services.

(14) All water supplies, waste disposal systems, solid waste disposal, and infectious waste disposal shall meet requirements of the Ohio Environmental Protection Agency or the Ohio Department of Health, as appropriate. (Ord. 36-2004. Passed 7-12-04.)

(b) Persons approved to operate a business offering tattoo or body piercing services and persons providing ear piercing services with an ear piercing gun shall comply with the following provisions:

(1) Persons performing the service shall not perform such services if:

A. They are under the influence of any drugs or alcohol;

B. They knowingly have a communicable stage an infectious or contagious disease parasitic infestation, exudative lesions or weeping dermatitis.

(2) In accordance with Section 3730.06 of the Ohio Revised Code, no person shall perform a tattooing procedure or body piercing procedure on an individual who is under eighteen (18) years of age unless consent has been given by the individual's parent, guardian or custodian in accordance with the following:

A. A parent, guardian, or custodian of the individual under age eighteen (18) who desires to give consent to a business to perform on the individual under age eighteen (18) a tattooing procedure, body piercing procedure or ear piercing procedure with an ear piercing gun shall appear in person at the business at the time the procedure is performed and sign a document provided by the business that explains the manner in which the procedure will be performed and methods for proper care of the affected body area following the performance procedure.

(3) Prior to tattooing or body piercing, the operator who will be performing the procedure shall inquire of a patron for conditions which could affect the healing process. The operator shall not perform a tattoo or body piercing procedure on patrons indicating the presence of such a condition without documentation from a licensed physician indicating acceptance of the patient for appropriate care following the procedure. Such conditions may include, but are not limited to, the following:

A. History of Jaundice;

B. History of Lymphadenopathy or Lymphadenitis;

C. History of blood donation exclusion (for other than hypertension or immediate illness);

D. History of AIDS, positive HIV test;

E. History of skin diseases or skin cancer;

F. History of allergies with anaphylactic reactions to needles.

(Ord. 51-2004. Passed 12-27-04.)

767.05 ADDITIONAL REQUIREMENTS FOR TATTOO SERVICES.

In addition to the requirements of Section 767.04(a) and (b), any person operating an approved business offering tattoo services shall comply with the following provisions pertaining to tattoo operations.

(a) Immediately prior to beginning any tattooing procedure, each individual performing the procedure shall wash their hands in hot water with liquid or granulated soap, or equivalent, if approved by the Board of Health. The individual's fingernails shall be kept clean and short.

(b) The individual performing the procedure shall wear a clean new pair of disposable gloves, made of latex or similar material, for each new patron. If the gloves develop a break or tear, or if the individual performing the procedure touches another surface during the course of the procedure, the gloves shall be immediately replaced.

(c) All individuals performing a tattoo procedure who utilize lap cloths shall use a different lap cloth for each person. Lap cloths shall be disposed or laundered after each use.

(d) The individual performing tattooing shall perform the procedure only on a normal, healthy skin surface. No operator shall remove or attempt to remove tattoo marks.

(e) When shaving the site of the tattoo is necessary, the individual performing the procedure shall use:

(1) Separate disposable razors with single service blades for each patron and discard the razor after such use, or

(2) A straight edge razor which shall be disinfected in accordance with the rule 3701-9-08 of the Administrative Code or sanitized in accordance with rule 4709-9-05 of the Administrative Code after use on each patron.

(f) The individual performing the procedure, before shaving the area of the patron's body to be tattooed, shall thoroughly clean the area with antibacterial soap or its equivalent, as approved by the Board of Health. After shaving the area to be tattooed, the individual performing the procedure shall apply seventy percent isopropyl alcohol on the skin with a clean, disposable gauze square, cotton ball or square, or other clean, disposable material.

(g) Only sterile petroleum jelly in collapsible metal or plastic tubes or its equivalent, as approved by the Board of Health, shall be used on the area to be tattooed and shall be applied by use of a single use gauze square, individual cotton ball or square, or single use wooden tongue depressors. Under no circumstances are fingers to be used for this purpose.

(h) No individual performing tattoo services shall use styptic pencils, alum blocks, or other solid styptics to check the flow of blood.

(i) Individuals performing tattoo services shall use only dyes or inks manufactured by an established manufacturer and used as recommended by the manufacturer. Powdered dyes shall be liquefied as recommended by the manufacturer. Unless approved by the manufacturer, dye color shall not be adulterated by the individual performing the service. Single service or individual containers of dye or ink shall be used for each patron and the individual performing the service shall discard the container and remaining dye or ink. If non-disposable containers are used, the operator shall sterilize them before reuse. The individual performing the procedure shall remove excess dye or ink from the skin with single-use gauze squares or other clean, absorbent, disposable material.

(Ord. 11-2013. Passed 7-27-13.)

(j) The individual performing the procedure shall wash the completed tattoo with a single use gauze square or individual cotton ball or square saturated with an antibacterial solution approved by the Board of Health. The tattooed area shall be allowed to dry, after which the individual performing the procedure shall apply to the site antibiotic ointment from a collapsible or plastic tube, or its equivalent, as approved by the Board of Health. The ointment shall be applied by use of a single use gauze square, individual cotton ball or square, or single use wooden tongue depressor. In the case of an antibiotic-sensitive patron, the use of an antibacterial soap on the tattoo site shall be sufficient to meet the purpose of this subsection. The individual performing the procedure shall apply to the site a non-adherent, sterile dressing, or a dressing acceptable to the Board of Health, and secure it with non-allergenic tape. Use of paper napkins and tape for dressing shall not be acceptable.

(k) The operator shall provide each patron with oral and written care instructions following the tattooing procedure.

(l) The operator performing the tattoo service shall maintain a record of service, including the patron's name, address, the date of service, and colors used for the tattoo. The operator shall maintain such record for at least two (2) years. In the event of the closing of the business, all tattoo records shall be made available to the Board of Health.

(m) All obvious injuries or infections directly resulting from the practice of tattooing which are known or become known to the operator shall be reported to the Board of Health by the operator who will immediately advise the patron to seek the services of a physician.

(n) The operator shall comply with applicable standards described in Chapter 3745-27 of the Ohio Administrative Code while disposing of waste items including, but not limited to, needles, razors and other supplies capable of causing lacerations or puncture wounds, generated through the provision of tattooing services.

(o) Operators of an approved business performing tattoo services shall ensure that these services shall not be performed outside the business premises, unless the Board of Health has provided approval for a time limited operation in accordance with Section 767.02.

(p) Solder used for the attachment of needles to the needle bars shall be lead free. (Ord. 36-2004. Passed 7-12-04.)

767.06 ADDITIONAL REQUIREMENTS FOR BODY PIERCING SERVICES.

In addition to the requirements in Section 767.04(a) and (b), any person operating an approved business offering body piercing services shall comply with the following provisions pertaining to body piercing services:

(a) The operator shall ensure that individuals performing body piercing services shall be knowledgeable in appropriate precautions and procedures pertaining to unintentional needle sticks, and shall seek out appropriate medical care in the event of such an accident.

(b) Immediately prior to beginning any body piercing operation, each individual performing the procedure shall wash their hands in hot water with liquid or granulated soap, or equivalent, if approved by the Board of Health. The operator's fingernails shall be kept clean and short.

(c) The individual performing the procedure shall wear a clean, new pair of disposable gloves, made of latex or similar material, for each new customer. Should the gloves develop a break or tear, or if the individual performing the procedure touches another surface during the course of the procedure, the gloves shall be immediately replaced.

(d) Individuals shall perform body piercing services only on normal, healthy skin surface. No procedures shall be done on scar tissue.

(e) Individuals performing the procedure shall use povidone-iodine to thoroughly clean the area of skin to be pierced; or in the case of an iodine-sensitive patron, an antibacterial soap shall be used with a single use gauze square, or individual cotton ball or square. The area shall then be rinsed with a solution such as benzalkanium chloride. While seventy percent isopropyl alcohol may be used to swab the area to be pierced prior to cleaning, it shall not be used as a cleansing agent. In the case of oral piercings, the operator shall provide a patron with antibacterial mouthwash in a single use cup and shall ensure that the patron utilizes the mouthwash provided. In the case of a lip, labret, or cheek piercing, procedures described in this paragraph for both skin and oral piercings shall be followed.

(f) No operator performing body piercing services shall use styptic pencils, alum blocks, or other solid styptics to check the flow of blood.

(g) Operators performing body piercing services shall utilize a single-use, sterile needle for each piercing performed and shall appropriately dispose of the needle after performing each piercing procedure.

(h) Operators performing body piercing services shall install only sterilized jewelry made of 316 low carbon or low carbon vacuum molded surgical implants grade stainless steel, solid 14 karat or 18 karat white or yellow gold, niobium, titanium, platinum, or high density, low-porosity plastic such as acrylic.

(i) The operator shall provide each patron with oral and written care instructions following the body piercing procedure.

(j) The operator performing the body piercing procedure shall maintain a record of service, including the patron's name, address, the date of service, jewelry used including the size, material composition and manufacturer, and placement of piercing. The operator shall maintain such record for at least to (2) years. In the event of the closing of the business, all body piercing records shall be made available to the Board of Health.

(k) All obvious injuries or infections directly resulting from the practice of body piercing which are known or become known to the operator shall be reported to the Board of Health by the operator who shall immediately advise the patron to seek the services of a physician.

(l) The operator shall comply with the applicable standards described in Chapter 3745.27 of the Ohio Administrative Code while disposing of waste items including, but not limited to, needles and other supplies capable of causing lacerations or puncture wounds, generated through the provision of body piercing services.

(m) Operators of an approved business performing body piercing services, other than those utilizing a piercing gun, shall not perform such services outside the business premises, unless the Board of Health has provided approval for a time-limited operation in accordance with Section 767.02(g).

(Ord. 36-2004. Passed 7-12-04.)

767.07 EAR PIERCING GUN STANDARDS

In addition to the requirements in Section 767.04(b), any person operating a business offering ear piercing services with a piercing gun shall comply with the following provisions pertaining to such services:

(a) Ear piercing guns shall be used for ear piercing.

(b) Individuals providing ear piercing services with an ear piercing gun shall be adequately trained to properly use, clean, disinfect and store the ear piercing gun, in accordance with this chapter.

(c) The individual performing the procedure shall wear a clean, new pair of disposable gloves made of latex or similar material for each piercing performed.

(d) The ear piercing gun shall be cleaned and disinfected between uses on each patron, by utilizing the following methods:

(1) If the piercing gun utilizes a reusable needle, the needle shall be removes, cleaned, and sterilized, using procedures described in Section 767.08. The piercing gun shall then be placed in an ultrasonic type device, or scrubbed with an anti-bacterial detergent and brush to remove any foreign matter; or

(2) lf the piercing gun, or other than that described in subsection (c)(3) hereof, utilizes disposable, single-use, sterilized studs to pierce the ear, after each use of the gun, the piercing gun shall be placed in an ultrasonic-type device, or scrubbed with an anti-bacterial detergent and brush to remove foreign matter; or

(3) If the piercing gun is designed so that all parts of the gun that touch the patron's skin are disposable, such parts shall be removed from the gun and disposed of in an appropriate receptacle; and

(4) Following initial cleaning procedures appropriate for the type of ear piercing gun used, as described in subsection (d)(1), (d)(2) and (d)(3) hereof, the ear piercing gun shall be thoroughly wiped down with an appropriate disinfectant in accordance with directions for use from the manufacturer of the disinfectant; and

(5) In the case of a visible exposure of the gun to blood, the individual performing the service shall immediately:

A. Place the gun in a rigid, tightly closed container, before returning the gun to the manufacturer, in accordance with instructions provided by the manufacturer; or

B. Sterilize the gun in accordance with Section 767.08; or

C. Discard the gun in accordance with Chapter 3745-27 of the Ohio Administrative Code.

(e) The ear piercing gun shall be stored in a covered container, or cabinet, when not in use.

(f) Prior to performing an ear piercing procedure with an ear piercing gun, the individual offering the service shall inform all patrons requesting such services of the frequency and method utilized to disinfect and sterilize all equipment used in the ear piercing procedure and the extent to which the methods used destroy disease-producing microorganisms.

(Ord. 36-2004. Passed 7-12-04.)

767.08 STERILIZATION AND DISINFECTION PROCEDURES OF TATTOO AND BODY PIERCING SERVICES.

(a) The operator shall keep all tubes, needle bars and other sterilized pieces of equipment in the wrappers or sterilizer bags used during sterilization. The operator shall store these wrapped articles in a clean, closed case or storage cabinet while not in use. The operator shall maintain such case or cabinet in a sanitary manner at all times. The operator shall keep all instruments, tubes, needles, and other items used in tattooing or body piercing procedures free of all contamination and shall not remove the wrappers or sterilizer bags until immediately prior to use.

(b) The individual performing the service shall use all tattoo needles or instruments intended to penetrate the skin only once and dispose of them, or thoroughly clean and sterilize them after each use. The individual performing the service shall use instruments not intended to penetrate the skin, but which may become contaminated, only once and dispose of them, or thoroughly clean and sterilize them after each use.

(c) The operator shall place all used, nondisposable instruments in an ultrasonic-type machine to remove excess dye or other matter from the instruments; or the operator shall immerse nondisposable instruments for at least twenty (20) minutes in a disinfectant solution registered with the United States Environmental Protection Agency as a hospital disinfectant before the operator proceeds to scrub the instruments. When this process is completed, the operator shall place the instruments into either a covered container or into a wrapper designed or suitable for steam sterilization. The operator shall daily sanitize the ultrasonic-type unit with a germicidal solution.

(d) The operator shall provide a steam sterilizer (autoclave) for sterilizing all needles and similar instruments before use on any patron. Alternate sterilizing procedures may be used when specifically approved by the Board of Health. Sterilization of instruments will be accomplished in the autoclave by exposure to steam for at least fifteen (15) minutes at a minimum pressure of fifteen (15) pounds per square inch, a temperature of two hundred fifty (250) degrees Fahrenheit or a hundred twenty one (121) degrees Celsius.

(e) The operator shall monitor and document the sterilizing function of all sterilizers as follows:

(1) The operator shall use autoclave sterilization bags, with a process indicator which changes color upon proper steam sterilization, during the autoclave sterilization process.

(2) The operator shall monitor each sterilizer load by the use of a sterilization indicator that ensures that minimum conditions exist to achieve sterilization through appropriate levels of:

A. Pressure of saturated steam;

B. Temperature of exposure;

C. Exposure time.

(3) The operator of the sterilizer shall follow the manufacturer's use instructions for the sterilizer and the sterilization indicator being used. Further, the operator shall maintain the sterilizer in serviceable condition and keep a record of any maintenance performed for at least two (2) years.

(4) If the sterilization indicator demonstrates that sterilization has been achieved, the operator may place the contents of the packaged unit in inventory.

(5) If the sterilization indicator demonstrates that sterilization has not been achieved, the operator shall not use the sterilizer further. The operator shall have the sterilizer examined to determine the malfunction and shall have the sterilizer repaired or replaced.

(6) The operator shall maintain a log for a period of at least two (2) years, of date, time, the name of the person or independent testing entity performing the test and sterilization indicator results for all needles and instruments used. The operator shall also keep this record in each client file for all needles and instruments used on that client.

(Ord. 36-2004. Passed 7-12-04.)

767.09 DENYING, SUSPENDING AND REVOKING APPROVALS.

(a) The Board of Health or an authorized representative shall have the authority to enter a business offering tattoo or body piercing services at reasonable times to conduct inspections and inspect conditions relating to the enforcement of Sections 3730.02 through 3730.10 of the Ohio Revised Code and this chapter.

(b) The Board of Health may deny, suspend, or revoke approval of a business offering tattoo or body piercing or tattoo and body piercing services if the business made any material misrepresentation to the Board, does not meet or no longer meets, or has a history of noncompliance with, the requirements of Sections 3730.01 to 3730.11 of the Ohio Revised Code and this chapter.

(c) In the case of a proposal to deny, suspend, or revoke approval of a business offering tattoo, body piercing or tattoo and body piercing services, the Board of Health shall provide the business with written notice of the proposed action and the cause for the action. The notice shall describe the procedure for appealing the proposed denial, suspension or revocation.

(1) The written notice shall be provided by certified mail, return receipt requested, or by hand delivery. If the notice is returned because of failure of delivery, the Board of Health shall either send the notice by regular mail to the business location listed on the application, or conspicuously post the notice at an entrance of the business. In either case, the notice shall be deemed to have been received on the date it was mailed or posted.

(2) The notice shall state that the business may obtain a hearing under this rule if a written request for a hearing is mailed or hand delivered to the Board of Health's address specified in the notice within fifteen (15) days after the affected business receives or is deemed to have received the notice.

(3) Upon receiving a timely hearing request, the Board of Health shall schedule a hearing before the Board.

(4) The Board of Health shall mail or hand-deliver notice of the date, time, and place of the hearing to the operator no less than ten (10) before scheduled date.

(5) The business and the Board of Health each shall have one opportunity to reschedule the hearing date upon specific to the other party. Any other postponements of the hearing shall be by agreement of the Board of Health and the business.

(6) At the hearing, the business shall have the opportunity to present its case orally or in writing and to confront and cross examine adverse witnesses. The business may be represented by counsel, if desired, and may review the case record before the hearing.

(7) If the Board of Health does not receive a timely request for a hearing, the Board may immediately enter an order as proposed in the notice.

(d) In the case of a suspension of approval for a violation presenting an immediate danger to the public health, the Board of Health shall provide the business with written notice of the action, the cause of the action and the effective date of the action. The written notice shall specify the procedure for appealing the suspension and shall list the address to which a hearing request shall be sent or delivered. The business may appeal the suspension by mailing or hand-delivering a written request for a hearing to the address specified in the notice. If a hearing is requested, it shall be heard not later than two (2) business days after the request is received by the Board of Health. At the hearing, the business shall have the opportunity to present its case orally or in writing and to confront and cross-examine adverse witnesses. The business may be represented by counsel, if desired, and may review the case record before the hearing. At the hearing, the Board of Health shall determine whether the immediate danger to the public health continues to exist.

(e) Any determination made or order entered by the Board of Health pursuant to this rule shall be made by a majority vote of the members of the Board present at a meeting at which there is a quorum. If the Board of Health conducts the hearing, the Board may immediately render a decision denying, suspending, or revoking approval, or render a decision removing or continuing an approval suspension. The determination or order may be considered and made at a meeting without publication or advertisement, and may become effective without such publication or advertisement, recording or certifying. An order is not effective until it is recorded in the Board of Health's record of its proceedings.
(Ord. 36-2004. Passed 7-12-04.)

767.10 VARIANCE PROVISION.

The Board of Health may grant a hearing to a tattoo or body piercing business and authorize, for specific cases, such variance from the requirements of this chapter as will not be contrary to the public interest and when the operator shows that because of practical difficulties or other special conditions, their strict application will cause unusual and unnecessary hardship. However, no variance shall be granted that will defeat the spirit and general intent of this chapter, or otherwise not be in the public interest.
(Ord. 36-2004. Passed 7-12-04.)

767.99 PENALTY.

Any person who fails to comply with any requirement of this chapter or any order issued pursuant thereto shall be subject to the penalties set forth in the Ohio Revised Code and any other administrative and/or legal action which may be deemed appropriate by the City of New Philadelphia, Ohio. Specifically, any person who violates or causes to be violated any of the stipulations and/or requirements set forth in this chapter shall be in violation and is guilty of a misdemeanor of the third degree on the first offense; on each subsequent offense such person is guilty of a misdemeanor of the first degree.
(Ord. 36-2004. Passed 7-12-04.)

CHAPTER 771
Taxicabs and Common Carriers

771.01 Taxicab defined.
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771.03 Vehicle inspections; revocation or suspension of license.
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CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.22, 715.66
Power to establish stands and fix rates - see Ohio R.C. 715.25
Minimum age of operator - see Ohio R.C. 4507.321
Authority of Safety Director, traffic control - see TRAF. Ch. 305
Motor vehicle licensing and accidents - see TRAF. Ch. 335
Commercial and heavy vehicles - see TRAF. Ch. 339
Drivers of commercial cars and tractors - see TRAF. Ch. 341

771.01 TAXICAB DEFINED.

As used in this chapter "taxicab" means any motor vehicle except an omnibus, funeral car or public bus used for carrying passengers for hire.
(Ord. 1076. Passed 9-29-22.)

771.02 LICENSE REQUIRED.

Each person, firm, partnership or corporation now operating or proposing to operate an omnibus, bus, automobile or other motor vehicle for the transportation of persons for hire within the City and over the streets, alleys, lanes or highways therein shall, prior to undertaking the transportation for hire, obtain a license from the Mayor, applying for it upon forms prepared by the Mayor.

The provisions of this chapter include taxicabs, automobiles and buses holding a franchise to operate within the City.
(Ord. 3190. Passed 7-8-68.)

771.03 VEHICLE INSPECTIONS; REVOCATION OR SUSPENSION OF LICENSE.

(a) At the time that an application for a license under Section 771.02 is made by any person, firm, partnership or corporation, and prior to the issuance of such license by the Mayor, each motor vehicle so operated or proposed to be operated in the transportation of persons for hire under the provisions of this chapter shall be inspected by the Police Department or someone designated by the Department, to determine the operational safety

of the vehicle. If the vehicle is found to be safe and in proper working order, a license may be issued upon such report to the Mayor. If the vehicle is found to be unsafe and not in proper working order, then such defects or unsafe conditions must be corrected before a license can be issued under the terms of this chapter.

(b) Every person, firm, partnership or corporation operating a motor vehicle in the City under a license issued as provided in this chapter, must submit the motor vehicle to police inspection at the times and places to be specified by the Police Chief in January and July of each year. The object of the inspection shall be to determine the operational safety of the vehicle. The inspection shall cover tires, brakes, lights, steering apparatus and direction signals and any condition affecting the operational safety of the vehicle. In the event that the inspecting officer finds a defect or condition affecting public safety, he shall certify his findings to the operator of the vehicle and to the Mayor, and no person shall be carried for hire in the vehicle until the defect or unsafe condition has been corrected to the satisfaction of the officer making the inspection. During the period that the vehicle is defective or unsafe, any license issued under this chapter for the vehicle shall be deemed suspended. Upon finding that the condition complained of has been corrected, the inspecting officer shall so certify such fact to the Mayor and the motor vehicle may then be used to transport persons for hire.

(c) All motor vehicles licensed under this chapter shall be kept in a safe driving condition at all times, and the Police Department shall have the right to inspect such motor vehicles at any time it deems necessary for the safety and welfare of the inhabitants of this City.

(d) In the event that a licensee or a person under his control is found to be transporting persons for hire in a vehicle found to be unsafe by police inspection, and after such finding has been made known to the licensee, then the Mayor may revoke or suspend such license for not more than one year.

(e) A written report of the inspection shall become part of the permanent file on each vehicle by serial number and maintained by the Mayor and Police Department.
(Ord. 3190. Passed 7-8-68.)

771.04 LICENSE FEE.

The cost of obtaining a license for any of the operations described in Section 771.02 shall be twenty-five dollars ($25.00) per vehicle. The fee shall be applied to each motor vehicle so operated or proposed to be operated in the transportation of persons for hire.
(Ord. 14-83. Passed 4-11-83.)

771.05 MEDICAL CERTIFICATE; OTHER DRIVER CONDITIONS.

(a) All operators of motor vehicles for hire shall submit a certificate from a medical doctor, certifying that the operator is not subject to seizures, fits or blackouts, and that he does not have a heart condition or any other ailment or disease that may cause a condition to endanger the passengers, or any other physical or mental condition that would impair the driver's ability to operate a motor vehicle. This medical certificate is to be filed with the Mayor and shall be a permanent record, and must be on file prior to the operation of a

vehicle by the driver.

(b) Each applicant desiring to drive a taxicab shall submit two letters from reputable citizens recommending the applicant on the basis of character and sobriety.

(c) The applicant shall offer proof to the Mayor that he has a working knowledge of the traffic laws of the City and the State, and that he is competent to drive a taxicab.

(d) Permission to drive a taxicab shall not be given to any person found to be a habitual traffic law violator, or when such person has been found to be guilty of careless and reckless operation of a motor vehicle resulting in injury to persons or property, or when such person is found to be a habitual drunkard, or when he is found to have been guilty of drunken driving, or when his vehicle fails to satisfy the safety requirements as provided in this chapter, or when his physical or mental condition is found to be unsatisfactory.

(e) No person may drive a taxicab who has been convicted of a crime of violence under the laws of any state or of the United States.

(f) A list of taxicab drivers' names, addresses and phone numbers shall be kept on file in the Mayor's office.
(Ord. 2838. Passed 12-28-59; Ord. 3190. Passed 7-8-68.)

771.06 LICENSE TERM; FEE PRORATION.
The licensing year of this chapter shall begin on February 1, and each license issued shall be valid until the next February 1, at which time all licenses shall be renewed for one year.
The fee for licenses taken out between February 1 of any year and January 31 of the next year shall be prorated on a calendar monthly basis, the nearest first day of a month to determine the number of months upon which the fee shall be based.
(Ord. 3190. Passed 7-8-68.)

771.07 REVOCATION OF DRIVER'S PRIVILEGES.
Permission to drive a taxicab may be revoked or suspended at any time upon a finding made by the Mayor that a driver has failed to maintain the standards set forth in this chapter, or has been guilty of acts or conduct which would have disqualified him upon his original application, or when his vehicle fails to satisfy the safety requirements as provided in this chapter. (Ord. 2838. Passed 12-28-59.)

771.08 SOLICITING PASSENGERS.
No driver of a taxicab shall solicit any business on the streets or sidewalks and no driver shall race with any other vehicle for the purpose of first reaching a prospective passenger. A driver shall at all times conduct himself in an orderly manner.
No person, firm or corporation or the owner, operator or driver of taxicabs shall solicit business in bus stations or at bus stops in the City.
For the purpose of this section, "solicit" means to entreat, importune, approach with a request, plead or implore a person who has not heretofore contacted the owner, driver or operator of a taxicab for the purpose of obtaining the services of the taxicab for

transportation. (Ord. 2379. Passed 9-6-49; Ord. 3190. Passed 7-8-68.)

771.09 MARKING OF VEHICLE; INFORMATION TO BE DISPLAYED WITHIN VEHICLE.

All motor vehicles for the transportation of persons for hire and licensed hereunder shall have suitably marked upon each side of the vehicle the name of the person, firm, partnership or corporation operating the vehicle, together with the owner's number for the cab; and in addition the operator of each motor vehicle for hire or transportation of persons for hire shall display in a prominent place within the vehicle a schedule of rates charged, and evidence that a physical examination of the driver and insurance requirements have been complied with, which shall be signed by the Mayor with his seal affixed thereto.
(Ord. 3190. Passed 7-8-68.)

771.10 PARKING PLACES.

The Director of Public Safety shall establish and set aside such parking places on the streets of the City as in his discretion he believes necessary for the use of taxicabs, buses and motor vehicles for hire.
(Ord. 3190. Passed 7-8-68.)

771.11 INSURANCE REQUIRED.

(a) Any person, firm, partnership or corporation prior to transporting persons for hire as hereinbefore described within the City shall, as a further requirement to the obtaining of a license for the transportation, submit to the Mayor for his approval or the approval of the Director of Law, an insurance policy indemnifying the operator and owner against loss or injury from negligent operation of such vehicle in the amount of not less than three hundred thousand dollars ($300,000) combined single limit policy. A copy of the insurance policy or a certificate of the company or companies issuing the same shall be filed with the Mayor to become a part of the application.

(b) All insurance policies required under this section shall be effective during the entire period for which the license issued is effective.
(Ord. 58-88. Passed 9-12-88.)

771.12 ESTABLISHING RATES OF FARE.

(a) The rates to be charged by the operators of motor vehicles licensed to transport persons for hire shall be established by the licensee company.

(b) The rate schedule shall be posted in a conspicuous place in each cab and also filed with the Mayor, the Police Department and Council.

(c) No change in the rate or fare shall be made until thirty days written notice has been given to the Mayor, the Police Department and Council, and until such proposed change in rate has been published in a newspaper of general circulation in the City, at least once a week for three weeks in a legal notice of at least four column inches.

(d) Upon approval by the Mayor and Council, new rates will become effective.
(Ord. 3190. Passed 7-8-68.)

771.13 METERS; SPECIAL CONTRACTS.

(EDITOR'S NOTE: Former Section 771.13 was repealed by Ordinance 14-83, passed April 11, 1983.)

771.99 PENALTY.

(a) Upon conviction of any person, firm or corporation or the driver, owner or operator of a taxicab for a violation of Section 771.02, such person is guilty of a minor misdemeanor on the first offense; on the second or subsequent offense, such person is guilty of a misdemeanor of the fourth degree.

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

(Ord. 14-83. Passed 4-11-83.)

CHAPTER 777
Tree Trimming

777.01 License required; revocation.
777.02 License fee.
777.03 Bond and insurance.
777.99 Penalty.

CROSS REFERENCES

Shade Tree Commission - see ADM. Ch. 153
Permit required for tree or shrub planting - see S.U. & P.S. 905.01
Size of trimmings bundle restricted for collection - see S.U. & P.S. 971.02(d)

777.01 LICENSE REQUIRED; REVOCATION.

No person, firm or corporation shall engage in the business of cutting, trimming, treating or removing trees within the City until he has first satisfied the Director of Public Service of his knowledge and ability to treat, trim, cut or remove trees without endangering their life or imperiling their growth and that his knowledge and experience indicate that he is capable of removing trees without endangering persons or property.

Any person, firm or corporation who applies to the Director of Public Service and has demonstrated his fitness and ability and is equipped with proper tools and equipment to perform tree work and furnishes references to the satisfaction of the Director of Public Service, shall be issued a license. The license may be revoked for cause by the Director when proper tree trimming practice has been violated or for failure to comply with any provision of this chapter. (Ord. 3333. Passed 11-23-70.)

777.02 LICENSE FEE.

The annual license fee for cutting, treating, trimming or removal of trees is fifty dollars ($50.00). (Ord. 3333. Passed 11-23-70.)

777.03 BOND AND INSURANCE.

Before proceeding with any tree work, each licensee shall deposit with the Director of Public Service the following:

(a) A performance bond in the amount of one thousand dollars ($1000);

(b) A certificate of insurance, showing that the licensee is covered with liability and property damage insurance in the amounts of one hundred thousand/three hundred thousand dollars ($100,000/300,000) for public liability, and fifty thousand/ one hundred thousand dollars ($50,000/100,000) for property damage. (Ord. 3333. Passed 11-23-70.)

777.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars ($50.00). (Ord. 2838. Passed 12-28-59.)

CHAPTER 778
Closing Out and Fire Sales

778.01 License required; selling unlisted goods prohibited.
778.02 Filing inventory; issuance of license.
778.03 License time limit, revocation and suspension.
778.04 License fee.
778.05 Misrepresentation of sale.
778.06 Completion of business.
778.07 Applicability.
778.99 Penalty.

CROSS REFERENCES
Fraud - see GEN. OFF. 545.05
Falsification - see GEN. OFF. 525.02

778.01 LICENSE REQUIRED; SELLING UNLISTED GOODS PROHIBITED.

No person shall offer for sale or sell any merchandise or articles not listed on the inventory filed in the office of the Mayor as provided in Section 778.02 or hold any sale specified by this chapter without obtaining the license required herein.
(Ord. 24-74. Passed 6-24-74.)

778.02 FILING INVENTORY; ISSUANCE OF LICENSE.

Every person, before conducting a fire sale, wreck sale, bankrupt sale, closing-out sale, going-out-of-business sale or similar sale shall, no less than seventy-two hours before the beginning thereof, file in the office of the Mayor an inventory of any and all articles intended to be sold or offered for sale at such sale. Such inventory shall contain or have attached thereto a sworn statement that the articles contained on such inventory constitute the actual stock in trade of the person at the premises where such person has been doing business, that such articles have been owned by such person doing business at such location for at least one month immediately preceding such sale, and that such articles were not acquired or brought to the location of such sale especially or purposely for such sale. Upon filing of such verified inventory and upon the Mayor's being satisfied that the sale is bona fide as represented and the inventory filed is true and correct, the Mayor shall issue a license for such sale.
(Ord. 24-74. Passed 6-24-74.)

778.03 LICENSE TIME LIMIT, REVOCATION AND SUSPENSION.

A license issued as set out in Section 778.02 shall authorize the holding of such sale for a period of not more than sixty days and shall not be renewable. A license issued

hereunder may be revoked or suspended by the Mayor upon proof of any violation of Sections 778.01 through 778.05 or for the conviction of the person holding such sale of violation of any laws of the State or the United States or any ordinance of the City in connection with the operation of such place of business, or upon proof of fraud in the operation of the sale or for any misstatement in the affidavit or inventory filed.
(Ord. 24-74. Passed 6-24-74.)

778.04 LICENSE FEE.

Before issuing a license as required by Section 778.01, the Mayor shall demand and receive from the applicant twenty-five dollars ($25.00).
(Ord. 24-74. Passed 6-24-74.)

778.05 MISREPRESENTATION OF SALE.

No person shall represent and advertise to the public by any means whatever the holding of a fire sale, wreck sale, closing-out sale, going-out-of-business sale, bankrupt sale or similar sale, or make similar representations, unless such representations and advertisements are in fact true and such sale is as represented.
(Ord. 24-74. Passed 6-24-74.)

778.06 COMPLETION OF BUSINESS.

At the completion of the sales herein authorized all signs of the owner or operator of such business shall be removed.
(Ord. 24-74. Passed 6-24-74.)

778.07 APPLICABILITY.

The provisions regulating closing-out and fire sales herein established, are to apply to retail sales only and do not apply to garage sales or sales involved in the administration of estates of decedents nor to any sale conducted by a lawful court order.
(Ord. 24-74. Passed 6-24-74.)

778.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars ($50.00). Each days violation of this chapter shall constitute a separate offense.
(Ord. 24-74. Passed 6-24-74.)

CHAPTER 780
Private Telecommunications Systems

780.01 License requirement of communication lines within rights-of-way.
780.02 Definitions.
780.03 Length of permit.
780.04 Permit locations.
780.05 Use of streets and pole attachments.
780.06 Violations.
780.07 Transfer assignments.
780.08 Existing private communications system.

CROSS REFERENCES
Wireless communication and telecommunication systems - see BUS. REG. Ch. 782

780.01 LICENSE REQUIREMENT OF COMMUNICATION LINES WITHIN RIGHTS-OF-WAY.

(a) No person or firm whether public, private, non profit or not for profit shall construct, operate or continue to operate a Private Communications System which occupies the streets, public ways and public places within the City without having been issued a Telecommunication Permit by the Service Director, or a franchise for telephone, telecommunication service, video distribution system of Cable Television or Cable Communications System by the City.

(b) Except as hereinafter provided, it shall be a term and condition of any Telecommunication Permit issued in accordance herewith that as a part of the consideration supporting the issuance of such Telecommunication Permit and the City's permission thereby to occupy and use the streets of the City, that the Permittee shall pay each year to the City compensation and license fees as follows:

(1) All applicants shall pay a permit request fee of $300.00.

(2) For providers of long distance access or long distance service, other than the franchised local exchange carrier, a minimum fee of $500.00 per year per cable or $500.00 per year per cable per linear mile or any portion there of per mile whichever is greater or the maximum allowed by law.

(3) For private communications systems owned by a non franchised entity, a minimum of $500.00 per year or $500.00 per linear mile, whichever is greater, or any part thereof, per year for systems extending over 1 mile. In no case shall the annual fee be less than $500.00.

(4) Lines, cables or fiber optics of a Private Communications System placed in a conduit or ductbank owned by another Permittee or franchisee shall require separate Telecommunication Application and Permit, subject to the same requirements as other installations, except the fee for the additional Telecommunications Permit shall be one half the maximum allowed by law or one-half of the otherwise applicable per linear mile fee for the portion of the Pathway so utilized.

(5) Lines, cables or fiber optics of a Private Communication System which are placed in a conduit or duct-bank owned by an entity not exempt by law or statute from the provisions of this chapter shall require a Telecommunication Permit, unless the Franchise, or other-authorization by which the exempt entity has the right to place the conduit or duct-bank within the City property, prohibits the application of the permit and fee requirements contained in this chapter to the lessee of space within the conduit or duct-bank.

(6) Any private communication system that serves customers and charges a fee for services provided by the Private Communications System within the City shall pay (in addition to applicable fees in (a), (b), (c), (d), (e) quarterly, five percent (%) of the annual total gross revenues from such customers to be calculated on the basis of all revenues derived from transmissions that bypass the local exchange carrier. Revenues derived from transmissions that enter a private communications system through the LATA shall not be part of the total gross revenues for purposes of calculating compensation and license fees.

The City may, at its option, adjust this permit fee each year to the extent allowed by law or by an amount not exceeding the proportional cumulative increase in the Consumer Price Index published by the United States Department of Labor for Urban Wage Earners, since the initial establishment of this permit fee, or since the most recent increase in the permit fee for any and all subsequent increases after the first increase, and only after a public hearing and at least twenty (20) days notice to all Permittees, except as hereinafter provided. The City may raise the license fee more than the cumulative increase in the Consumer Price Index in the event there is competent evidence that the fee imposed by the City is below the norm of fees imposed by other cities within the State of Ohio which impose such fees.

(c) The annual compensation and license fee provided for in subsection (b) shall be payable annually on or before October 1 of each calendar year for the portion of the Private Communications Systems within the City right of way on January 1 of that year and a prorated license fee, based upon the calendar quarter in which the application is filed, shall be paid at the time of the application for a Telecommunication Permit for all new portions of the system. Quarterly revenue fees are due January 1, April 1, July 1, September 1.

(d) Fees not paid within ten days after the due date shall bear interest at the rate of one percent (1%) per month from the date due until paid.

(e) The acceptance of any payment required hereunder by the City shall not be construed as an acknowledgment that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the City may have for additional sums due and payable.

(1) All fee payments shall be subject to audit by the City and assessment or refund if the payment is found to be in error.

(2) In the event that such audit results in an assessment by and an additional payment to the City, such additional payment shall, at the City's option, be subject to interest at the rate of one percent (1%) per month retroactive to the date such payment originally should have been paid, which shall be due and payable immediately.

(f) Nothing in this chapter shall be construed to limit the liability of the permittee for all applicable Federal, State and local taxes.

(g) Any holder of a Telecommunication Permit must be a member of "Call Candy" Utility Notification Center (l-800-282-8881) or any subsequent alert and warning system to protect and locate their underground.
(Ord. 1-95. Passed 1-23-95.)

780.02 DEFINITIONS.

For the purposes of this chapter and any Permit in accordance herewith, the following terms, phrases, words and their derivations shall have the meaning given herein unless otherwise specifically provided in this chapter, unless the context clearly indicates otherwise, or unless such meaning would be inconsistent with the manifest intent of the City Council.

(a) "Cable Communications System" means a non-broadcast facility consisting of a set of transmission paths with associated signal generation, reception and control equipment, under common ownership and control, which distributes or is designed to distribute to owners, users or subscribers, the signals of one or more television broadcast stations and other subscriber services with an existing franchise issued by the City of New Philadelphia.

(b) "FCC" means the Federal Communications Commission or its legally appointed successor.

(c) "Local Access Transport Area (LATA)" means that geographic area and communications system in which the City of New Philadelphia is located and in which GTE or any subsequent telephone company is authorized by the Public Service Commission of Ohio to provide local exchange access telecommunications services.

(d) "Local telephone service" means:

(1) The access to a local telephone system, and the privilege of telephonic-quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; or

(2) Any facility or service provided in connection with a service described in subsection (d)(1).

The term "local telephone service" does not include any service which is a toll telephone service; private communication service; cellular mobile telephone or telecommunication service; specialized mobile telephone or telecommunication service; specialized mobile radio, or pagers and paging service, including but not limited to "beepers" and any other form of mobile and portable one-way or two-way communication; or telephone typewriter or computer exchange service.

(e) "Telecommunication Permit" means the privilege granted by the City by which the City authorizes a person to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, rebuild and replace a private communications system that occupies the streets, public ways or public places within the City. Any Telecommunication Permit issued in accordance herewith shall be a nonexclusive permit.

(f) "Permittee" means the person, organization, firm, nonprofit, not for profit, corporation or its legal successor in interest who is issued a Telecommunication Permit or Permits in accordance with the provisions of this chapter for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repairing, rebuilding or replacing of a private communications system in the City.

(g) "Private Communications System" means any system of communication lines, cables, equipment or facilities, which are used to provide a telephone, video, data, telemetry, intercom or telecommunications service, that in any manner occupies easements, the streets, public ways or public places within the corporate limits of the City, as now or in the future may exist. Private communications system does not include any part of a State or Municipally franchised Local Exchange Telephone Company or part of a cable television system or telephone system franchised by the City or any part of a federal, state, county or local government owned communications system.

(h) "Street" means any area established for vehicular or public access use of the entire width between the property lines of every way publicly maintained when any part thereof is open for public purposes. "Street" includes, but is not limited to, highway, avenue, road, alley, right of way, lane, boulevard, concourse, bridge, tunnel, parks, parkways and waterways.

(i) "Easements" means any strip of land created by a subdivider for public or private utilities, sanitation, or other specified uses having limitations, the title to which shall remain in the name of the property owner, subject to the right of way use designated in the reservation of the servitude. No private facility may be constructed within the easement without written permit from the City.

(j) "Toll telephone service" means:

(1) A telephonic-quality communication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication; or

(2) A service which entitles the subscriber or user, upon the payment of a periodic charge which is determined as a flat amount or upon the basis of total elapsed transmission time, to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

(k) "Total gross revenues" means all cash, credits, or property of any kind or nature reported as revenue items to licensee's audited income statements arising from or attributable to the sale or exchange of private communications services by the permittee within the City or in any way derived from the operation of its private communications system, including, but not limited to, any interconnection between its system in the City and any system whatsoever. This sum shall be the basis for computing the fee imposed pursuant to this section. Such sum shall not include any bad debts, deposits, promotional or vendor discounts or credits nor sales, service, occupation or other excise tax to the extent that such taxes are charged separately from normal service charges and are remitted by the licensee directly to the taxing authority.
(Ord. 1-95. Passed 1-23-95.)

780.03 LENGTH OF PERMIT.

(a) Any Telecommunication Permit issued by the City in accordance herewith shall be a nonexclusive permit for the use of the easements, streets, public ways or public places within the City as specified in the Telecommunication Permit for the erection, construction, reconstruction, operation, maintenance, repairing, dismantling, testing and use of a Private Communications System.

(b) Any Telecommunication Permit issued by the City shall continue in full force and effect so long as the Permittee is in compliance with this chapter, all applicable Federal, State and local ordinances and regulations and the space occupied is not needed for a public purpose.

(c) In the event any Telecommunication Permit shall be revoked, the applicable Private Communications System shall, at the option of the City, be removed from the streets, public ways and public places at the sole expense of the Permittee.
(Ord. 1-95. Passed 1-23-95.)

780.04 PERMIT LOCATIONS.

(a) Any Telecommunication Permit issued for a Private Communications System in accordance herewith shall apply only to the location or locations stated on the Telecommunication Permit or Permits. Each Permit shall clearly state the location of each end and leg of the Private Communications System and specify the length certified by a registered survey company.

(b) Nothing in this chapter shall be construed as a representation, promise or guarantee by the City that any other permit or other authorization required under any City ordinance for the construction or installation of a Private Communications System shall be issued. The requirements for any and all other permits as may be required by any City ordinance, including the Right-of-Way Utilization Permit, shall still apply and all other applicable permit fees shall still be due.
(Ord. 1-95. Passed 1-23-95.)

780.05 USE OF STREETS AND POLE ATTACHMENTS.

(a) Before commencing construction of its Private Communications System in, above, over, under, across, through or in any way connected with the streets, public ways or public places of the City, the Permittee shall first obtain the written approval of, and all other necessary permits from, all appropriate City agencies, including, but not limited to, the Zoning Department, and Department of Public Works. Applications for such approval shall be made in the form prescribed by the Engineering Department.

(b) Upon obtaining such written approval, the Permittee shall give the Engineering Department and the appropriate agency written notice within a reasonable time of proposed construction, but in no event shall such notice be given less than ten (10) days before such commencement, except for emergency repairs of existing lines or cables.

(c) Any person who submits a request for a Permit in accordance herewith shall include therein proposed agreements for the use of existing utility poles and conduits, if applicable, with the owner(s) of such facilities to be used or affected by the construction of the proposed Private Communications System, which agreements shall become effective on the date of execution of the Permit issued in accordance herewith in the event that such person is issued a Permit.

In the event that permission to use existing poles or conduits cannot be obtained, the Permittee shall submit documentation to support the unavailability of existing poles and a detailed plan for construction insuring protection for existing facilities.

(d) It shall be unlawful for the Permittee or any other person to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place for any purpose whatsoever without obtaining approval to do so after proceeding in the manner prescribed in subsections (a) and (b) hereof.

(e) The Permittee shall restore any street or sidewalk it has disturbed in accordance with the provisions of the City's standard specifications for Streets and Sidewalks, and shall, at its own cost and expense, restore and replace any other property disturbed, damaged or in any way injured by or on account of its activities to as good as the condition such property was in immediately prior to the disturbance, damage or injury or pay the fair market value of such property to its owner or shall make such other repairs or restorations as outlined in the approved permit.

(f) The Permittee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from such street or other public place, any of its property when required to do so by the City because of street or other public excavation, construction, repair, regrading, or grading; traffic conditions; installation of sewers, drains, water pipes, City owned power or signal lines, tracts; vacation or relocation of streets or any other type of structure or improvement of a public agency, or any type of improvement necessary for the public health, safety or welfare, or upon termination or expiration of the Permit.

(g) Nothing in this chapter or any Permit issued in accordance herewith shall be construed as authorizing the Permittee to erect and maintain new poles in areas serviced by existing poles, if the poles are available for Permittee's cable. The Permittee shall obtain written approval from the Engineering Department and other appropriate City agencies before erecting any new poles or underground conduits where none exist.

(h) The Permittee shall maintain all wires, conduits, cables, and other real and personal property and facilities in good condition, order and repair. The Permittee shall provide indemnity insurance and performance bonds or demonstrate financial responsibility as shall comply with all rules and regulations issued by the Engineering Department governing the construction and installation of Private Communications Systems.

(i) The Permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the City and shall furnish as soon as they are available two (2) complete copies of such maps and records, including as-built drawings, to the Engineering Department.

(j) The Permittee shall comply with all rules and regulations issued by the Engineering Department governing the construction and installation of Private Communications Systems.
(Ord. 1-95. Passed 1-23-95.)

780.06 VIOLATIONS.
Any person who shall carry on or conduct any business or occupation or profession for which a license tax is required by this chapter without first obtaining a license tax shall be considered to be in violation of this chapter and, upon conviction, be fined not more than one thousand dollars.
(Ord. 1-95. Passed 1-23-95.)

780.07 TRANSFER ASSIGNMENTS.
(a) The Permittee shall not transfer or assign its interest in any Permit issued in accordance herewith, other than a general assignment of the Permittee's entire assets or a pledge of the assets as collateral on a loan, without the prior written authorization of the City. For purposes of this section, a merger or consolidation of the Permittee with another company shall not be deemed a transfer or assignment. The assignment of the right to a nonaffiliated company to place a line, cable or fiber optic within a permitted conduit or duct bank or a permittee is subject to the requirement of an additional Telecommunication Permit and the applicable fees.
(Ord. 1-95. Passed 1-23-95.)

780.08 EXISTING PRIVATE COMMUNICATIONS SYSTEM.
(a) Lines or cables of Private Communications Systems which had been constructed or placed within the City's streets, public ways or public places prior to the date of enactment of this chapter were permitted to be there only by virtue of a revocable license. Such lines and cables may remain within the City's streets, public ways or public places provided the Private Communications Systems comply with the provisions of this chapter as they relate to the existing lines and cables.

(b) Except as hereinafter provided, the provisions of this chapter shall become effective as to pre-existing Private Communications Systems on January 1, 1995. The Private Communications Systems companies which have facilities within the City streets on the date of enactment of this chapter shall have until April 30, 1995, to obtain permits for their existing system, to pay the applicable fee, and to fully comply with the provisions of this chapter. (Ord. 1-95. Passed 1-23-95.)

CHAPTER 782
Wireless Communications and Telecommunications Systems

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CROSS REFERENCES
Private Telecommunications Systems - see BUS. REG. Ch. 780

782.01 LICENSE REQUIREMENT.

(a) No person or firm whether public, private, non profit or not for profit shall construct, operate or continue to operate a Wireless Communications System which occupies any part of the streets, public ways and public places within the City without having been issued a Wireless Telecommunication Permit by the Service Director.

(b) Except as hereinafter provided, it shall be a term and condition of any Wireless Telecommunication Permit issued in accordance herewith that as a part of the consideration supporting the issuance of such Wireless Communication Permit and the City's permission thereby to occupy and use the streets of the City, that the Permittee shall pay to the City compensation and license fees as set out below:

(1) All applicants shall pay a permit request fee of $50.00 per cell site.

(2) The Permittee shall pay to the City a minimum of five percent (5%) or the maximum percentage allowed by law of all gross revenues derived from the operation of the Wireless telecommunication system, including but not limited to equipment rental, voice service, data service, vehicle location services, security monitoring, paging and all other services and related subsidiary companies which use the wireless system to generate any portion of their revenue.

(3) The wireless provider shall pay to the City an annual permit fee of $100.00 per cell site.

(4) And, privately owned lines or cables placed by the wireless communications system operator to support the backhaul portion of the network are subject to Chapter 780 unless the operator is a franchised telephone company or franchised Cable Television.

(5) The City may adjust these permit fees each year to the extent allowed by law. The minimum adjustment shall be set by the cumulative increase in the Consumer Price Index published by the United States Department of Labor for Urban Wage Earners, since the initial establishment of this permit fee, or since the most recent increase in the permit fee for any and all subsequent increases after the first increase, and only after a public hearing and at least twenty (20) days notice to all Permittees, except as hereinafter provided.

(c) The annual compensation and permit fee provided for in subsection (b) shall be payable annually on or before October 1 of each calendar year for the portion of the Wireless Communications Systems within the City right of way on January 1 of that year and a prorated license fee, based upon the calendar quarter in which the application is filed, shall be paid at the time of the application for a Wireless Telecommunication Permit for all new portions of the system. The quarterly revenue fees are due January 1, April 1, July 1, and September 1.

(d) Fees not paid within ten days after the due date shall bear interest at the rate of one percent (1%) per month from the date due until paid.

(e) The acceptance of any payment required hereunder by the City shall not be construed as an acknowledgment that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the City may have for additional sums due and payable.

(1) All fee payments shall be subject to audit by the City and assessment or refund if the payment is found to be in error.

(2) In the event that such audit results in an assessment by and an additional payment to the City, such additional payment may be subject to interest at the rate of one percent (1%) per month retroactive to the date such payment originally should have been paid, which shall be due and payable immediately.

(f) Nothing in this chapter shall be construed to limit the liability of the Permittee for all applicable Federal, State and local taxes.

(g) Any holder of a Wireless Telecommunication Permit must be a member of "Call Candy" Utility Notification Center (1-800-282-8881) or any subsequent alert and warning system to protect and locate their underground and pole mount structures.
(Ord. 2-95. Passed 1-23-95.)

780.02 DEFINITIONS.

(a) For the purposes of this chapter and any Permit in accordance herewith, the following terms, phrases, words and their derivations shall have the meaning given herein unless otherwise specifically provided in this chapter or unless the context clearly indicates otherwise or unless such meaning would be inconsistent with the manifest intent of the City Council.

(1) "Wireless Communications System" means any system which uses a form of cellular telephony which allows business and residential subscribers to access and/or make telephone calls to each other through the Wireless Telecommunications System or over the Public Switched Telephone Network (PSTN) using small cordless telephone devices which communicate with limited range cells (transmitter/receiver sites) connected to a backhaul network.

(2) "Backhaul Network" means the physical network that connects micro cells and pico cells to a central switching point or the Public Switch Telephone Network (PSTN).

(3) "Micro Cell" means a transmitter/receiver system used to communicate to the subscriber's handset. Typically with a range of 600-1,000 meters.

(4) "Pico Cell" means a transmitter/receiver system used to communicate to the subscriber's handset. Typically with a range of 200-600 meters.

(5) "FCC" means the Federal Communications Commission or its legally appointed successor.

(6) "Cell Site" means the location of a transmitter/receiver and backhaul network interface which provides telephonic or telecommunications type service to subscribers. The locations include single pole mounted receiver/transmitter units, receiver/transmitter units located on new or existing antenna structures, receiver/transmitter units located in buildings and on roof tops.

(7) "Local Access Transport Area (LATA)" means that geographic area and communication system in which the City of New Philadelphia is located and in which GTE or any subsequent telephone company is authorized by the Public Service Commission of Ohio - to provide local exchange access telecommunications services.

(8) "Local telephone service" means:

A. The access to a local franchised telephone system, and the privilege of telephonic quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; or

B. Any facility or service provided in connection with a service described in subsection (a)(8)A.

The term "local telephone service" does not include any service which is a toll telephone service; personal communications service; private communication service; cellular mobile telephone or telecommunication service; regularized mobile telephone or telecommunication service; regularized mobile radio, or pagers and paging service, including but not limited to "beepers" and any other form of mobile and portable one-way or two-way communication; or telephone typewriter or computer exchange service.

(9) "Wireless Communication Permit" means the privilege granted by the City by which it authorizes a person, firm or corporation to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, rebuild and replace a wireless communications system that occupies any portion of the streets, public ways or public places within the City. Any permit issued in accordance herewith shall be a non-exclusive permit.

(10) "Permittee" means the person, organization, firm, profit or not for profit corporation, or its legal successor in interest who is issued a Wireless Communication Permit or Permits in accordance with the provisions of this chapter for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repairing, rebuilding or replacing of a Wireless Communications System in the City.

(11) "Private Communications System" means any system of communication lines, cables, equipment or facilities which are used to provide a telephone, video, data, telemetry, intercom or telecommunications service that in any manner occupies easements, streets, public ways or public places within the corporate limits of the City, as now or in the future may exist. Private communications system does not include any part of a State or Municipally franchised Local Exchange Telephone Company or part of a cable television system or telephone system franchised by the City or any part of a federal, state, county or local government owned telecommunications system.

(12) "Street" means any area established for vehicular or public access use of the entire width between the property lines of every way publicly maintained when any part thereof is open for public purposes. "Street" includes, but is not limited to, highway, avenue, road, alley, right of way, lane, boulevard, concourse, bridge, tunnel, parks, parkways and waterways.

(13) "Easements" means any strip of land created by a subdivider for public or private utilities, sanitation, or other specified uses having limitations, the title to which shall remain in the name of the property owner, subject to the right of way use designated in the reservation of the servitude. No private facility may be constructed within the easement without written permit from the City.

(14) "Toll telephone service" means:

A. A telephonic-quality communication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication; or

B. A service which entitles the subscriber or user, upon the payment of a periodic charge which is determined as a flat amount or upon the basis of total elapsed transmission time, to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the Local Telephone System Area (LATA) in which the station provided with this service is located.

(15) "Total Gross Revenues" means all cash, credits, or property of any kind or nature reported as revenue items to Permittee's audited income statements arising from or attributable to the sale, lease, rental, or exchange of Wireless Communications services or equipment by the Permittee within the City or in any way derived from the operation of its Wireless Communications System, including, but not limited to, any interconnection between its system in the City and any system whatsoever. This sum shall be the basis for computing the fee imposed pursuant to this section. Such sum shall not include any bad debts, deposits, promotional or vendor discounts or credits nor sales, service, occupation or other excise tax to the extent that such taxes are charged separately from normal service charges and are remitted by the Permittee directly to the taxing authority.
(Ord. 2-95. Passed 1-23-95.)

782.03 LENGTH OF PERMIT.

(a) Any Wireless Communication Permit issued by the City in accordance herewith shall be a nonexclusive permit for the use of the easements, streets, public ways or public places within the City as specified in the Wireless Communication Permit for the erection, construction, reconstruction, operation, maintenance, dismantling, testing and use of a Wireless Communications System.

(b) Any Wireless Communication Permit issued by the City shall continue in full force and effect so long as the Permittee is in compliance with this chapter, all applicable Federal, State and local ordinances and regulations and the space occupied is not needed for a public purpose.

(c) In the event any Wireless Communication Permit shall be revoked, the applicable Wireless Communications System shall, at the option of the City, be removed from the streets, public ways and public places at the sole expense of the Permittee.
(Ord. 2-95. Passed 1-23-95.)

782.04 PERMIT LOCATIONS.

(a) Any Wireless Communication Permit issued for a Wireless Communications System in accordance herewith shall apply only to the location or locations stated on the Wireless Communication Permit. Each Permit shall clearly state the location of each cell site system and specify the height and cell configuration.

(b) Nothing in this chapter shall be construed as a representation, promise or guarantee by the City that any other permit or other authorization required under any City ordinance for the construction or installation of a Wireless Communications System shall be issued. The requirements for any and all other permits as may be required by any City ordinance, including the Right-of way Utilization Permit, shall still apply and all other applicable permit fees shall still be due.
(Ord. 2-95. Passed 1-23-95.)

782.05 USE OF STREETS AND POLE ATTACHMENTS.

(a) Before commencing construction of its Wireless Communications System in, above, over, under, across, through or in any way connected with the streets, public ways or public places of the City, the Permittee shall first obtain the written approval of, and all other necessary permits from, all appropriate City agencies, including, but not limited to, the Zoning Department, and Department of Public Works. Applications for such approval shall be made in the form prescribed by the Engineering Department.

(b) Upon obtaining such written approval, the Permittee shall give the Engineering Department and the appropriate agency written notice within a reasonable time of proposed construction, but in no event shall such notice be given less than ten (10) days before such commencement, except for emergency repairs of existing lines or cables.

(c) Any person who submits a request for a Permit in accordance herewith shall include therein proposed agreements for the use of existing utility poles and conduits, if applicable, with the owner(s) of such facilities to be used or affected by the construction of the proposed Wireless Communications System, which agreements shall become effective on the date of execution of the Permit issued in accordance herewith in the event that such person is issued a Permit.

In the event that permission to use existing poles or conduits cannot be obtained, the Permittee shall submit documentation to support the unavailability of existing poles and a detailed plan for construction insuring protection for existing facilities. Such plans shall include detailed drawings of the location and manufacturers' specifications for the cell site equipment.

(d) It shall be unlawful for the Permittee or any other person to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place for any purpose whatsoever without obtaining approval to do so after proceeding in the manner prescribed in subsections (a) and (b). Violation of this section shall subject the Permittee to all penalties and remedies prescribed herein and to all other remedies, legal or equitable, which are available to the City.

(e) The Permittee shall restore any street or sidewalk it has disturbed in accordance with the provisions of the City's standard specifications for Streets and Sidewalks, and shall, at its own cost and expense, restore and replace any other property disturbed, damaged or in any way injured by or on account of its activities to as good as the condition such property was in immediately prior to the disturbance, damage or injury or pay the fair market value of such property to its owner or shall make such other repairs or restorations as outlined in the approved permit.

(f) The Permittee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from such street or other public place, any of its property when required to do so by the City because of street or other public excavation, construction, repair, regrading, or grading; traffic conditions; installation of sewers, drains, water pipes, City owned power or signal lines, tracts; vacation or relocation of streets or any other type of structure or improvement of a public agency, or any type of improvement necessary for the public health, safety or welfare, or upon termination or expiration of the Permit.

(g) Nothing in this chapter or any Permit issued in accordance herewith shall be construed as authorizing the Permittee to erect and maintain new poles in areas serviced by existing poles, if the poles are available for Permittee's use. The Permittee shall obtain written approval from the Engineering Department and other appropriate City agencies before erecting any new poles or cell site support structures.

(h) The Permittee shall maintain all wires, conduits, cables, and other real and personal property and facilities in good condition, order and repair. The Permittee shall provide indemnity insurance and performance bonds or demonstrate financial responsibility as shall comply with all rules and regulations issued by the Engineering Department governing the construction and installation of Wireless Communications Systems.

(i) The Permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the City and shall furnish as soon as they are available two (2) complete copies of such maps and records, including as-built drawings, to the Engineering Department.

(j) The Permittee shall comply with all rules and regulations issued by the Engineering Department governing the construction and installation of Wireless Communications Systems.
(Ord. 2-95. Passed 1-23-95.)

782.06 VIOLATIONS.
Any person who shall carry on or conduct any business or occupation or profession for which a permit is required by this chapter without first obtaining a permit shall be considered to be in violation of this chapter and, upon conviction, be fined in an amount not more than $1,000.00. Each day shall be deemed a separate offense.
(Ord. 2-95. Passed 1-23-95.)

782.07 RESTRICTIONS ON ASSIGNMENT, TRANSFER SALE AND SUBLEASING.
(a) The rights and privileges hereby granted are considered personal, and if the Permittee sells, assigns, transfers, leases or pledges such rights or privileges, or both, in whole or in part, either directly or by operation of the law, then the City shall have the right to terminate any and all permits issued hereunder for no other cause. The City shall terminate such permits in writing, certified mail, return receipt requested, to Permittee, and such termination shall be effective sixty (60) days from said date of mailing. The rights and privileges hereby granted shall not be mortgaged or encumbered without the prior consent and approval of the City given by written resolution.

(b) In addition to the provisions for termination provided for in sub-section (a), the City shall have the right to terminate any and all permits issued hereunder upon any actual or pending change in, or transfer of, or acquisition by any other party or control of Permittee. The word "control" as used in this context is not limited to major stockholders but includes actual working control in whatever manner exercised. Permittee shall annually submit to the City a list of all shareholders and a list of all officers and directors. By acceptance of the permit the Permittee specifically agrees that any violation of this section shall, at the City's option, cause any and all permits granted the Permittee under this chapter to be revoked.
(Ord. 2-95. Passed 1-23-95.)

782.08 COMMERCIAL PROPERTY.

(a) Micro Cell and Pico Cell Sites are allowed on commercial property. Each cell site will require a permit as indicated in Section 782.01 This permit for a cell site on commercial property must include a detailed design drawing of the proposed cell site, a statement of permission by the owner and must be signed by the property owner and notarized. All fees and requirements of this chapter shall apply.

(b) No Micro Cell, Pico Cell, repeater or translator sites are allowed on residential property. Placement of cells on residential property is a violation of this Ordinance and subject to a fine of not more than $1,000.00 and $500.00 per day for each day the cell is active.
(Ord. 2-95. Passed 1-23-95.)

782.09 REPORTS.

(a) Firms or individuals requesting permits for new cell sites or cell site systems may be required by the City to submit evidence of financial capability to construct and operate such cell sites or systems as may be included in the permit request. Such evidence may include, but not be limited to, previous years audited financial statements for the requesting firm, individual financial statements for principals or investors or other such financial information as the City may desire.

(b) The Permittee shall provide the City with a written statement from an independent certified public accountant within 120 days after the close of the calendar year that such certified public accountant has reviewed the books and records of the Permittee as they relate to any permits issued under this chapter and based upon such review, the certified public accountant believes the payment received by the City properly reflects the fee due to the City with respect to this chapter. The City shall have the right to reasonable inspection of the Permittee's books and records during normal business hours.

(c) The Permittee must maintain a local business office open to the public during normal business hours for the purpose of handling customer service. All books and records must be maintained in this local office.
(Ord. 2-95. Passed 1-23-95.)

782.10 CELL SITE REMOVAL.

Upon cancellation, revocation or denial of the permit required by this chapter, the requestor or Permittee shall remove such designated cell site and any support structure as requested by the City. Such removal to be completed within thirty (30) days. At the end of thirty (30) days the City may at its option have the cell site removed, with such costs being the responsibility of the Permittee.
(Ord. 2-95. Passed 1-23-95.)

CHAPTER 784
Adult Entertainment Business

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CROSS REFERENCES
Obscenity and sex offenses - see GEN. OFF. Ch. 533

784.01 DEFINITIONS.

(a) Adult Book Store means an establishment which utilizes fifteen (15) percent 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 both, books, magazines, other periodicals, films, tapes and cassettes which are distinguished by their emphasis on adult materials as defined in this section.

(b) Adult Motion Picture Theater means an enclosed motion picture theater which is regularly used or utilizes fifteen (15) percent or more of its total view times, for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this section.

(c) Adult Motion Picture Drive-in Theater means an open air drive-in theater which is regularly used or utilized fifteen (15) percent or more of its total viewing time, for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this section.

(d) Adult Only Entertainment Establishment means an establishment where the patron directly or indirectly is charged a fee where the establishment features entertainment or services which constitute adult material as defined in this section, or which features exhibitions, dance routines, or gyrational choreography of persons totally nude, topless, bottomless, or strippers, male or female impersonators or similar entertainment or services which constitute adult material.

(e) Adult Material means any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, motion picture film photographic record or tape, other tangible thing, any service capable of arousing interest through sight, sound, or touch, and:

(1) Which material is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, or human body functions of elimination; or

(2) Which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality or human bodily functions of elimination.

(f) Bottomless means less than full opaque covering of male or female genitals, pubic area or buttocks.

(g) Nude or nudity means that showing, representation, or depiction of human male or female genitals, pubic area or buttocks with less than full, opaque covering of any portion thereof, or female breast(s) 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.

(h) Topless means the showing of a female breast with less than a full opaque covering of any portion thereof below the top of the nipple.

(i) Sexual Activity means sexual conduct or sexual contact or both.

(j) Sexual Contact means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttocks, pubic region, or if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

(k) Sexual Excitement means the condition of the human male or female genitals, when in a state of sexual stimulation or arousal. (Ord. 1-2001. Passed 1-22-01.)

784.02 ADULT ENTERTAINMENT BUSINESS PERMITTED IN AN INDUSTRIAL DISTRICT AS A CONDITIONAL USE; CONDITIONS.

No building or premises shall be used, and no building shall be erected or altered, which is arranged, intended or designed to be used for an Adult Entertainment Business if any part of such building or premises is situated on any part of a lot within a one thousand (1000) foot radius in any direction of any lot used for, or upon which is located, any building used for:

(a) Any single family or multiple family residential use;

(b) Any public or private school;

(c) Any church or other religious facility or institution;

(d) Any public park;
(e) Any other Adult Entertainment Business;
(f) Any pool or billiard hall or video or pinball arcade;
(g) Any hotel, motel, hostel, bed & breakfast, or boarding house; and
(h) Any special education center; education or training facility for mentally or physically disabled person; public or non-profit community center in which there are regular programs for minors; public library; public recreation center; playground; hospital; clinic; infirmary; nursing or convalescent homes; home for the aged; rest home; orphanage or day care center.
(Ord. 1-2001. Passed 1-22-01.)

784.03 SIGNS AND EXTERIOR DISPLAY.
No adult entertainment use shall be conducted in any manner that permits the observation of any material depicting describing or relating to "specified sexual activities" or "specified anatomical areas" by display, decorations, sign, show window or other opening from any public view. (Ord. 1-2001. Passed 1-22-01.)

784.04 HOURS OF OPERATION.
Adult Entertainment Businesses shall be permitted to be open for business from 8:00 a.m. through 12:00 a.m. daily. No such business shall be open from 12:00 a.m. through 8:00 a.m. or any portion thereof. (Ord. 1-2001. Passed 1-22-01.)

784.05 PERMIT REQUIRED.
(a) No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on in the City of New Philadelphia, the operation of an Adult Entertainment Business without first having obtained a permit from the City.

(b) A separate permit is required for each location at which an Adult Entertainment Business is operated.

(c) Application for an original or renewal permit shall be in writing, addressed to the City of New Philadelphia, Ohio.

(d) An application for a renewal permit shall be filed not later than thirty days prior to expiration of the permit to be renewed.

(e) All applications shall be filed with the Service Director.

(f) A nonrefundable filing fee shall be paid at the time of filing the application as follows:
(1) Two hundred and fifty dollars ($250.00) for an initial permit to operate an Adult Entertainment Business.
(2) One hundred dollars ($100.00) for a renewal permit to operate an Adult Entertainment Business.

(g) An application for an initial permit to operate an Adult Entertainment Business shall contain the following:
(1) The address where the Adult Entertainment Business is operated, or is to be operated;

(2) The status of the applicant as an individual, partnership or limited partnership, domestic or foreign corporation, or other entity;

(3) The full name, residence address, date of birth, and social security number of the applicant or the person applying on behalf of a partnership, corporation, or other entity;

(4) If the applicant is a partnership or limited partnership, the name of the partnership; the status of the partnership as a general or limited partnership; the state or other jurisdiction under which it is organized; the address of its principal office in Ohio; its federal identification number; the name and address, date of birth, and social security number of each partner; and the status of each partner as a general or limited partner;

(5) If the applicant is a corporation, the name of the corporation; the state or other jurisdiction under which it is organized; the address of its principal office, the address of its principal office in Ohio; its federal identification number; the name and address of its statutory agent in Ohio; and the full name, residence address, date of birth, and social security number of each shareholder holding more than two percent of the applicant's stock. If any shareholder is a corporation or a general or limited partnership, the same information shall be included for such shareholder as is required for an applicant that is a corporation or general or limited partnership;

(6) Authorization for an investigation into the background, including any criminal record, of the applicant and any person or entity named in the application, including authorization to conduct subsequent investigations to supplement or update the information;

(7) The applicant's agreement to abide by these regulations and the law of Ohio, and any amendments, additions, or reenactment thereof.

(h) Applicants for a permit under this section shall have a continuing duty to promptly supplement application information required by this section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the City shall be grounds for suspension of a permit. (Ord. 1-2001. Passed 1-22-01.)

784.06 INSPECTION AND INVESTIGATION UPON APPLICATION.

(a) Upon receipt of an application for a permit or renewal permit to operate an Adult Entertainment Business, the Service Director shall notify the state or local authorities to conduct health and safety inspections of the specified premises, and to determine compliance or noncompliance with applicable health and safety codes. Written reports of inspection shall be prepared by the inspectors and filed with the Service Director within thirty days after receipt of an application for a permit or renewal permit to operate an Adult Entertainment Business, and shall become part of the application for a permit.

(b) Upon receipt of an application for a permit or renewal permit to operate an Adult Entertainment Business the Service Director shall refer the applicant to the Police Department to be finger printed, and to conduct an investigation into the background of the applicant and of other persons or entities named in the application. A written report of the results of the investigation shall be prepared by the investigating officer or agency and filed with the Service Director within thirty days after receipt of an application for a permit or renewal permit to operate an Adult Entertainment Business, and shall become part of the application for a permit.
(Ord. 1-2001. Passed 1-22-01.)

784.07 ACTION ON APPLICATION.

(a) The Service Director shall act on the application within thirty days after the filing of the reports required in Section 763.05 and 763.06.

(b) The application will be denied if:

(1) The application is incomplete, contains any false information, or fails to comply with these regulations;

(2) If the applicant is a limited partnership, corporation or other entity, the applicant is not in good standing in the jurisdiction where organized;

(3) The operation of an Adult Entertainment Business at the specified premises would violate existing zoning restrictions;

(4) The report of the health and safety inspections conducted pursuant to Section 784.06(a) reveal any unsanitary, unsafe or hazardous condition on the premises subject to the permit or renewal permit or any violation of applicable health or safety codes;

(5) The applicant for a permit or renewal permit to operate an Adult Entertainment Business has failed to cooperate with any required health or safety inspection or background investigation;

(6) The applicant or any person named in the application for a permit or renewal permit to operate an Adult Entertainment Business is under age eighteen;

(7) The applicant or any person named in the application for an initial or renewal permit to operate an Adult Entertainment Business within the past five years has been convicted of or pleaded guilty to an offense under Ohio R.C. Chapter 2907 or substantially equivalent offense under a municipal ordinance in Ohio, or under the laws of another state or territory or of the United States, or under a municipal ordinance in any such jurisdiction;

(8) Any person employed at the licensed Adult Entertainment Business has been convicted of or pleaded guilty to a violation in Section 784.17;

(9) The Liquor Control Commission has revoked, Under Ohio R.C. 4301.25, a permit held by any one of the persons named on the application;

(10) The applicant has violated these regulations, or aided and abetted any violation of these regulations;

(11) If the location violates Section 784.02

(c) If the application is denied, the Service Director shall promptly notify the applicant in writing of the order denying the application. If approved, the Service Director shall promptly issue to the applicant a permit.

(d) A permit or renewal permit to operate an Adult Entertainment Business shall contain the address of the permit premises, the name and address of the permit holder, and the date of issuance and date of expiration of the permit. (Ord. 1-2001. Passed 1-22-01.)

784.08 EXPIRATION OF PERMIT.

(a) A permit to operate an Adult Entertainment Business is valid for one year, and expires on the anniversary of the date of issuance, unless sooner revoked as provided in these regulations.

(b) Application for renewal shall be made at least thirty days before the expiration date, and when made less than thirty days before the expiration date, the expiration of the permit will not be affected. (Ord. 1-2001. Passed 1-22-01.)

784.09 DISPLAY OF PERMIT.

The permit to operate an Adult Entertainment Business shall be prominently displayed in a area of the establishment open to the public. (Ord. 1-2001. Passed 1-22-01.)

784.10 REVOCATION OF PERMIT.

(a) The City may at any time revoke a permit issued pursuant to these regulations, on any of the same grounds listed in Section 784.07(b) for denial of the permit. The Service Director shall promptly notify the permittee in writing of the order of revocation.

(b) When a permit is revoked, the revocation shall continue for one year. (Ord. 1-2001. Passed 1-22-01.)

784.11 INSPECTIONS AND INVESTIGATIONS.

(a) The City may order a health and safety inspection at any time there is reasonable cause to believe that an unsanitary, unsafe, or hazardous condition exists on the premises. The Service Director shall notify the appropriate authorities or agencies to make such inspections at the designated times. Written reports of inspections shall be filed with the Service Director.

(b) City personnel or agents may at all reasonable times inspect permit premise to insure continued compliance with the laws of Ohio and these regulations.

(c) At any time there is reasonable cause to do so, the City may order a background investigation, including criminal record, of any permittee, person named in the application for a permit or employee of a permittee. Written report of the investigation shall be filed with the Service Director. (Ord. 1-2001. Passed 1-22-01.)

784.12 REQUIREMENTS FOR OPERATION.

(a) The establishment shall be closed and shall not be operated between the hours of 12:00 a.m. and 8:00 a.m.

(b) All parts of the establishment shall at all times be maintained in a neat, clean, sanitary and safe condition.

(c) The owner, operator, or person in charge of the establishment shall allow state or local authorities, including law enforcement officers, access to any and all parts of the premises for the purpose of making any health or safety inspection pursuant to these regulations, and shall cooperate in any background investigation.

(d) No person under age eighteen shall be employed by the establishment in any capacity, whether full-time or part-time, or with or without remuneration or compensation in any form.

(e) The owner, operator, or person in charge of the establishment shall exercise adequate supervision to insure that the employees of the establishment comply at all times with these regulations and the laws of Ohio.

(f) Signs.

(1) Exterior painting. Buildings and structures shall not be painted or surfaced with garish colors or textures or any design that would simulate a sign or advertising message.

(2) Advertisements, signs, or any other exhibit depicting adult entertainment activities placed within the interior of buildings or premises shall be arranged or screened to prevent public viewing from outside such buildings or premises.

(3) No outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to an adult entertainment use is allowed.

(4) Upon order of the Building Inspector, graffiti appearing on any exterior surface of a building or premises, which graffiti is within public view, shall be removed and that surface shall be restored within seventy-two hours of notification to the owner or person in charge of the premises.

(g) No person shall operate or cause to be operated an Adult Entertainment Business and knowingly or with reasonable cause to know, permit, suffer, or allow:

(1) Admittance of a person under eighteen years of age to the business premises;

(2) If the interior of the premises is visible from outside the premises, so that any matter that is harmful to minors is visible from outside the premises, the owner or manager of the premises shall install opaque covering over all windows through which minors could view any harmful matter and install a privacy curtain at all entrances of the premises through which minors could view any harmful matter.

(Ord. 1-2001. Passed 1-22-01.)

784.13 RULES GOVERNING CONDUCT OF EMPLOYEES.

(a) A person under age eighteen shall not accept or continue employment by an Adult Entertainment Business, in any capacity, whether full-time or part-time, or with or without remuneration or compensation in any form.

(b) No employee of the establishment, in the performance of his or her duties shall do any of the following:

(1) Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the genitals, pubic area, or buttocks of any other person or the breast of any female or, if the employee is a female, of any other female, for the purpose of sexual stimulation.

(2) Perform, offer, or agree to perform any act that would require the touching of the genitals, pubic area, or buttocks of any other person or the breasts of any female or, if the employee is a female, of any other female, for the purpose of sexual stimulation.

(3) Uncover the genitals, pubic area, or buttocks of any other person or the breast of any female or, if the employee is a female, of any other female. (Ord. 1-2001. Passed 1-22-01.)

784.14 MEASURE OF DISTANCE.

The required minimum distance between any two adult entertainment businesses or to any bar or tavern shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each such business. The distance between any adult entertainment business and any school, public park, church, library, residential use shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult entertainment business to the closest property line of the school, public park, church, library, residential district, or residential use. (Ord. 1-2001. Passed 1-22-01.)

784.15 RECORDS.

The Service Director shall keep a complete record of all documents and proceedings under these regulations, including without limitation applications, reports, copies of permits issued, notices, correspondence, Board of Proceedings, resolutions and orders, and petitions. All documents shall be endorsed by the Service Director with that date of filing.
(Ord. 1-2001. Passed 1-22-01.)

784.16 DEPOSITS AND USE OF FEES.

Fees collected by the City for permits under these regulations shall be deposited in the City General Fund, and first applied to the cost of administering and enforcing these regulations.
(Ord. 1-2001. Passed 1-22-01.)

784.17 CRIMINAL VIOLATION.

(a) Whoever engages in, conducts or carries on, or permits to be engaged in, conducted or carried on in the City of New Philadelphia, the operation of an adult entertainment business without first having obtained a permit from the City is guilty of a misdemeanor of the first degree.

(b) Whoever violates any of the following is guilty of a misdemeanor of the third degree.

(1) If the owner or operator of an adult entertainment business located in the City knowingly:

A. Refuses to allow appropriate state or local authorities, including police officers, access to adult entertainment for any health or safety inspection, or any other inspection conducted to ensure compliance with regulations adopted by the City under this chapter.

B. Operates during the hours designated as prohibited hours of operation;

C. Employ or admit to the business premises any person under the age of eighteen;

D. Establish or operate an adult entertainment business within 1,000 feet from the boundaries of a parcel of real estate having situated on it a school, church, library, public park, tavern, bar, a "sexually oriented business" or another adult cabaret; or within one thousand feet from the boundaries of any residential district or residential use.

(2) If an employee of the establishment, in the performance of his or her duties, does any of the following:

A. Places his or her hand upon, touches with any part of his or her body, fondles in any manner, or massages the genitals, pubic area, or buttocks of any other person or the breast of any female or, if the employee is a female, of any other female, for the purpose of sexual stimulation;

B. Performs, offers, or agrees to perform any act that would require the touching of the genitals, pubic area, or buttocks of any other person or the breasts of any female or, if the employee is a female, of any other female, for the purpose of sexual stimulation.

C. Uncovers the genitals, pubic area, or buttocks of any other person or the breast of any female or, if the employee is a female, of any other female. (Ord. 1-2001. Passed 1-22-01.)

784.18 APPEALS.

Any persons adversely affected by an order of the Service Director denying or revoking a permit to operate an adult entertainment business may appeal from the order of the Service Director to the Board of Zoning Appeals. (Ord. 1-2001. Passed 1-22-01.)

784.99 PENALTY.

See Section 501.99 of the Codified Ordinances for penalties applicable to any misdemeanor classification. (Ord. 1-2001. Passed 1-22-01.)

CHAPTER 786
Video Service Providers

786.01 Fee.

786.01 FEE.

(a) Council hereby establishes a VSP Fee that is calculated by applying a VSP Fee Percentage of five percent (5%) to the video service provider's gross revenues as defined in Section 1332.32(B) of the Video Law. All video service providers and cable television operators providing video service in the City shall apply the VSP Fee Percentage against gross revenues as defined in the Video Law. This section does not cancel the existing franchise agreement.

(b) The VSP Fee shall be paid by each video service provider providing service in the City on a quarterly basis but not sooner than forty-five days nor later than sixty (60) days after the end of each calendar quarter.

(c) The Mayor is authorized and directed to provide any video service provider with notice of the VSP Fee Percentage as determined by this Council above, which notice shall be given by certified mail, upon receipt of notice from such video service provider that it will begin providing video service in the City pursuant to a state-issued video service authorization. (Ord. 14-09. Passed 4-13-09.)

CHAPTER 788
Skill Game Businesses, Adult Oriented Arcades, Internet Sweepstakes Cafes and Sweepstakes Businesses

788.01 Permit required.
788.02 Appeals.
788.03 Miscellaneous.
788.99 Penalty.

CROSS REFERENCES
Gambling - see GEN. OFF. Ch. 517

788.01 PERMIT REQUIRED.

(a) Any person, organization, or business entity who owns or operates a skill game business, adult oriented arcade, internet café, or sweepstakes business or who desires to operate such a business shall apply annually for a permit with the City of New Philadelphia office of the Mayor.

(b) An application for an initial permit to operate a business under this section shall contain the following:

(1) The address where the Business is operated, or is to be operated;

(2) The status of the applicant as an individual, partnership or limited partnership, domestic or foreign corporation, or other entity;

(3) The full name, residence address, date of birth, and social security number of the applicant or the person applying on behalf of a partnership, corporation, or other entity;

(4) If the applicant is a partnership or limited partnership, the name of the partnership; the status of the partnership as a general or limited partnership; the state or other jurisdiction under which it is organized; the address of its principal office in Ohio; its federal identification number; the name and address, date of birth, and social security number of each partner; and the status of each partner as a general or limited partner;

(5) If the applicant is a corporation, the name of the corporation; the state or other jurisdiction under which it is organized; the address of its principal office, the address of its principal office in Ohio; its federal identification number; the name and address of its statutory agent in Ohio; and the full name, residence address, date of birth, and social security number of each shareholder holding more than two percent of the applicant's stock. If any shareholder is a corporation or a general or limited partnership, the same information shall be included for such shareholder as is required for an applicant that is a corporation or general or limited partnership;

(6) Authorization for an investigation into the background, including any criminal record, of the applicant and any person or entity named in the application, including authorization to conduct subsequent investigations to supplement or update the information;

(7) The applicant's agreement to abide by these regulations and the law of Ohio, and any amendments, additions, or reenactment thereof.

(8) No permit shall be issued to a convicted felon.

(c) Each applicant shall include with the application a certification from the State of Ohio or an authorized testing agency which indicates that the specific skill based amusement game machines and/or computers, internet cafe machines and/or computers, sweepstakes machines and/or computers, and adult oriented arcade machines and/or computers which will be operated by the applicant are legal to operate in the State of Ohio and are not slot machines or other games involving a scheme of chance. Failure by the applicant to complete the entire application shall cause the Mayor to deny the permit.

(d) Each applicant shall be required to list all skill based amusement game machines and/or computers, internet cafe machines and/or computers, sweepstakes machines and/or computers, and adult oriented arcade machines and/or computers being operated or to be operated by the applicant, such list to include the following items of information:

(1) The make, model, and serial number of any skill based game machines and/or computers, internet cafe machines and/or computers, sweepstakes machines and/or computers, and adult oriented arcade machines and/or computers.

(2) The hardware and/or circuit board switch settings for each machine and/or computer operated or to be operated as a skill based, sweepstakes, internet café, and/or adult oriented arcade machine or computer.

(3) The software settings of each such machine and/or computer.

(4) In addition to the above items, the applicant shall provide with the permit application a copy of each manual for any such machine and/or computer used or to be used as a skill based game machine and/or computer, internet cafe machine and/or computer, sweepstakes machine and/or computer, and adult oriented arcade machine and/or computer.

(e) Each permit applicant shall designate a natural person or persons responsible for the applicant's compliance with the provisions contained in this Chapter and Ohio R.C. Chapter 2915.

(f) Any permit holder under this Chapter shall be required to give written notice to the Mayor of this City within fourteen (14) days of any change in any of the information required in subsection (d) above. Failure of any permit holder to give the written notice required by this paragraph shall cause the Mayor to revoke a permit issued under this Chapter and shall be a violation of this ordinance that allows the imposition of the penalties listed herein.

(g) Applicants must apply for permits issued under this Section no later than thirty (30) days prior to the opening/operating date at which the applicant desires to operate any of the devices, computers, or machines enumerated in subsection (d) above.

(h) New permits shall be valid for the remainder of the calendar year in which issued. Renewal permits shall be effective from January 1st through December 31st of the the year issued.

(i) The following permit fees are required of each applicant:

(1) An application fee of five hundred dollars ($500.00) paid with each application which is not refundable.

(2) A general permit fee of five thousand dollars ($5,000) per year which shall be prorated per month for the first year if issued after July 1 of such year, prior to permit issuance.

(3) An application and processing fee of two hundred dollars ($200.00) per year for each skill game machine and/or computer, internet cafe machine and/or computer, sweepstakes machine and/or computer, and each adult oriented arcade machine and/or computer, paid prior to permit issuance.

(j) The decision to grant, deny, or revoke a permit issued under this section shall be in the sole discretion of the Mayor.

(k) Each permit holder, in return for issuance of a permit under this Chapter, is subject to inspection by the Department of Police during normal business hours to ensure the permit holder's compliance with the provisions of this Chapter and Chapter 2915 of the Ohio Revised Code. Failure of the permit holder to allow inspection during normal business hours shall result in immediate revocation of the permit holder's permit.

(l) Upon receipt of an application for a permit or renewal permit to operate Business, the Mayor shall refer the applicant to the Police Department to be finger printed, and to conduct an investigation into the background of the applicant and of other persons or entities named in the application. A written report of the results of the investigation shall be prepared by the investigating officer or agency and filed with the Mayor within thirty (30) days after receipt of an application for a permit or renewal permit to operate Business, and shall become part of the application for a permit.

(m) Applicants for a permit under this section shall have a continuing duty to promptly supplement application information required by this section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the City shall be grounds for suspension of a permit.

(n) Violation and/or conviction by the permit holder of any provision of this Chapter or of Ohio Revised Code Chapter 2915 shall cause the Mayor to immediately revoke a permit holder's permit. Appeals from any permit revocation shall be conducted in accordance with this Chapter. Under no circumstances, including permit revocation, is a permit holder entitled to reimbursement for permit fees, application fees, and processing fees, and such fees are not refundable, and are not prorated to the date of revocation or closure of a permit holder's business.

(o) Skill game businesses, adult oriented arcades, internet sweepstakes cafés, and sweepstakes businesses shall be conditionally permitted only in Business and Central Business Zones, as established in the Codified Ordinances of the City of New Philadelphia and not within one thousand (1,000) feet of any school and subject to Section 1141.02 of the Codified Ordinances of the City of New Philadelphia and only if in full compliance with Ohio Law and Chapter 2915 of the Ohio Revised Code.

(p) Criminal penalties for any violation of the provisions of this section are governed by Section 788.99. (Ord. 19-2010. Passed 11-8-10.)

788.02 APPEALS.

(a) Any permit holder in disagreement with the decision of the Mayor to grant, deny or revoke a permit issued under this chapter may appeal that decision to Council.

(b) Council may hold a hearing on the appeal at the next regularly scheduled meeting or conduct a special session to consider an appeal. The hearings by Council can be suspended and rescheduled at the discretion of the President of Council. The appellant and appellee shall be permitted to present evidence and argument. Council shall then either affirm or reverse the decision of the Mayor. The Mayor's decision may be reversed only by a two-thirds (2/3) vote of Council. The decision of the Council may be appealed to the Tuscarawas County Court of Common Pleas and the only grounds for reversal or review shall be an abuse of discretion standard. (Ord. 19-2010. Passed 11-8-10.)

788.03 MISCELLANEOUS.

(a) No person under the age of eighteen (18) shall be permitted on the premises unless accompanied by a parent or guardian.

(b) An adult twenty-one (21) years of age or older shall be on premises at all times.

(c) The operator shall require a photo identification of every person to whom anything of value is given in connection with the sweepstakes/internet café and shall record the person's name, date of birth, and home address and a description of the thing given, a stated dollar value of the thing given, the date and time of the giving and, if an entertainment device is involved in the circumstances of the giving, the serial number or other identifying description of the device. If the dollar value given for any single event for which there is a chance of winning six hundred dollars ($600.00) or more, the operator shall also include in the record a copy of the photo identification and record the person's social security number. By the second Tuesday of each month the operator shall cause to be delivered to the City Income Tax Director a copy of the record containing the information set forth above for the preceding month. The operator and the City Income Tax Director shall not disclose the social security number of any person to anyone except as required by the laws of the State of Ohio and the United States.
(Ord. 19-2010. Passed 11-8-10.)

788.99 PENALTY.

Violation of this chapter shall be a misdemeanor of the first degree. Each and every day or portion of a day that the business subject to regulation by this chapter, remains open without a permit or in violation of this any provision of this chapter, shall be a separate offense.
(Ord. 19-2010. Passed 11-8-10.)

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE ONE - Street and Sidewalk Areas
Chap. 901. Street Excavations and Curb Cuts.
Chap. 902. Private Driveways.
Chap. 903. Sidewalks.
Chap. 905. Trees and Weeds.
Chap. 907. Street and Building Numbering.
Chap. 909. Bituminous Pavements.
Chap. 911. Concrete Pavements.

TITLE THREE - Utilities
Chap. 931. Sewer Regulations.
Chap. 933. Sewer Rates.
Chap. 935. Water Regulations.
Chap. 937. Water Rates.
Chap. 939. Sewage Pretreatment.
Chap. 945. Backflow; Cross Connection Control.
Chap. 946. Fire Sprinkler Systems and Fire Hydrants.
Chap. 947. Water Wells and Ground Water Protection.

TITLE FIVE - Additional Public Services
Chap. 971. Garbage and Rubbish Collection.
Chap. 973. City Park.
Chap. 975. Flood Control.

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Chap. 911. Concrete Pavements.

CHAPTER 901
Street Excavations and Curb Cuts

901.01 Excavation permit and fee
901.02 Excavation deposit required; refund
901.03 Filling excavation and replacing pavement.
901.04 Curb cutting permit and fee.
901.05 Protecting excavations.
901.99 Penalty.

CROSS REFERENCES

Power to establish and care for streets - see Ohio R. C. 715.191, 717.01, 723.01
Openings by the Municipality - see Ohio R. C. 723.02
Excavation liability - see Ohio R. C. 723.49 et seq.
Digging, excavating and piling earth on streets - see Ohio R.C. 5589.10
Barricades and warning lights; abandoned excavations - see GEN. OFF. 521.03

901.01 EXCAVATION PERMIT AND FEE.

Whoever desires to excavate in any street within the City shall apply in writing to the Director of Public Service for a permit and shall pay a permit fee of five dollars ($5.00). (Ord. 2838. Passed 12-28-59.)

901.02 EXCAVATION DEPOSIT REQUIRED; REFUND.

Upon filing the application, the applicant for a street excavation permit shall deposit with the Director of Public Service an amount sufficient to cover the cost of backfilling the excavations, relaying and repairing the pavement to be removed, together with the cost of labor and any new material required. Thereupon, the Director shall issue the permit.

Any part of the deposit left after the payment of cost of labor and materials for backfilling, relaying and repairing the pavement shall be returned to the applicant.
(Ord. 2838. Passed 12-28-59.)

901.03 FILLING EXCAVATION AND REPLACING PAVEMENT.

The holder of a permit for a street excavation shall make the excavation specified in his permit, do the necessary excavating and make the proper connection, repairs or other work required, after which he shall make the necessary backfilling with approved backfill material. The City shall relay, repair and restore all pavement so removed, and the costs therefor shall be deducted from the deposit.

Should any person fail, refuse or neglect to do all or any part of the work required or fail to do the work in a manner acceptable to the Director of Public Service, the Director shall cause the work to be done, and pay for the same out of any fund in his hands and recover the cost and expense of the same from the person by suit or otherwise.
(Ord. 2838. Passed 12-28-59.)

901.04 CURB CUTTING PERMIT AND FEE.

No person shall cut any curb on any street without first having secured a permit from the Director of Public Service. The permit fee shall be one dollar ($1.00) for the first fifteen feet and an additional one dollar ($1.00) per lineal foot for each foot exceeding fifteen feet.
(Ord. 2852. Passed 3-14-60.)

901.05 PROTECTING EXCAVATIONS.

Any person licensed under the provisions of this chapter shall protect any excavation, opening, pile of debris or other material with sufficient barricades and, from one hour before sunset until one hour after sunrise, shall provide an adequate number of warning lights to warn all pedestrians and vehicles of the existing dangers.

All excavated material must be deposited so as not to unnecessarily inconvenience any pedestrian or operator of a motor vehicle.
(Ord. 2838. Passed 12-28-59.)

901.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars ($50.00). (Ord. 2838. Passed 12-28-59.)

CHAPTER 902
Private Driveways

902.01 Private drive standards check list.

902.01 PRIVATE DRIVE STANDARDS CHECK LIST.

____ 1. An Application for Subdivision Variance form must be completed and submitted to the New Philadelphia Planning Commission.

____ 2. A $100.00 filing fee must accompany the completed variance form.

____ 3. A Preliminary sketch on 8 ½ X 11" paper must accompany the completed variance form which shows:
- The plan for drive.
- The lots which will be served by the drive. (up to 5 parcels).
- The acreage for each lot.
- The names of the lot owners who will use the drive.
- Show a lot number on each lot (#1 thru #5).
- The public road which abuts the drive.
- A profile of the drive is to be submitted with the preliminary sketch.

____ 4. The DPD may serve up to five lots.

____ 5. One single family dwelling or duplex per lot (MUST BE NOTED on the PLAT).

____ 6. The centerline of the DPD must be the lot abutment line whenever possible.

____ 7. Total lot acreage must be shown on the lot.

____ 8. The acreage consumed by the DPD must be shown for each lot which is served by the DPD.

____ 9. The centerline of the DPD must be the abutment line of the lots which it serves.

____ 10. A 30' minimum right of way is required. May be more than 30' depending on cut requirement for irregular terrain.

____ 11. A 16' road width is required.

____ 12. A 6" granular base is required of which the top 2" is a #304 material, traffic compacted.

____ 13. A typical road cross-section is to be submitted with the plat.

____ 14. A 25'flared radil required at the private drive entrance to the public road.

____ 15. The name(s) of the property owners must appear on each tract.

____ 16. A Recorded Maintenance Agreement signed by all owners of the DPD is required.

____ 17. All plat boundaries with length of courses in feet and hundredths, bearings to not more than half minutes.

____ 18. Bearings and distances to nearest established street.

____ 19. Show a vicinity map of area within a one-half (½) mile radius or within a scope which shows the DPD abutting a public road.

____ 20. A Registered Surveyor must prepare the Final Plat drawing(s).

____ 21. The Final Plat shall be legibly drawn in India ink on tracing cloth, mylar or other materials of equal permanence. Mylar drawing lead (E, E1, E2) or India ink must be used on mylar drawings and documents.

____ 22. Illustrate the DPD and principal properties in heavy lines.

____ 23. Maximum document size: 21" side to side by 19" top to bottom. Smaller is OK.

____ 24. Acceptable scale(s): (1"=200'), (1"=100'), (1"=50'), (1"=30').

____ 25. Multiple sheets: Number each sheet in relation to all others. Example: (2 sheets) 1 of 2, 2 of 2.

____ 26. The (DPD) may be drawn on a larger sheet and reduced for recording. The reduced copy must be legible and no larger than 19" X 21".

____ 27. The owner or his agent is required to submit a signed, notarized statement that the road has been constructed in accordance with the above standards prior to final approval of the Dedicated Private Drive Plat. The City will not be responsible for the inspection of the improvements, but may spot check.

____ 28. These standards apply to all Private Drives regardless of the number of lots served by the drive (1 to a maximum of 5).
(Ord. 14-2014. Passed 8-11-14.)

CHAPTER 903
Sidewalks

903.01 Definitions.
903.02 Width in business district.
903.03 Widths outside business district.
903.04 Notice to replace; partial payment by City.
903.05 Bids for sidewalk replacement.
903.06 Failure to pay; certification to Auditor.
903.07 Application for partial City payment.
903.08 Check to accompany application.
903.09 Applications submission; rating deadline.
903.10 Applications submission; past rating deadline.
903.11 New application for uncompleted work.
903.12 Mayor to administer.
903.13 Application rejection; appeal; override of Mayor's decision.
903.14 Maintenance owner's responsibility.
903.15 Maximum yearly expenditure.

CROSS REFERENCES

Sidewalks and gutters - see Ohio R.C. 729.01 et seq.
Construction or repair at owner's expense - see Ohio R.C. 729.01 et seq.
Notice to construct or repair - see Ohio R.C. 729.03 et seq.

903.01 DEFINITIONS.

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

(a) "Residential in nature" means a sidewalk not located in front of or adjacent to a commercial establishment or other place where a group of ten (l0) or more persons hold meetings or a place open to the public.

(b) "Sidewalk" means the specifications for replacement of a sidewalk shall be those of a six (6) bag mix portland cement concrete sidewalk of not less than four (4) inches thickness or not less than six (6) inches thickness at driveways. (Ord. 38-98. Passed 6-22-98.)

903.02 WIDTH IN BUSINESS DISTRICT.

All sidewalks in the business portions of the city shall be constructed to extend from the property line to the curb. (Ord. 38-98. Passed 6-22-98.)

903.03 WIDTHS OUTSIDE BUSINESS DISTRICT.

(a) All sidewalks outside business portions of the City shall be constructed next to the property line and shall be of the following widths:

(b) Those on streets with a public right-of-way fifty (50) feet or more in width shall be five (5) feet wide and there shall be a lawn strip between the sidewalk and the curb of the street.

(c) However, on all streets and alleys where sidewalks have heretofore been constructed and such sidewalks are to be reconstructed or extended, such reconstruction or extensions shall be of the same width as the walks then existing thereon upon approval of the Director of Public Service. (Ord. 38-98. Passed 6-22-98.)

903.04 NOTICE TO REPLACE; PARTIAL PAYMENT BY CITY.

The Mayor is empowered, authorized, and directed to replace, or cause to be replaced, public sidewalks within the City limits and to commit the City to the payment of not more than fifty percent (50%) of the costs of such replacement. Provided, however, that notice as required by Ohio R.C. 729.03 has been served upon the owner, lessee, tenant, or agent having charge of such lands upon which a public sidewalk to be replaced is situated, and further, that such owner, lessee, tenant, or agent has failed to comply with the notice to replace the sidewalks within thirty days after service of such notice, and provided that the Mayor, or his representative, has determined by actual inspection in company with the Service Director, or his representative, that the sidewalks require replacement. (Ord. 38-98. Passed 6-22-98.)

903.05 BIDS FOR SIDEWALK REPLACEMENT.

The Mayor is authorized to obtain bids or informal estimates in accordance with normal City bidding procedures, or in accordance with other procedures as may be required by law, for the replacement of such sidewalks pursuant to Section 903.04. The Mayor shall make or cause to be made an inspection of the sidewalk to be replaced and if upon inspection determines, in concurrence with the Service Director or his representative, that it is in the public interest that such replacement be carried out, the Mayor shall receive bids or informal estimates for such replacement of sidewalks. (Ord. 38-98. Passed 6-22-98.)

903.06 FAILURE TO PAY; CERTIFICATION TO AUDITOR.

If any owner or agent of any owner fails to make payment of the property owner's share of the actual cost for any sidewalks replaced as required by Section 903.04 within 60 days of the date of completion of the sidewalk replacement, the Mayor shall cause written return to be made to the County Auditor for an amount equal to the property owner's share or the actual costs of the sidewalk replacement and to enter such amount upon the tax duplicate to become a lien upon such lands from the date of entry, to be collected as other taxes and returned to the City. (Ord. 38-98. Passed 6-22-98.)

903.07 APPLICATION FOR PARTIAL CITY PAYMENT.

Any property owner or the agent of any owner who plans to replace public sidewalks upon property which he controls within the City limits may make written application to the Mayor for partial payment by the City of the costs of such replacement of sidewalks. Upon receipt of such application, the Mayor shall make or cause to be made an inspection of the sidewalk to be replaced and if upon inspection, determines with the concurrence of the Service Director or his representative that it is in the public interest that such replacement be authorized to commit the City to pay not more than fifty percent (50%) of the costs of such replacement. The property owner or the agent of any owner is limited to one funded application per year. (Ord. 38-98. Passed 6-22-98.)

903.08 CHECK TO ACCOMPANY APPLICATION.

The application for partial payment by the City for the replacement of sidewalks as set forth in Section 903.07 shall be in writing on a form approved by the Mayor and shall be accompanied by an estimate of cost for the proposed replacement along with a certified check or money order, payable to the City, representing the applicant's share of the cost of replacement. (Ord. 38-98. Passed 6-22-98.)

903.09 APPLICATIONS SUBMISSION; RATING DEADLINE.

Written applications provided for in Section 903.07 shall be submitted to the Mayor for priority rating no later than June 1 of each year. Sidewalks, residential in nature, shall be given priority for available fund over commercial sidewalks. Other priority rating methods shall be determined by the Mayor. If two or more applications have equal priority ratings, the date of application filing will prevail.
(Ord. 21-2004. Passed 4-26-04.)

903.10 APPLICATIONS SUBMISSION; PAST RATING DEADLINE.

Applications may be accepted and approved beyond the dates listed in Section 903.09 within the program's calendar year provided that all funds for replacement assistance have not been committed during priority rating. Priority rating for submission after the rating deadline will be based on the date of application filing. (Ord. 38-98. Passed 6-22-98.)

903.11 NEW APPLICATION FOR UNCOMPLETED WORK.

If an application has been approved and deposit made, but work has not been completed as of October 1 of the year in which the application is made, such application and deposit by the applicant shall be returned to the applicant without prejudice to the filing of a new application. (Ord. 21-2004. Passed 4-26-04.)

903.12 MAYOR TO ADMINISTER.

The Mayor is authorized to administer the program for applications for partial payment of sidewalk replacement. This includes application forms, priority rating guidelines, procedural methods and sidewalk specifications so far as they are not in violation with any provision herein. (Ord. 38-98. Passed 6-22-98.)

903.13 APPLICATION REJECTION; APPEAL; OVERRIDE OF MAYOR'S DECISION.

If application for City participation in replacement of sidewalks as provided for in Section 903.07 is rejected by the Mayor, the applicant may appeal the Mayor's decision. Such appeal shall be to Council, through the Mayor, in writing. Council shall give its decision on the appeal not later than its second regularly scheduled meeting after Council's receipt of the appeal. Such decision shall be majority of Council and shall be transmitted to the applicant in writing. If Council sustains the Mayor's rejection of the application, the reasons for the rejection shall be stated in Council's written answer to the applicant. Council shall also have the power to override, by a majority vote of the members of Council, the Mayor's decision to commit the City to pay a portion of the replacement cost of sidewalks and may establish what, if any, portion of the replacement cost shall be borne by the City.
(Ord. 38-98. Passed 6-22-98.)

903.14 MAINTENANCE OWNER'S RESPONSIBILITY.

The responsibility for maintaining a sidewalk safe for public use rests with the owner, lessee, tenant, or agent having charge of the lands upon which the walkway exists. The City assumes none of this responsibility by accepting an application for participation in sidewalk replacement or by agreement to participate in sidewalk replacement.
(Ord. 38-98. Passed 6-22-98.)

903.15 MAXIMUM YEARLY EXPENDITURE.

The amount of money expended by the City for the repair or replacement of sidewalks shall not exceed the sum appropriated by Council per calendar year.
(Ord. 38-98. Passed 6-22-98.)

CHAPTER 905
Trees and Weeds

905.01 Tree or shrub planting permit.
905.02 Trees on private property; removal of dead trees by owner.
905.03 Removal of trees by City; assessment of costs.
905.04 Trees on public property; trimming permit.
905.05 Street and sidewalk obstructions; trimming required.
905.06 Removal of weeds by owner or occupant; seven days notice.
905.07 Trimming of trees and removal of weeds by City.
905.08 Assessment of costs.
905.99 Penalty.

CROSS REFERENCES

Power to regulate shade trees and shrubbery - see Ohio R.C. 715.20
Assessments for tree planting or maintenance - see Ohio R.C. 727.011
Notice to cut noxious weeds - see Ohio R.C. 731.51 et seq.
Shade Tree Commission - see ADM. Ch. 153
Tree trimming - see BUS. REG. Ch. 777

905.01 TREE OR SHRUB PLANTING PERMIT.

(a) No person shall plant any tree or shrub upon any public way, street or alley unless he has first obtained a permit in writing from the Director of Public Service specifying the size, type, species and location on the public way, street or alley of the tree or shrub to be planted.

(b) The Director of Public Service has the authority to deny a permit to any person who proposes to plant any tree or shrub of a size, type or species found to be undesirable by the Shade Tree Commission 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 at a location found by the Commission to be of a size or type unsuitable for planting of trees or shrubs.
(Ord. 3207. Passed 10-28-68.)

905.02 TREES ON PRIVATE PROPERTY; REMOVAL OF DEAD TREES BY OWNER.

Full care and treatment of trees on private property may be undertaken by the property owner, but persons, firms or corporations working for hire must be licensed, whether working on public or private property.

Large trees on private property, dead or otherwise in bad condition, overhanging or posing a hazard to adjacent property or public thoroughfares, shall be removed or caused to be removed by the owner of the property on a written notice from the Director of Public Service, within thirty days from the date of such notice. (Ord. 3333. Passed 11-23-70.)

905.03 REMOVAL OF TREES BY CITY; ASSESSMENT OF COSTS.

Failure to comply with the notice of the Director of Public Service given pursuant to Section 905. 02 shall cause such trees to be removed by the City and the costs shall be assessed against the property owner. Such assessment shall be collected as other taxes are collected.
(Ord. 3333. Passed 11-23-70.)

905.04 TREES ON PUBLIC PROPERTY; TRIMMING PERMIT.

Trees growing in curb strips and on other City property are under the control and jurisdiction of the City and a permit shall be obtained from the Director of Public Service before any cutting, trimming, treating or removal is done. A separate permit is required for each tree worked on.
(Ord. 3333. Passed 11-23-70.)

905.05 STREET AND SIDEWALK OBSTRUCTIONS; TRIMMING REQUIRED.

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

(a) The owner shall trim or cause to be trimmed the tree, plant or shrubbery so that a clear height of eight feet between the lowest branches of the same and the street or sidewalk is maintained.

(b) The owner shall trim or remove, as the case may require, every dead, decayed or broken tree, plant or shrubbery, or part thereof, so the same shall not fall to the street or sidewalk.
(Ord. 2838. Passed 12-28-59.)

(c) Any tree, plant or shrubbery, or any part thereof, which interferes with the use of any street, park, public place or obstructs a clear and unobstructed view of traffic from all directions at any street intersection, so as to endanger the life, health, safety or property of the public using such street or sidewalk, is hereby declared a public nuisance.

(d) The owner shall be notified in writing or by publication in a local newspaper of the existence of the nuisance and given a reasonable time of not more than thirty days for its correction or removal. The notice shall be given by the Director of Public Service upon a resolution duly adopted pertaining to such nuisance. If not corrected or removed within the time allotted, the Director shall cause the nuisance to be corrected or removed, and the cost shall be assessed to the owner as provided by Section 905.08.
(Ord. 3000. Passed 7-13-64.)

905.06 REMOVAL OF WEEDS BY OWNER OR OCCUPANT; SEVEN DAYS NOTICE.

The owner, occupant or person having the charge or management of any lot or parcel of land situated within the corporate limits, whether the same is improved or unimproved, vacant or occupied, within seven days' written notice to do so, shall cut or destroy or cause to be cut or destroyed any weeds, vines or grasses growing upon any such lot or parcel of land that exceed a height of twelve inches. If the owner, occupant or person having the charge or management of any lot or parcel of land cannot be located, or if his address cannot be ascertained, this notice shall be deemed to be properly served if a copy thereof is placed in a conspicuous place on any such lot or parcel of land.

This notice may be initiated by the Police Department, the City Health Department or the Public Service Director.
(Ord. 65-80. Passed 9-9-80.)

905.07 TRIMMING OF TREES AND REMOVAL OF WEEDS BY CITY.

In the event the owner does not comply with the requirements of Sections 905.05 or 905.06, the Public Service Director shall cause to be trimmed or removed the tree, plant or shrubbery or part thereof, or cut and remove all grass, weeds and vines.
(Ord. 2838. Passed 12-28-59.)

905.08 ASSESSMENT OF COSTS.

Whenever any tree, plant or shrubbery, or part thereof, or weeds, grass or vines are trimmed or removed by the Municipality in accordance with Section 905.07, the Municipality shall give five days notice, by regular mail, to the owner of such lot or parcel of land, at his last known address, to pay the cost of such trimming or removal of trees, plants, shrubbery, grass, vines or weeds or part thereof. The notice shall be accompanied by a statement of the amount of cost incurred, and in the event the same is not paid within thirty days after the mailing of the notice, then such amount shall be certified to the County Auditor for collection the same as other taxes and assessments are collected.
(Ord. 2838. Passed 12-28-59.)

905.99 PENALTY.

(a) Whoever violates any provision of this chapter for which no penalty is otherwise provided shall be fined not more than fifty dollars ($50.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
(Ord. 2838. Passed 12-28-59.)

(b) Whoever violates Section 905.01(a) shall be fined not more than fifteen dollars ($15.00). (Ord. 3207. Passed 10-28-68.)

CHAPTER 907
Street and Building Numbering

907.01 Base streets; street designations.
907.02 Building numbering system.
907.03 Display of numbers.
907.04 Compliance.
907.05 Official map.
907.99 Penalty.

CROSS REFERENCES
Power to regulate building numbering - see Ohio R. C. 715.26
Change of street name - see Ohio R. C. 723.04 et seq.

907.01 BASE STREETS; STREET DESIGNATIONS.

The base streets from which all numbering shall proceed are Broadway and High Streets. High Street and its eastern continuation East Avenue shall be renamed High Avenue. Broadway and High Avenue shall be considered as dividing the City into four quarters: northeast (NE), northwest (NW), southeast (SE) and southwest (SW), in conformity with their topographical location. The name of such thoroughfares shall bear the suffix which shows the quarter in which it lies.

All streets having a general north and south direction shall be known as streets, and, beginning from Broadway as the base and considered to be First Street, shall be numbered progressively, east and west alike, as Second Street, Third Street, Fourth Street, and so on continuing, but with the suffix NE, NW, SE, or SW, according to the quarter in which they lie. All east and west streets shall be called avenues; but Beaver, Union and Tuscarawas Avenues shall retain their present names. North and south alleys shall be called drives; east and west alleys shall be called lanes.

The term thoroughfares shall embrace streets, avenues, drives, lanes, courts and places. All thoroughfares shall bear suffixes indicating the quarter of the City in which they lie. The drives shall be designated by successive numerals, beginning from the directional base street: that is, the first drive east of Broadway shall be called First Drive East; the second drive east of Broadway shall be called Second Drive East, and so on; the first drive west of Broadway shall be called First Drive West; the second drive west of Broadway shall be called Second Drive West, and so on. Each lane shall be given a name, the initial letter of which, a, b, c and d, shall show the successive position of the lane in relation to High Avenue and to each other. All short lanes and drives, and all courts and places, shall have names beginning with the initial letter of the main drive or lane in proximity thereto.
(Ord. 1380. Passed 7-8-27.)

907.02 BUILDING NUMBERING SYSTEM.

Twenty feet of frontage shall be the unit for each house number; but on thoroughfares one block each way from the Public Square, and on West High Avenue two blocks therefrom, the unit shall be fifteen feet. However, on thoroughfares where the distance between

intersecting avenues and streets is more than 1,000 feet, the unit shall be twenty-five feet, or such other number of feet as the City Engineer may determine to be required. Odd numbers shall be assigned to the east and to the north sides of thoroughfares, even numbers shall be assigned to the west and south sides.

The block system of numbering shall be employed, assigning one hundred numbers to each block, proceeding in successive hundreds from the two base streets, but commencing with 100 as the initial number. The intervals between successive street intersections in the original plat of the City shall be blocks. In other portions of the City area the blocks shall be such as may be determined by the City Engineer.
(Ord. 1380. Passed 7-8-27.)

907.03 DISPLAY OF NUMBERS.

Building numbers shall be conspicuously displayed at the front of every house, residence, factory, workshop or place of business, in numerals large enough to be easily distinguished from the thoroughfare in front of the premises.
(Ord. 1380. Passed 7-8-27.)

907.04 COMPLIANCE.

No person, owning a house or building fronting upon any thoroughfare of the City, shall fail or refuse to cause the same to be numbered as provided by the provisions of this chapter. (Ord. 1380. Passed 7-8-27.)

907.05 OFFICIAL MAP.

The City Engineer shall prepare a map of the City with all thoroughfares named and designated thereon, as required in this chapter. He shall submit the map to Council for its approval. The City Engineer shall be in official charge of the execution of the system.
(Ord. 1380. Passed 7-8-27.)

907.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars ($500.00). (Ord. 2838. Passed 12-28-59.)

CHAPTER 909
Bituminous Pavements

909.01 Specifications.

909.01 SPECIFICATIONS.

(a) All construction and material specifications established by this section shall be based upon the State Department of Transportation, Construction and Specification Edition of January 1, current edition.

(b) The paving specifications herein established shall be placed on a sub-base which has had the prior approval of the office of the Director of Public Service.

(c) All paving installations shall be subject to inspection and approval by the Director or his agent.

(d) Upon a determination by the Director's office that the area will be subject to repeated heavy truck traffic of an industrial or commercial character the following specifications are applicable or in accordance with current City of New Philadelphia Standard Drawings:

(1) Item 301, six-inch bituminous aggregate base.
(2) Item 402, one and one-half inch asphalt concrete intermediate course.
(3) Item 404, one and one-half inch asphalt concrete surface course.
(4) The above shall be placed in strict adherence to applicable State specifications.

(e) In all residential areas with a restricted use by heavy truck traffic the following specifications will apply unless changed by current standard drawings:

(1) Item 304, four-inch aggregate base compacted in place.
(2) Item 301, three-inch bituminous aggregate.
(3) Item 402, one and one-half inch asphalt concrete surface course.
(4) Item 404, one and one-half inch asphalt concrete surface course.
(5) The above shall be placed in strict adherence to applicable State specifications.

(Ord. 20-95. Passed 6-26-95.)

CHAPTER 911
Concrete Pavements

911.01 Specifications.
911.02 Description.
911.03 Materials.
911.04 Placing concrete.
911.05 Consolidation and finishing.
911.06 Curing.
911.07 Removing forms.
911.08 Sealing joints.
911.09 Joints.
911.10 Pavement thickness.
911.11 Sub-base.

911.01 SPECIFICATIONS.

The following specifications are herein established for all plain Portland cement concrete pavement hereinafter placed within the City.
(Ord. 39-74. Passed 8-12-74.)

911.02 DESCRIPTION.

The work shall consist of a pavement composed of plain Portland cement concrete constructed on a prepared sub-grade or base course in reasonably close conformity with the lines, grades, thicknesses and cross sections shown on the plans or established by the Engineer.
(Ord. 39-74. Passed 8-12-74.)

911.03 MATERIALS.

(a) Concrete. This item shall conform to Section 499 of the Construction and Material Specifications of the State Department of Transportation for Class "C" concrete and shall be comprised of natural sand, limestone aggregate and Portland cement in the following ratios.

No. 57 Size Limestone: 1630 pounds per cubic yard.
Sand: 1285 pounds per cubic yard.
Cement: 611 pounds per cubic yard.

No. 4 and 6 Size Limestone: 1775 pounds per cubic yard.
Sand: 1190 pounds per cubic yard.
Cement: 611 pounds per cubic yard.

These materials shall be mixed with water to obtain a slump of zero to three inches, but in no case shall water content exceed thirty-seven gallons per cubic yard.

(b) Joint Sealer. Each construction joint or sawed control joint shall be sealed with an asphaltic sealer conforming to Sections 705.01, 705.02 or 705.11 of the Department of Transportation Specifications.

(c) Curing Materials. Curing materials shall be a liquid membrane-forming compound conforming to AASHO M148 Type 1 or Type 2. Type 2 curing compounds applied between November 1 and April 1 shall have a resin base.

(d) Dowel Bars. Bars shall be smooth hot-rolled carbon steel bars of circular cross section conforming to ASTM A499.

(e) Reinforcing. Reinforcing shall be minimum six by six- 6/6 welded wire fabric. (Ord. 39-74. Passed 8-12-74.)

911.04 PLACING CONCRETE.

The subgrade or base shall be uniformly and thoroughly moistened before concrete is deposited thereon. Concrete shall then be placed on the grade in such a manner that as little rehandling as possible is required. Concrete shall be consolidated around construction joints by means of internal vibration.

The subgrade or base shall be entirely free from frost before concrete is deposited on it, and any concrete placed when the air temperature is 35 degrees F or below shall have a temperature of between 50 degrees and 80 degrees F.

Mechanical equipment shall not be operated on concrete pavement until concrete has been in place for at least seven days or has attained a modulus of rupture of 600 PSI as determined by specimen beams.
(Ord. 39-74. Passed 8-12-74.)

911.05 CONSOLIDATION AND FINISHING.

Internal vibration shall be required for consolidating full width pavement. Tapered or variable width pavement shall be consolidated by manually operated vibrators or a method approved by the Engineer.

Finishing shall be accomplished by an approved finishing machine operated over the area as many times as required to obtain the desired results. Small or irregular areas may be hand finished by methods approved by the Engineer.

The edge of the pavement and each side of transverse expansion joints shall be rounded to a one-fourth inch radius with an approved tool. Any toolmarks left by such edging shall be removed by texturing the surface.

The surface shall be textured by a method approved by the Engineer. The resulting surface shall have a gritty texture with uniform longitudinal striations approximately one-sixteenth inch deep. (Ord. 39-74. Passed 8-12-74.)

911.06 CURING.

Immediately after the finishing is completed and after the free water has disappeared, all exposed surfaces of the concrete shall be sealed by spraying thereon a uniform application of curing membrane to provide a continuous film. The material shall be applied at a rate of not less than one gallon for each 200 square feet of surface treated. Immediately after removing the forms, honeycomb areas shall be corrected and the edges of the pavement shall be sprayed with the curing material.

During freezing conditions, the contractor shall be responsible for protecting the concrete until it has attained a strength of 600 PSI.
(Ord. 39-74. Passed 8-12-74.)

911.07 REMOVING FORMS.
Forms shall be removed in such a manner that no damage will occur to the pavement.
(Ord. 39-74. Passed 8-12-74.)

911.08 SEALING JOINTS.
Joints shall be sealed before the pavement is opened to traffic and as soon after completion of the sawing as is feasible. Just prior to sealing, each joint shall be thoroughly cleaned, using approved equipment, and the joint faces shall be clean and dry when the seal is applied. (Ord. 39-74. Passed 3-12-74.)

911.09 JOINTS.
(a) Longitudinal joints shall be constructed by sawing or by forming or by insertion of a polyethylene strip in the plastic concrete.
If the longitudinal joint between simultaneously placed lanes is made with a concrete saw, the cut shall be a minimum depth of one-third of the specified pavement thickness and shall be accomplished within three days after the concrete is placed. The width of the cut shall be approximately one-eighth inch.
If the joint between separately placed lanes is made by sawing, the cut shall be made to a minimum depth of one inch.
If the longitudinal joint is formed, the groove for sealing shall be placed in the lane formed last.
If a polyethylene strip is used to form the longitudinal joint it shall be installed prior to hand finishing and texturing. The strip shall have a minimum depth of three inches and shall be not less than twenty mills thickness. It shall be installed in a plane normal to the surface and the top of the strip shall be at the surface of the pavement.

(b) Contraction joints shall be sawed as specified to a minimum depth of one-fifth of the specified pavement thickness and a width of one-fourth inch. If the pavement is constructed in two or more separately poured lanes, the joints shall be continuous for the full width of the pavement.

(c) Construction joints shall be built as specified at the end of each day's work and whenever it is necessary to suspend the work for more than thirty minutes.

(d) Load transfer devices shall consist of dowels held in position parallel to the surface and centerline of the slab. Deformed bars, when used for longitudinal joints shall be rigidly secured by chairs or other approved supports to prevent displacement.
(Ord. 39-74. Passed 8-12-74.)

911.10 PAVEMENT THICKNESS.

Concrete pavement shall have a minimum thickness seven inches in residential and nine-inch commercial or as specified by the Engineer. Thickness of concrete at any point, determined by measurement of cores, shall not be more than one-half inch less than the specified thickness, nor shall the average thickness be more than one-tenth of the specified thickness. Cores shall be cut and averages determined in accordance with the Department of Transportation Construction and Materials Specifications, Section 451.16 and City of New Philadelphia Standard Drawings.
(Ord. 21-95. Passed 6-26-95.)

911.11 SUB-BASE.

Sub-base shall be of gravel compacted in place. Thickness shall be determined by the nature of the ground and approved by the Director of Public Service in accordance with City of New Philadelphia Standard Drawings.
(Ord. 22-95. Passed 6-26-95.)

TITLE THREE - Utilities

Chap. 931. Sewer Regulations.
Chap. 933. Sewer Rates.
Chap. 935. Water Regulations.
Chap. 937. Water Rates.
Chap. 939. Sewage Pretreatment.
Chap. 945. Backflow; Cross Connection Control.
Chap. 946. Fire Sprinkler Systems and Fire Hydrants.
Chap. 947. Water Wells and Ground Water Protection.

CHAPTER 931
Sewer Regulations

931.01 Construction charges.
931.02 Reimbursement and assessment for cost of sanitary sewer or storm sewer extension.
931.03 Sewer connection charges.
931.04 Lateral sewer charges.
931.05 Connections outside City prohibited.
931.06 Public Service Director: rules; records; enforcement.
931.07 Construction and connections by authorized personnel only.
931.08 Sewer license, fee and bond.
931.09 Mandatory connection to sanitary sewer.
931.10 Storm water, connection to sanitary sewer prohibited.
931.11 Contaminated wastes.
931.99 Penalty.

CROSS REFERENCES

Power to license sewer tappers - see Ohio R.C. 715.27
Power to construct sewerage system - see Ohio R.C. 715.40, 717.01
Compulsory sewer connections - see Ohio R.C. 729.06
Sewers - see Ohio R.C. 729.31 et seq.
Management and control of sewerage system - see Ohio R.C. 729.50
Regulations to control house sewers and connections - see Ohio R.C. 729.51
Sewers rates - see S.U. & P.S. Ch. 933
Licensing of plumbers - see BLDG. Ch. 1313

931.01 CONSTRUCTION CHARGES.

(a) The City shall construct, or cause to be constructed, sanitary and storm sewers in public streets and alleys, for the use of lots and land fronting on such streets and alleys, and the charge shall be determined as hereinafter set forth.

(b) The costs of a sanitary sewer extension shall be considered as the total cost of such extension, including the costs of manholes, “Y” connections and all necessary appurtenances. The cost per foot shall be the total cost divided by the length of the extension in feet.

(c) The cost of a storm sewer shall be considered as the total cost of such sewer including the cost of manholes, catch basins and all necessary appurtenances.

(d) The City will pay for the frontage abutting City-owned land and the portion of the improvement in an intersection that abuts a dedicated street or alley. The developer or property owner is responsible for the remaining portion of the improvement. The City reserves the right to pay for the entire improvement or utilize the assessment method for recovery of the cost of installation. The cost to be paid by the City shall be in an amount equal to such frontage in feet times the total cost per foot as specified in this section.

(e) Payment for any extension constructed under the provisions of this section shall be made before a permit for a lateral connection to the extension is granted.

(f) The Director of Public Service shall determine or approve the size of the line necessary. The developer or property owner will pay for the line required.

(g) All plans and specifications must be approved by the Director before the improvement is installed. Proof of the cost of making the improvement must be provided to the Director upon completion of the project.

(h) These provisions shall cover sanitary sewer and storm sewer extensions. (Ord. 36-76. Passed 7-26-76.)

931.02 REIMBURSEMENT AND ASSESSMENT FOR COST OF SANITARY SEWER OR STORM SEWER EXTENSION.

(a) A straight twenty dollars ($20.00) per lineal foot of waterline shall be charged for residential customers.

(b) The assessment fee of twenty dollars ($20.00) per lineal foot plus the charges based on the type of facility served for water shall be paid.

			Charged Extra
(1)	Homes		$0.00
	Apartment		$0.00
(2)	Churches	per seat	$20.00
	Assembly Halls	per seat	$20.00
(3)	Commercial	per employee	$100.00
	Industrial	per employee	$100.00
	Retail	per employee	$100.00
	Office	per employee	$100.00
	Gas Station	per employee	$100.00
	Convenience Store	per employee	$100.00
	Schools	per pupil	$100.00
	Restaurant	per seat	$100.00
	Taverns	per seat	$100.00
	Curb Service (Drive In)	per car space	$100.00
(4)	Motel	per unit	$200.00
	Institutions	per bed	$200.00
	Hospitals	per bed	$200.00
	Nursing Homes	per bed	$200.00
	Laundries	per machine	$200.00
	Car washes	per bay	$200.00

(5) Caps: All waterline assessments shall have a cap of five thousand dollars ($5,000.00) and no money above shall be charged.
(Ord. 32-2007. Passed 1-28-08.)

931.03 SEWER CONNECTION CHARGES.

(a) The Director of Public Service is authorized to make the following charges for all new sanitary sewer tap-ins.

Inside the Corporation:

(1) Residential tap-in fee is five hundred dollars ($500.00) per tap.
(2) Apartment tap-in fee is five hundred dollars ($500.00) per unit.
(3) Commercial tap-in fee is one thousand dollars ($1,000.00) per tap.

Outside the Corporation:

(1) Residential tap-in fee is seven hundred and fifty dollars ($750.00) per tap.
(2) Apartment tap-in fee is seven hundred and fifty dollars ($750.00) per unit.
(3) Commercial tap-in fee is one thousand five hundred dollars ($1,500.00) per tap.

(b) The provisions of this section shall not apply in cases where sanitary sewers may be constructed and the frontage assessed by the foot front or benefit plan, in accordance with the laws of the State governing such assessment. Also, the provisions of this section shall not apply in cases where an actual sewer assessment rate has been set up for lots and lands fronting on any sewer, and assessments have not been collected by the City prior to application for permit to connect such sewer.
(Ord. 1-2005. Passed 2-14-05.)

931.04 LATERAL SEWER CHARGES.

The Director of Public Service is required to collect, in addition to the charges heretofore set forth, the actual cost of any lateral sewers which may have been constructed at City expense prior to the granting of a permit to connect such sewer.
(Ord. 2500. Passed 5-26-52.)

931.05 CONNECTIONS OUTSIDE CITY PROHIBITED.

(EDITOR'S NOTE: See Section 935.01 for current legislation pertaining to new sewer connections outside the City limits.)

931.06 PUBLIC SERVICE DIRECTOR: RULES; RECORDS; ENFORCEMENT.

The Director of Public Service is authorized and directed to adopt and enforce specifications and regulations in accordance with the provisions of this chapter for the purpose of providing control of the installation of sewer connections and the inspection of them. The Director shall maintain accurate and complete records of all permits issued for, and inspections made of, the construction of house sewers and connections to public sewers. He shall also require the abandonment and removal of connections to public sewers which violate any provision of this chapter.
(Ord. 1181. Passed 10-3-24.)

931.07 CONSTRUCTION AND CONNECTIONS BY AUTHORIZED PERSONNEL ONLY.

No sewer shall be constructed or connection made to a public sewer by any person who has not been authorized and licensed to do so. Such work shall be performed in accordance with the rules and regulations of the Director of Public Service.
(Ord. 2838. Passed 12-28-59.)

931.08 SEWER LICENSE, FEE AND BOND.

No person shall construct, install or connect any sewer lines without first obtaining an annual license from the Director of Public Service pursuant to Section 1313.03 of the Codified Ordinances of the City of New Philadelphia, Ohio.
(Ord. 54-2003. Passed 12-22-03.)

931.09 MANDATORY CONNECTION TO SANITARY SEWER.

No property shall be occupied for any residence or business purpose without establishing connection to the sanitary sewer system when access to such system is available.
(Ord. 2838. Passed 12-28-59.)

931.10 STORM WATER, CONNECTION TO SANITARY SEWER PROHIBITED.

(a) Surface water, rain water from roofs, subsoil drainage, building foundation drainage, cistern overflow, clean water from condensers, waste water from water motors, and any other clean and unobjectionable waste water shall be discharged into a storm water sewer or street gutter and in no case into the sanitary sewer system.

(b) No person shall discharge into a house sewer or tap a house sewer for the purpose of discharging into it any waste or drainage water prohibited by subsection (a) hereof.

(c) It is the duty of the property owner to comply with subsections (a) and (b) hereof within thirty days after service of notice of this section by the Service Director or his designee. Failure of such owner to comply shall constitute a misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00). Each day of continue violation of this section constitutes a separate offense.
(Ord. 23-2000. Passed 3-27-00.)

931.11 CONTAMINATED WASTES.

(a) The City will receive and treat any and all industrial and commercial wastes provided, however, the City reserves the right to refuse to receive and treat such wastes that are destructive to sewerage works or seriously disturb or interfere with the established sewage treatment process.

Periodic sampling, visual inspection and analysis of the wastes of the business establishments concerned may be made. The frequency of the samplings and analysis shall be as determined by the City. If, upon such examination, wastes are determined to be disturbing to the sewage treatment processes and/or collection system, or materially increase the cost of sewage treatment operations the acceptance of such waste water discharge shall be refused. The basis for refusal of acceptance will be the presence of effluent discharge containing no added organic or inorganic contaminant or reducing gases.

(b) No industry or commercial establishment shall be permitted to dilute their wastes with uncontaminated water, unless prior approval has been obtained from the Superintendent of the Waste Water Treatment Plant or the Director of Public Service.

(c) If, upon examination, any industry or business concern is found to be in violation of any provision of this section, the Service Director shall give written notice to the violator to cease such violation. Such practice shall be terminated within thirty days of receipt of written notice. The Service Director may permit such discharge for good cause shown for a period up to six months.
(Ord. 47-76. Passed 7-26-76.)

931.99 PENALTY.

(a) Whoever violates any provision of this chapter for which no other penalty is provided shall be fined for the first offense not more than fifty dollars ($50.00), and for a second or subsequent offense 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.
(Ord. 2838. Passed 12-28-59.)

(b) Whoever violates Section 931.11 by permitting an unlawful condition to continue for more than thirty days or beyond the period authorized by the Service Director shall be fined not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
(Ord. 47-76. Passed 7-26-76.)

CHAPTER 933
Sewer Rates

933.01 Definitions.
933.02 Rules and regulations of Public Service Director.
933.03 Necessity of collecting charges.
933.031 Sewer permit.
933.04 Rates and charges.
933.05 Special agreements.
933.06 Determination of charges.
933.07 Charges payable monthly or quarterly; penalty; responsibility for charges.
933.08 Charges made a lien.
933.09 Nonacceptable industrial wastes.
933.10 Municipal properties exempted.
933.11 Review of expenses.
933.99 Penalty.

CROSS REFERENCES

Sewerage rates - see Ohio R.C. 729.49, 729.52
Weekly deposit of sewer rentals collected - see Ohio R.C. 729.52
Sewer regulations and construction charges - see S.U.& P.S. Ch. 931
Water regulations - see S.U.& P.S. Ch. 935

933.01 DEFINITIONS.

As used in this chapter:

(a) "Sanitary sewage" means the waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, cellar floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains and any other water-borne waste not constituting an industrial waste.

(b) "Acceptable industrial wastes" means liquid organic waste materials not containing toxic or explosive elements, injurious to sewers or sewage treatment processes, which result from any commercial, manufacturing or industrial operation or process.

(c) "Nonacceptable industrial wastes" means liquid wastes in which are incorporated minerals, oil, acid, toxic, metallic or chemical substances, resulting from any commercial, manufacturing or industrial operation or process. (Ord. 2601. Passed 3-8-54.)

933.02 RULES AND REGULATIONS OF PUBLIC SERVICE DIRECTOR.

The Director of Public Service shall make and enforce such rules and regulations as he deems necessary for the enforcement of the provisions hereof, for the proper determination and collection of the rates and charges herein provided and for the safe, efficient and economical management of the sanitary sewer system. Such rules and regulations, when not repugnant to existing ordinances of the City or laws of the State, shall have the same force and effect as ordinances of Council.
(Ord. 2601. Passed 3-8-54.)

933.03 NECESSITY OF COLLECTING CHARGES.

(a) In order to pay the expense of operating, maintaining and managing the sanitary sewerage system of the City, and to make adequate provision for the payment of the principal of, interest on, and other fund requirements of any sanitary sewer system first mortgage revenue bonds, any fund requirements as set forth in any cooperative agreement with the Ohio Water Development Authority or similar agency, sanitary sewerage system general obligation bonds or sanitary sewerage system improvement general obligation notes, outstanding or which may be issued to pay costs of extensions to or improvement of such sanitary sewerage system of the City, the rates and charges for the products and services of such sanitary sewerage system set forth are hereby established.

(b) The funds received from the collection of the rates and charges hereinafter provided for shall be deposited as received with the Treasurer of the City who shall keep the same in a separate fund, designated the "Sewer Revenue Fund", subject to such terms, conditions and restrictions as may be hereinafter recited or created in any ordinances or indenture of mortgage authorizing the issuance of and securing mortgage revenue bonds for such sanitary sewerage system. All moneys in the Fund shall be used for the payment of the cost and expense of the operation, maintenance, repair and management of such sanitary sewerage system and for the payment of principal of, interest on, premium, if any, and other charges as set forth in any cooperative agreements with the Ohio Water Development Authority, and other charges on bonds or notes issued to pay costs of any extensions to or improvements of, the sanitary sewerage system. Any surplus in the Fund, over and above the requirements and restrictions hereinbefore mentioned, may be used for enlargement or improvement of or replacements to the municipal sanitary sewerage system.

933.031 SEWER PERMIT.

A sewer permit is required for any connection to the sanitary sewer system or storm sewer system. The charge for this permit shall be one hundred dollars ($100.00).
(Ord. 1-2005. Passed 2-14-05.)

933.04 RATES AND CHARGES.

(EDITOR'S NOTE: Rates shall be as established by the Service Director from time to time)

933.05 SPECIAL AGREEMENTS.

Over and above the rates and charges established by Section 933.04, there may be established in special instances and upon special agreement between the City and the owner of any premises served by the system, such additional charges for industrial wastes of unusual strength or composition or for other unduly burdensome discharges into the system which are accepted by the City for treatment as may be determined to be fair and equitable. Each such special agreement and the charges established thereby shall not become effective until ratified by ordinance duly passed by Council.
(Ord. 2601. Passed 3-8-54.)

933.06 DETERMINATION OF CHARGES.

The following measures shall be used to determine sewer charges provided by Section 933.04, except with respect to the employee rate provided in subsection (d) of Section 933.04, upon all premises served by the system:

(a) On premises using water exclusively supplied by the City, water consumption on the premises shall be measured by a water meter acceptable to the Director of Public Service.

(b) On premises using water supplied either in whole or in part from sources other than the waterworks system of the City, the Director may require the owner or other interested party to install water meters satisfactory to the Director to the extent necessary to measure all such supplies of water, and the quantity of water consumed on such premises shall be deemed to be the aggregate amount disclosed by such meters.

(c) In the event it can be shown to the satisfaction of the Director of Public Service with respect to any premises, that a portion of the water from any source consumed on such premises does not and cannot enter the system, then in each such case the owner or other interested party may at his expense install and maintain separate metering devices to the extent necessary to demonstrate to the satisfaction of the Director the portion of the water consumed on the premises which is discharged into the system, which portion shall constitute the basis for computing the sewer charge for such premises under Section 933.04.
(Ord. 2601. Passed 3-8-54.)

933.07 CHARGES PAYABLE MONTHLY OR QUARTERLY; PENALTY; RESPONSIBILITY FOR CHARGES.

(a) The sewer charges levied, at the rates established by Section 933.04 shall be billed and become payable in the following manner:

(1) Charges levied with respect to premises served by the City's waterworks system shall be included in and be payable with the City's water bill to such premixes and shall be billed quarterly or monthly in accordance with the billing period for the City water furnished to such premises.

(2) In respect to premises not served by the City's waterworks system, such charges shall be billed and payable quarterly unless, upon application to the Director of Public Service, he approves a monthly billing period for such premixes, and in either case, such charges shall be payable at the same time respectively, as City water bills are rendered and become payable.

Any premises making connection with the system and using the same after March 1, 1954, shall be charged per diem, pro rata amount, based upon the quarter annual minimum charge, from the time such connection is made or such discharge into the system is begun, until the commencement of the next following billing period applicable to the premises, except that should the measured service exceed the minimum charge, the measured rate shall be charged.

(b) All meters shall be read quarterly and billed quarterly. All bills shall be payable within fifteen calendar days after the bill is rendered. If the bill is paid within fifteen calendar days after it is rendered, payment of the next bill, consisting of the charges, shall constitute payment in full. If the bill is not paid within fifteen days after it is rendered, payment of the gross bill, consisting of the charges plus ten percent thereof, shall constitute payment in full.

(c) With respect to the product and services of such municipal sanitary sewerage system provided to leased premises, both lessors and lessees shall be responsible and liable for the payment of the charges herein provided. The City shall proceed to collect such charges from either the lessor or the lessee. (Ord. 10-80. Passed 1-26-80.)

933.08 CHARGES MADE A LIEN.

Each sewer charge levied pursuant to the provisions of this chapter is made a lien upon the premises charged therewith, and if the same is not paid within thirty days after it is due and payable, it shall be certified to the County Auditor, who shall place the same on the tax duplicate, with the interest and penalties allowed by law, and it shall be collected as other Municipal taxes are collected. The City also has the right, in event of nonpayment, to discontinue service to such premises of water supplied by the City's waterworks system, until the unpaid sewer charges have been fully paid.
(Ord. 2601. Passed 3-8-54.)

933.09 NONACCEPTABLE INDUSTRIAL WASTES.

The discharge of nonacceptable industrial wastes into the sewer system, whether directly or indirectly, is prohibited. Where investigation reveals the presence in the system of nonacceptable industrial wastes emanating from any lot, land, building or premises, located within or without the corporate limits of the City, the owner, lessor, tenant or occupant of such lot, land, building or premises is required to treat, neutralize or in other ways prepare the noxious substance therein to the satisfaction of the Director of Public Service, in order to convert the same into acceptable industrial wastes.
(Ord. 2601. Passed 3-8-54.)

933.10 MUNICIPAL PROPERTIES EXEMPTED.

Except as otherwise provided in any ordinance authorizing an indenture securing revenue bonds issued for construction of the system or portion thereof, no lot, parcel of land, building or premises now or hereafter used by the City for Municipal purposes shall be subject to the sewer charges established; nor shall any water supplied by the Municipal waterworks system for extinguishing fires, cleaning fire apparatus or furnishing or supplying water to fire hydrants to be used to determine any sewer charge provided in Section 933.04.
(Ord. 2601. Passed 3-8-54.)

933.11 REVIEW OF EXPENSES.

The Director of Public Service is authorized and directed to review annually, by November 1 of each year, the operation and maintenance expenses, debt service requirements and other requirements of the waterworks system for the succeeding year, including necessary and reasonably foreseeable costs for capital improvements, and, based on such review, to take such action as may be necessary to adjust the rates and charges of the municipal sanitary sewerage system effective on January 1 of the succeeding year, to provide for such requirements in accordance with rate and other covenants of any and all ordinances or indentures of mortgage authorizing the issuance of or securing debt issued to finance extensions and improvements to the municipal sanitary sewerage system.
(Ord. 10-80. Passed 1-26-80.)

933.99 PENALTY.

Whoever violates any provision of this chapter shall be fined for the first offense not more than fifty dollars ($50.00), and for the second or subsequent offense 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.

(Ord. 2838. Passed 12-28-59.)

CHAPTER 935
Water Regulations

935.01 New connections outside City.
935.02 Water rates outside City.
935.03 Sale of water outside City for swimming pools.
935.04 Construction charges.
935.05 Reimbursement and assessment for cost of waterline.

CROSS REFERENCES

Power to provide and regulate water system - see Ohio R. C. 715.08, 717.01, 743.01
Compulsory water connections - see Ohio R. C. 729.06, 743.23
Management and control of waterworks - see Ohio R. C. 743.02 et seq.
Tampering with hydrants, pipes or meters; unauthorized connections - see Ohio R. C. 4933.22
Sewer charges based on water consumption - see S. U. & P. S. 933.04 et seq.
Licensing plumbers - see BLDG. Ch. 1313

935.01 NEW CONNECTIONS OUTSIDE CITY.

(a) New water or sewer or other utility hook ups shall be permitted to the utility system of the City, from outside the corporate limits of the City.

(b) The expenses of sewer installations and water and sewer connections shall be borne entirely by the contractor, owner or party requesting the service.
(Ord. 8-2000. Passed 3-13-00.)

935.02 WATER RATES OUTSIDE CITY.

All consumers of water and sewer outside the City limits shall be charged an additional fifty percent (50%) of the current water/sewer rate.
(Ord. 8-2000. Passed 3-13-00.)

935.03 SALE OF WATER OUTSIDE CITY FOR SWIMMING POOLS.

The Director of Public Service is hereby directed to establish a price for the sale of water by the City to owners of swimming pools outside the corporate limits of the City.

Water sold by the City pursuant to this section must be conveyed or transported by the purchaser. (Res. 1959-10. Passed 5-11-59.)

935.04 CONSTRUCTION CHARGES.

(a) The City shall construct, or cause to be constructed water lines in public streets and alleys, for the use of lots and lands fronting on such streets and alleys, and the charge shall be determined as hereinafter set forth.

(b) The cost of a water line extension shall be considered as the total cost of such extension, including the cost of valves, and necessary fittings and appurtenances. The cost per foot shall be the total cost divided by the length of the extension in feet.

(c) The City will pay for the frontage abutting City-owned land; and the portion of the improvement in an intersection that abuts a dedicated street or alley. The developer or property owner is responsible for the remaining portion of the improvement. The City reserves the right to pay for the entire improvement or utilize the assessment method.

(d) A storm sewer will be provided by the developer or property owner where required by the Director of Public Service.

(e) The Director shall determine the size of the line necessary. The developer or property owner will pay for the line required. The developer will be responsible for staking or laying out the sewer to the line and grade established by the Director.

(f) All plans and specifications must be approved by the Director before the improvement is installed. Proof of the cost of making the improvement must be provided to the Director upon completion of the project.

(g) These provisions shall cover water extensions.
(Ord. 36-76. Passed 7-26-76.)

935.05 REIMBURSEMENT AND ASSESSMENT FOR COST OF WATERLINE.
(a) A straight twenty dollars ($20.00) per lineal foot of waterline shall be charged for residential customers.

(b) The assessment fee of twenty dollars ($20.00) per lineal foot plus the charges based on the type of facility served for water shall be paid.

			Charged Extra
(1)	Homes		$0.00
	Apartment		$0.00
(2)	Churches	per seat	$20.00
	Assembly Halls	per seat	$20.00
(3)	Commercial	per employee	$100.00
	Industrial	per employee	$100.00
	Retail	per employee	$100.00
	Office	per employee	$100.00
	Gas Station	per employee	$100.00
	Convenience Store	per employee	$100.00
	Schools	per pupil	$100.00
	Restaurant	per seat	$100.00
	Taverns	per seat	$100.00
	Curb Service (Drive In)	per car space	$100.00
(4)	Motel	per unit	$200.00
	Institutions	per bed	$200.00
	Hospitals	per bed	$200.00
	Nursing Homes	per bed	$200.00
	Laundries	per machine	$200.00
	Car washes	per bay	$200.00

(5) Caps: All waterline assessments shall have a cap of five thousand dollars ($5,000.00) and no money above shall be charged.
(Ord. 31-2007. Passed 1-28-08.)

CHAPTER 937
Water Rates

937.01 Rates and charges; necessity of collecting.
937.02 Quarterly reexamination of meter and billing; responsibility for payment of charges.
937.03 Single family premises.
937.04 Review by Service Director; adjustment of charges.
937.99 Penalty.

CROSS REFERENCES

Service Director may establish charges - see Ohio R.C. 743.04
Weekly deposit of water works money collected - see Ohio R.C. 743.06
Water regulations - see S.U.&P.S. Ch. 935

937.01 RATES AND CHARGES; NECESSITY OF COLLECTING.

(a) In order to pay the expense of operating, maintaining and managing the waterworks system of the City of New Philadelphia, the rate and charges for the product and services of such waterworks system of the City of New Philadelphia hereinafter set forth are hereby established.

(b) The funds received from the collection of the rates and charges hereinafter provided for shall be deposited as received with the Treasurer of the City who shall keep the same in a separate fund designated the "Waterworks Revenue Fund", which Fund is hereby established, subject to such terms, conditions and restrictions as may be hereinafter recited or created in any ordinance. All moneys in such Fund shall be used for the payment of the cost and expense of the operation, maintenance, repair and management of such waterworks system or improvements of the waterworks system. Any surplus in the Fund, over and above the requirements and restrictions hereinbefore mentioned, may be used for enlargement or improvement of or replacements to such waterworks system.

(c) For the purposes provided in subsection (b) hereof the rates and charges for the products and services of the waterworks system shall be as established by the Service Director.

(d) No free product or service of any kind shall be rendered by such waterworks system to any customer, including any public or private corporation, any public or private school, any governmental body or agency, or any institution, charitable or otherwise except the City of New Philadelphia or any department thereof.
(Ord. 47-93. Passed 8-9-93.)

937.02 QUARTERLY REEXAMINATION OF METER AND BILLING; RESPONSIBILITY OF PAYMENT OF CHARGES.

(a) All meters shall be read with a frequency as is determined by the Service Director of the City of New Philadelphia. All bills shall be billed monthly and all bills shall be payable within fifteen calendar days after the bill is rendered. If the bill is paid within fifteen calendar days after it is rendered, payment of the net bill consisting of the charges shall constitute payment in full. If the bill is not paid within fifteen calendar days after it is rendered, payment of the gross bill consisting of the charges plus ten percent (10%) thereof shall constitute payment in full.

(b) With respect to the product and services of such waterworks system provided to lease premises, both lessors and lessees shall be responsible and liable for the payment of the charges herein provided. The City shall proceed to collect such charges from either the lessor or the lessee.

(c) Services may be shut off or terminated to any premises more than thirty days delinquent in the payment of their bill. (Ord. 43-2001. Passed 9-10-01.)

937.03 SINGLE FAMILY PREMISE.

(a) For the purpose of computing the minimum quarterly charge, the following shall constitute one single-family premise:

(1) One building designed for single family occupancy as a residence, including any portion thereof used by a resident for professional or business purposes.
(2) A combination of adjacent buildings (of the same ownership) designed for occupancy by a single family as a residence, including any such buildings and any portion of any such buildings used by a resident for business or professional purposes.
(3) One building designed for single family occupancy both as a residence and for professional or business purposes, when the business or profession is conducted by a resident.
(4) A combination of adjacent buildings, of the same ownership, designed for occupancy by a single family both as a residence and for professional or business purposes, when the business or profession is conducted by a resident.
(5) One building designed for single occupancy by a person in the conduct of a single enterprise.
(6) One dwelling unit designed for single family occupancy within a double house or within a multiple unit flat or apartment building where the several units are adjacent horizontally, but none are adjacent vertically.
(7) One room or suite of rooms designed or used for single occupancy by a person in the conduct of a single enterprise within a multiple unit building, where the several units are adjacent horizontally but none are adjacent vertically.

(8) Where one building or part thereof, of the same ownership, houses two or more of any of the following: office rooms, business rooms, or apartments; and if any of such units are adjacent vertically, then each of the following shall constitute a single premise:
  A. Each room or suite of rooms, located on the first floor of the building, designed or used for single occupancy by a person in the conduct of a single enterprise; and
  B. The remainder of the building collectively, except that if the entire first floor is occupied by the owner, then such building will constitute one single premise.
(9) A single lot, park or playground without any building thereon.
(10) A trailer that is individually metered.

(b) In the case of trailer parks where trailers are not individually metered, the number of single family premises to be used in computing the minimum quarterly bill shall be the number of trailer spaces or similar facilities available for occupancy or the metered consumption, whichever is greater. In the case of hotels or motels, the number of single family premises to be used in computing the minimum quarterly bill shall be determined by multiplying the number of rooms available for occupancy by fifty percent (50%) or the metered consumption, whichever is greater.
(Ord. 47-93. Passed 8-9-93.)

937.04 REVIEW BY SERVICE DIRECTOR; ADJUSTMENT OF CHARGES.

The Director of Public Service shall be and hereby is authorized and directed to maintain such rates and charges for the products and services of the waterworks system as shall be necessary to pay all costs associated therewith, including debt service and other payments related to bonds and notes issued to extend or improve the waterworks system, and in accordance with Ohio R.C. 743.04, make any and all adjustments in such rates and charges, at any time, in order to pay all such costs and comply with rate and any other covenants of any and all ordinances or indentures of mortgage authorizing the issuance of or securing debt to finance extensions and improvements to the waterworks system. In addition, the Director of Public Service shall be and hereby is authorized and directed to review annually, by November 1, of each year, the operation and maintenance expenses, debt service requirements and other requirements of such waterworks system for the succeeding year, including necessary and reasonably foreseeable costs for capital improvements and based on such review, to take such action as may be necessary to adjust the rates and charge of the waterworks system effective on January 1 of the succeeding year to provide for such requirements in accordance with rate and other covenants of any and all ordinances or indentures of mortgage authorizing the issuance of or securing debt issued to finance extensions and improvements to the waterworks system.
(Ord. 47-93. Passed 8-9-93.)

937.99 PENALTY.

Whoever violates any provision of this chapter shall be fined for the first offense not more than fifty dollars ($50.00) and for the second or subsequent offense 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.
(Ord. 47-93. Passed 8-9-93.)

Editor's Note: The next printed page is page 22G.

CHAPTER 939
Sewage Pretreatment

939.01 Definitions.
939.02 General discharge prohibitions.
939.03 Limitations on wastewater strength.
939.04 Accidental discharges.
939.05 Discharge only at designated specific locations.
939.06 Fees.
939.07 Administration.
939.08 Enforcement.
939.09 Records retention.
939.10 Severability.
939.11 Conflict.
939.99 Penalties.

CROSS REFERENCES
Untreated sewage - see Ohio R.C. 3701.59
Interference with sewage flow - see Ohio R.C. 4933.24
Sewer regulations - see S.U. & P.S. Ch. 931

939.01 DEFINITIONS.
As used in this chapter, the following terms shall have the following definitions.

(1) "Act" means the Clean Water Act (33 U.S.C. 1251 et seq), as amended.
(2) "Authority" means the City of New Philadelphia, Ohio, and its designees: waste water treatment plant superintendent and/or pretreatment coordinator.
(3) "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 pollutants into a POTW.
(4) "Categorical Pretreatment Standards" means National Pretreatment Standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into a POTW by specific Industrial Dischargers.
(5) "Discharger-Industrial Discharger" means any non-residential user who discharges an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, intercepting ditches, and all constructed devices and appliances appurtenant thereto.
(6) "Other wastes" means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.

(7) "Sewage" means water-carried human wastes or a combination of water-carried human wastes from residence, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.

(8) "Industrial" means solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources.

(9) "O and M" means operation and maintenance.

(10) "POTW" means any sewage treatment works and the sewers and conveyance appurtenances discharging thereto, owned and operated by the Authority.

(11) "Wastewater" means industrial waste, or sewage or any other waste including that which may be combined with any ground water, surface water, or storm water, that may be discharged into the POTW.

(12) "NPDES" means National Pollutant Discharge Elimination System permit program as administered by the U.S. Environmental Protection Agency or State.

(13) "Slugload" means any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.

(14) "Pollutant" means any substance discharged into a POTW or its collection system, or any substance which upon exposure to or assimilation into an organism will cause adverse effects such as cancer, genetic mutations or physiological manifestations as defined in standards issued pursuant to Section 307(a) of the Act.

(15) "Shall" is mandatory.

(16) "Toxic" means the list of toxic pollutants designated pollutants pursuant to Section 307(a)(1) of the Act.

(17) "Indirect discharge" means the discharge or the introduction of non-domestic pollutants from a source regulated under Section 307(b) or (c) of the Act, into a POTW.

(18) "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

A. Inhibits or disrupts the POTW, or exhibits the possibility of, its treatment processes or operations, or its sludge processes, use or disposal; and

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 in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

(19) "Pass-thru" means a discharge which exits the POTW into the 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).

(20) “Sewer” means any pipe, conduit, ditch or other device used to collect and transport sewage or storm water from the generating source.

(21) “BOD” means Biochemical Oxygen Demand (a measure of sewage strength). The quantity of oxygen, expressed in milligrams per liter, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of twenty degrees centigrade (20 deg. C). Laboratory determinations to be in accordance with the most recent edition of "Standard Methods for the Examination of Water, Sewage and Industrial Wastes".

(22) “Mass limitations” means restrictions on the allowable discharge to the POTW's sewer system based upon the gross amount of pollutants in a given flow stream regardless of pollutant concentrations.

(23) “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(24) “New source” means any building, structure, facility or installation from which there is or may be a discharge or 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 source 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.

(25) “Bypass” means the intentional diversion of waste streams from any portion of the Industrial User's treatment facility.

(26) “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which renders them inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not include economic loss caused by delays in production.

(27) “Significant Industrial User”.

A. Except as provided in part (B) of this section, the term Significant Industrial User includes:

1. All industrial users subject to categorical pretreatment standards; and

2. Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW; contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or has a reasonable potential, in the opinion of the Authority to adversely affect the POTW's operation or for violating any pretreatment standard or requirement.

B. The Authority may at any time, on its own initiative or in response to a petition received from an industrial user, determine that a noncategorical industrial user is not a Significant Industrial User if the industrial user has no reasonable potential to adversely affect the POTW's operation or for violating any pretreatment standard or requirement.

(28) "Pollution Prevention" means eliminating the generation of wastes and pollutants at the source (source reduction) and/or recycling or reusing wastes and pollutants that are generated in an environmentally sound manner. (Ord. 53-94. Passed 10-10-94.)

939.02 GENERAL DISCHARGE PROHIBITIONS.

A Discharger shall not introduce into the POTW any pollutant(s) which cause or may cause pass-thru or interference. These prohibitions apply to each Discharger introducing pollutants into a POTW whether or not the source is subject to other National Pretreatment Standards or any National, State or local Pretreatment Requirements. In addition, the following specific pollutants shall not be introduced into the POTW:

(a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any other way to the operation of the POTW or the sewer system including pollutants with a closed cup flash point of less than 140 degrees F or 60 degrees C (the RCRA ignitability standard for liquid characteristic waste) using the test method specified in 40 CFR 261.21

(b) Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system. Discharges of petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin are now prohibited if discharged in amounts that can pass through or cause interference.

(c) Any wastewater having a pH of less than 5.0 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the system.

(d) Any wastewater containing toxic pollutants in sufficient quantity, will or may either singly or by interaction to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair. All IUs are prohibited from discharging pollutants into the POTW that result in toxic gases, vapors or fumes which may cause POTW worker acute health and safety problems.

(f) Any substance which may cause the POTW'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 POTW cause the POTW to be in noncompliance with the sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting the 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.

(g) Any substance which will or may cause the POTW to violate its NPDES and/or other Disposal System Permits.

(h) Any substance with objectionable color not removed in the treatment process, or in such concentration to inhibit biological activity required by the POTW's operation, such as, but not limited to, dye wastes and vegetable tanning solution.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees C (104 degrees F), unless the Ohio Environmental Protection Agency, upon request of the POTW, approves alternate temperature limits.

(j) Any slugload, which shall mean any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single extraordinary discharge episode of such volume or strength as to cause or may cause interference to the POTW.

(k) Any unpolluted water including, but not limited to, noncontact cooling water.

(l) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as exceed limits established by the Authority in compliance with applicable State or Federal regulations.

(m) Any wastewater which causes or may cause a hazard to human life or creates a public nuisance.

(Ord. 53-94. Passed 10-10-94.)

939.03 LIMITATIONS ON WASTEWATER STRENGTH.

The Authority shall adopt and apply categorical limits and State or local limits in pretreatment standards approved by Ohio Environmental Protection Agency. The most stringent applicable limits shall be applied to the Discharger.

(a) National Categorical Pretreatment Standards. National Categorical Pretreatment Standards as promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all dischargers of the regulated industrial categories. An application for modification of the national categorical pretreatment standards may be considered for submittal to the Regional Administrator by the Authority, when the Authority's wastewater treatment system achieves consistent removal or the pollutants as defined by 40 CFR 403.7.

(b) State or Local Requirements. State or Local Requirements and limitations on discharges to the POTW shall be met by all Dischargers 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. These standards may be in the form of concentration limits or equivalent mass limits as deemed necessary by the local Authority.

(c) Right of Revision. The Authority reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in Ordinance 44-83. This reservation includes the right to make net/gross calculations as described in 40 CFR 403.15.

(d) "Dilution" means no Discharger shall increase the use of potable or process water in any way, nor mix separate waste streams 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. The imposition of fines and/or mass loading limits may be applied.

(Ord. 53-94. Passed 10-10-94.)

939.04 ACCIDENTAL DISCHARGES.

(a) Each Discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this chapter. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the Discharger's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Authority for review, and shall be approved by the Authority before construction of the facility.

(b) Each existing Discharger shall complete its plan and submit same to the Authority within 90 days of notification of such requirement by the City. No Discharger who discharges to the POTW after the aforesaid date shall be permitted to introduce pollutants into the system until Accidental Discharge Protection Procedures have been approved by the Authority. Review and approval of such plans and operating procedures by the Authority shall not relieve the Discharger from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

(c) Dischargers shall notify the Authority immediately upon the occurrence of a "Slugload", or accidental discharge of substances prohibited by this chapter. The notification shall include location of discharge, date, and time thereof, type of waste, concentration and volume, and corrective actions. Any Discharger who discharges a slugload of prohibited materials shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the Authority on account thereof under the State of Federal law.

(d) Signs shall be permanently posted in conspicuous places on Discharger's premises, advising employees who to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedure.

(e) A bypass may be permitted if it does not result in a permit violation and only if the bypass is necessary for maintenance to ensure efficient operation.

(f) In all other cases, bypasses are prohibited unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury or severe property damage.

(2) There is no feasible alternative to the bypass. Failure to provide equipment redundancy to the extent of reasonable engineering judgment does not satisfy this condition.

(3) The industrial user has submitted notice as follows:

A. If the user knows in advance that a bypass will occur and submits notice to the Authority at least ten days (if possible) before the bypass is to occur.

B. Oral notice of an unanticipated bypass which exceeds permit limits shall be submitted to the Authority no less than twenty-four (24) hours from the time the industrial user becomes aware of the bypass. A written submission shall follow within five (5) days. The written submission shall contain a description of the bypass including exact dates and times; the anticipated time that the bypass is expected to continue (if not already corrected); and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.

(g) The Authority may approve an anticipated bypass, after considering its adverse effects, if the Authority determines that the conditions listed above under a, b, and c will be met. All other bypasses will be subject to enforcement action.
(Ord. 53-94. Passed 10-10-94.)

939.05 DISCHARGE ONLY AT DESIGNATED SPECIFIC LOCATIONS.

No person shall access the sewer system or POTW for any activity including discharges of hauled septic or industrial wastes except at locations and at times as designated by the Authority. Any removal of manhole lids, or other access to the sewer system for the purpose of discharging wastes at times and/or locations other than those designated by the Authority, shall be considered a violation and shall be subject to enforcement actions including fines and penalties allowed under this chapter.
(Ord. 53-94. Passed 10-10-94.)

939.06 FEES.

(a) Purpose. It is the purpose of this chapter to provide for the payment of fees from Dischargers to the Authority's wastewater disposal system, to compensate the Authority for the cost of administration of the pretreatment program established herein.

(b) Charges and Fees. The Discharger shall reimburse the Authority for any costs incurred in the sampling program, in the administration of the program, including but not limited to laboratory analysis, sampling equipment or any other cost directly attributable to the Discharger.
(Ord. 53-94. Passed 10-10-94.)

939.07 ADMINISTRATION.

(a) Wastewater Discharges. It shall be unlawful to discharge sewage, industrial wastes or other wastes to any sewer within the jurisdiction of the Authority, and/or to the POTW without having first complied with the terms of this Ordinance.

(b) Wastewater Discharge Data Disclosure.

(1) General disclosure. All Industrial Dischargers proposing to connect to or to discharge sewage, industrial wastes and other wastes to the POTW shall comply with all terms of this chapter within 90 days after the effective date of this chapter or, for New Sources, within the shortest time feasible not to exceed 90 days after commencement of discharge.

(2) Disclosure forms. Industrial Dischargers shall complete and file with the Authority a disclosure declaration in the form prescribed by the Authority, and accompanied by the appropriate fee, if any. Existing Industrial Dischargers shall file disclosure forms within 30 days after the effective date of this chapter, and any proposed new Discharger shall file its disclosure forms at least 30 days prior to connecting to the POTW. The disclosure to be made by the Discharger shall be made on written forms provided by the Authority and shall cover:

A. Disclosure of name, address, and location of the Discharger;

B. Disclosure of Standard Industrial Classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

C. Disclosure of wastewater constituents and characteristics as determined by bonafide chemical and biological analysis. Sampling and analysis shall be performed in accordance with procedures established by the U.S. Environmental Protection Agency and contained in 40 CFR, Part 136, as amended;

D. Disclosure of time and duration of discharges;

E. 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 Authority due to cost or nonfeasibility;

F. 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.

G. 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 Authority;

H. 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 Discharger to comply with this chapter;

I. Where additional pretreatment and/or operation and maintenance activities will be required to comply with this chapter, the Discharger shall provide a declaration of the shortest schedule by which the Discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities;

1. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Discharger to comply with the requirements of this chapter including, but not limited to, dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this chapter;
2. Under no circumstances shall the Authority permit a time increment for any single step directed toward compliance which exceeds 9 months;
3. Not later than 14 days following each milestone date in the schedule and the final date for compliance, the Discharger shall submit a progress report to the Authority, including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone 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 Discharger to return the construction to the approved schedule. In no event shall more than 9 months elapse between such progress reports to the Authority.

J. Disclosure of each product produced by type, amount, process or processes and rate of production;

K. Disclosure of the type and amount of raw materials utilized (average and maximum per day);

L. All disclosure forms shall be signed by a principal executive officer of the Discharger;

M. All sewers shall have an inspection and sampling manhole or structure with an opening of no less than 24 inches diameter and an internal diameter of no less than 36 inches containing flow measuring, recording and sampling equipment as required by the Authority to assure compliance with this chapter;

N. Industrial users shall promptly notify the Authority in advance of any substantial changes in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification under 40 CFR 403.12(p).

The Authority will evaluate the complete disclosure form and data furnished by the Discharger and may require additional information. Within 30 days after full evaluation and acceptance of the data furnished, the Authority shall notify the Discharger of the Authority's acceptance thereof.

(3) Standards modification. The Authority reserves the right to amend this Ordinance and the terms and conditions hereof in order to assure compliance by the Authority with applicable laws and regulations. As new National Categorical Pretreatment Standards are promulgated, they will be considered a part of this chapter. Where a Discharger, subject to a National Categorical Pretreatment Standard, has not previously submitted a disclosure form as required by subsection (b)(2), the Discharger shall file a disclosure form with the Authority within 180 days after the promulgation of the Applicable National Categorical Pretreatment Standard by the U.S. Environmental Protection Agency. In addition, any Discharger operating on the basis of a previous filing of a disclosure statement, shall submit to the Authority within 180 days after the promulgation of an applicable National Categorical Pretreatment Standard, the additional information required by paragraphs H. and I. of subsection (b)(2). The Discharger shall be informed of any additional proposed changes in the chapter at least 30 days prior to the effective date of change. Any changes or new conditions in the Ordinance shall include a reasonable time schedule for compliance.

(c) Reporting Requirements for Discharger.

(1) Compliance date report. Within 90 days following the date for final compliance by the Discharger with applicable Pretreatment Standards set forth in this chapter or 90 days following commencement of the introduction of wastewater into the POTW by a New Discharger, any Discharger subject to this chapter shall submit to the Authority a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O and M and/or pretreatment is necessary to bring the Discharger into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Discharger.

(2) Periodic compliance reports. Any Discharger 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 Discharger, after commencement of the discharge to the Authority, shall submit to the Authority during the months of January and July, unless required more frequently by the Authority, a report indicating the nature and concentration, of prohibited or regulated substances in the effluent which are limited by the Pretreatment Standards hereof. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period in subsection (c)(1) hereof. Flows shall be reported on the basis of actual measurement, provided, however, where cost or feasibility considerations justify, the Authority may accept reports of average and maximum flows estimated by verifiable techniques. The Authority, 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 said reports on months other than those specified above.

A. Reports of Dischargers 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 Authority. The frequency of monitoring by the Discharger shall be as prescribed in the applicable Pretreatment Standard of this chapter. All analysis 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 Environmental Protection Agency 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 U.S. Environmental Protection Agency.)

B. The Industrial User must notify the Authority within 24 hours of becoming aware that its sampling data indicates a discharge limit violation. The Industrial User must then repeat the sampling and analysis and report the results to the Authority within 30 days unless the Authority samples the Industrial User's discharge.

C. The sampling performed above must be representative of the reporting period and the amount of sampling must be appropriate for that particular Industrial User. Additionally, the results of monitoring which is beyond the minimum required must also be included in the report.

(d) Monitoring Facilities. Each Discharger shall provide and operate at the Discharger's own expense, a monitoring facility to allow inspection, sampling and flow measurement of each sewer discharge to the Authority. Each monitoring facility shall be situated on the Discharger's premises, except where such a location would be impractical or cause undue hardship on the Discharger, the Authority may concur with the facility being construction 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.

(1) There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the Discharger.

(2) All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within 120 days of receipt of permit by Discharger.

(e) Inspection and Sampling. The Authority may inspect the monitoring facilities of any Discharger to determine compliance with the requirements of this chapter. The Discharger shall allow the Authority or its representatives, upon presentation of credentials of identification, to enter upon the premises of the Discharger at all reasonable hours, for the purposes of inspection, sampling, or records examination. The Authority shall have the right to set up on the Discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations.

(f) Confidential Information. Information and data furnished to the Authority with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the Discharger specifically requests and is able to demonstrate to the satisfaction of the Authority 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 Discharger.

(1) When requested by a Discharger 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 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 proceedings involving the Discharger furnishing the Report. Wastewater constituents and characteristics will not be recognized as confidential information.

(2) Information accepted by the Authority as confidential, shall not be transmitted to any governmental agency or to the general public by the Authority until and unless a ten-day notification is given to the Discharger.

(g) Authority. The Authority may issue orders to any Industrial User to require compliance with any requirements under this chapter, including applicable Categorical Pretreatment Standards, other discharge limits, and reporting requirements.

(h) Signatory and Certification Requirements. All applications submitted to the Authority shall be signed and certified in accordance with the requirements of 40 CFR 403.12(L) and 40 CFR 403.6(A)(2)(ii). All reports submitted to the Authority shall be signed and certified in accordance with the requirements of 40 CFR 403.12(L) and 40 CFR 403.6(A)(2)(ii).
(Ord. 53-94. Passed 10-10-94.)

939.08 ENFORCEMENT.

(a) Emergency Suspension of Service and Discharge Permits. The Authority may for good cause shown suspend the wastewater treatment service to a Discharger when it appears to the Authority that an actual or threatened discharge presents or threatens an imminent or substantial danger to the environment, interfere with the operation of the POTW, or violate any pretreatment limits imposed by this chapter. Any Discharger notified of the suspension of the Authority's wastewater treatment service shall within a reasonable period of time, as determined by the Authority, cease all discharges. In the event of failure of the Discharger to comply voluntarily with the suspension order within the specified time, the Authority shall commence judicial proceedings immediately thereafter to compel the Discharger's compliance with such order. The Authority shall reinstate the wastewater treatment service and terminate judicial proceedings pending proof by the Discharger of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above.

(b) Revocation of Treatment Services. The Authority may seek to terminate the wastewater treatment services to any Discharger which fails to:

(1) Factually report the wastewater constituents and characteristics of its discharge;
(2) Report significant changes in wastewater constituents or characteristics;
(3) Refuses reasonable access to the Discharger's premises by representatives of the Authority for the purpose of inspection or monitoring; or
(4) Violates the conditions of this chapter, or any final judicial order entered with respect thereto.

(c) Notification of Violation; Administrative Adjustment. Whenever the Authority finds that any Discharger has engaged in conduct which justifies termination of wastewater treatment services, pursuant to subsection (b) hereof, the Authority shall serve or cause to be served upon such Discharger a written notice either personally or by certified mail, return receipt requested, stating the nature of the alleged violation. Within 30 days of the date of receipt of the notice, the Discharger shall respond personally or in writing to the Authority 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.

(d) Show Cause Hearing. Where the violation of subsection (b) hereof is not corrected by timely compliance by means of Administrative Adjustment, the Authority may order any Discharger which causes or allows conduct prohibited by subsection (b) hereof to show cause before the Authority or its duly authorized representative why the proposed service termination action should not be taken. A written notice shall be served on the Discharger by personal service, certified or registered mail, return receipt requested, specifying the time and place of a hearing to be held by the Authority or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the Discharger to show cause before the Authority 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 Discharger. The proceedings at the hearing shall be considered by the Authority which shall then enter appropriate orders with respect to the alleged improper activities of the Discharger. Appeal of such orders may be taken by the Discharger in accordance with applicable local or State law.

(e) Judicial Proceedings. Following the entry of any order by the Authority with respect to the conduct of a Discharger contrary to the provisions of subsection (b) hereof, the Attorney for the Authority may, following the authorization of such action by the Authority, commence an action for appropriate legal and/or equitable relief in the Court of Common Pleas of Tuscarawas County, Ohio.

(f) Enforcement Actions - Annual Publication. At least annually, the Authority shall publish a list of all Industrial Users which at any time during the previous twelve months were in significant noncompliance with the applicable pretreatment requirements. For the purposes of this provision, an Industrial User is in significant noncompliance if its violations meet one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
(3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
(4) Any discharge of a pollutant that has caused imminent endangerment of human health, welfare or to the environment or has resulted in the POTW's exercise of emergency authority to halt or prevent such a discharge;
(5) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
(7) Failure to accurately report noncompliance;
(8) Any other violation or group of violations which the Authority determines will or has adversely affected the operation or implementation of the City's pretreatment program.

(g) Right of Appeal. Any Discharger or any interested party shall have the right to request in writing an interpretation or ruling by the Authority 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 Discharger and deals with matters of performance or compliance with this chapter for which enforcement activity relating to an alleged violation is the subject, receipt of a Discharger's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this chapter may be taken in accordance with local and State law.

(h) Operating Upsets. Any Discharger which experiences an upset in operations which places the Discharger in a temporary state of noncompliance with this chapter shall inform the Authority thereof within 24 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 Discharger with the Authority within five days. The report shall specify:

(1) Description of the upset, the cause thereof and the upset's impact on a Discharger's compliance status.

(2) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur.

(3) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance

A documented and verified bonafide operating upset shall be an affirmative defense to any enforcement action brought by the Authority against a Discharger for any noncompliance with the chapter which arises out of violations alleged to have occurred during the period of the upset. (Ord. 53-94. Passed 10-10-94.)

939.09 RECORDS RETENTION.

All Dischargers subject to this chapter shall retain and preserve for no less than three (3) years any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analysis made by or in behalf of a Discharger in connection with its discharge. All records which pertain to matters which are the subject of Administrative Adjustment or any other enforcement or litigation activities brought by the Authority pursuant hereto shall be retained and preserved by the Discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.
(Ord. 53-94. Passed 10-10-94.)

939.10 SEVERABILITY.

If any provision, paragraph, word, section or chapter of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.
(Ord. 53-94. Passed 10-10-94.)

939.11 CONFLICT.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency of conflict.
(Ord. 53-94. Passed 10-10-94.)

939.99 PENALTIES.

(a) Penalties. Any Discharger who is found to have violated an Order of the Authority or who has failed to comply with the provision of this chapter, and the regulations or rules of the Authority, or orders of any court of competent jurisdiction shall, upon conviction, be punished by the imposition of a fine of not more than $1,000.00 and imprisonment of not more than 6 months. A separate offense shall be deemed committed each day for each violation during or on which a violation occurs or continues.

(b) Recovery of Costs Incurred by the Authority. Any Discharger 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 Authority's wastewater disposal system shall be liable to the Authority for any expense, loss, or damage caused by such violation or discharge. The Authority shall bill the Discharger for the costs incurred by the Authority 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 939.08.

(c) Falsifying Information. Any person who knowingly makes any false statement, representation or certification in any application, record, reports, 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 under this chapter shall, upon conviction, be punished by the imposition of a civil penalty of not more than $1,000.00 or by imprisonment for not more than six (6) months, or by both.
(Ord. 53-94. Passed 10-10-94.)

(Note: The next printed page is page 22Y.)

CHAPTER 945
Backflow; Cross Connection Control

945.01 Purpose.
945.02 Responsibility.
945.03 Definitions.
945.04 Requirements.

CROSS REFERENCES
Backflow - see OAC 4101:2-51-38
Water regulations - see S.U.&P.S. Ch. 935

945.01 PURPOSE.
The purpose of this chapter is:
(a) To protect the public potable water supply of New Philadelphia from the possibility of contamination or pollution by isolating within the customer's internal distribution system(s) or the customer's private water system(s) such contaminants or pollutants that could backflow into the public water system; and,
(b) To promote the elimination or control of existing cross connections, actual or potential, between the customer's in plant potable water system(s) and nonpotable water systems, plumbing fixtures and industrial piping systems; and,
(c) To provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems.
(Ord. 43-91. Passed 7-8-91.)

945.02 RESPONSIBILITY.
The Service Director and/or Health Environmentalist shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the Service Director and/or Health Environmentalist, an approved backflow prevention assembly is required (at the customer's water service connection; or, within the customer's private water system) for the safety of the water system, the Service Director and/or Health Environmentalist or his/her designated agent shall give notice in writing to such customer to install such an approved backflow prevention assembly(s) at specific location(s) on his/her premises. The customer shall immediately install such approved assembly(s) at his/her own expense; and, failure, refusal, or inability on the part of the customer to install, have tested, and maintain such assembly(s) shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.
(Ord. 43-91. Passed 7-8-91.)

945.03 DEFINITIONS.

(a) “Water Commissioner” or “Health Official” means the Service Director and/or Health Environmentalist in charge of the (Water Department or Health Department) of New Philadelphia, is invested with the authority and responsibility for the implementation of an effective cross connection control program and for the enforcement of the provisions of this chapter.

(b) "Approved" means accepted by the authority responsible as meeting an applicable specification stated or cited in this chapter or as suitable for the proposed use.

(c) "Auxiliary water supply" means any water supply on or available to the premises other than the purveyor's approved public water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source(s), such as a well, spring, river, stream, harbor, and so forth; used waters; or industrial fluids. These waters may be contaminated or polluted, or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

(d) "Backflow" means the undesirable reversal of flow in a potable water distribution system as a result of a cross connection.

(e) "Backpressure" means a pressure higher than the supply pressure, caused by a pump, elevated tank, boiler, or any other means that may cause backflow.

(f) "Backsiphonage" means backflow caused by negative or reduced pressure in the supply piping.

(g) "Backflow preventer" means an assembly or means designed to prevent backflow.

(1) "Air gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor, or other assembly and the flood level rim of the receptacle. These vertical, physical separations must be at least twice the diameter of the water supply outlet, never less than one inch (25mm).

(2) "Reduced pressure backflow prevention assembly." The approved reduced-pressure principle backflow prevention assembly consists of two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between two tightly closing resilient-seated shutoff valves as an assembly and equipped with properly located resilient-seated test cocks.

(3) "Double check valve assembly". The approved double check valve assembly consists of two internally loaded check valves, either spring loaded or internally weighted, installed as a unit between two tightly closing resilient-seated shutoff valves and fittings with properly located resilient-seated test cocks. This assembly shall only be used to protect against a nonhealth (that is, a pollutant).

(h) "Contamination" means an impairment of a potable water supply by the introduction or admission of any foreign substance that degrades the quality and creates a health hazard.

(i) "Cross connection" means a connection or potential connection between any part of a potable water system and any other environment containing other substances in a manner that, under any circumstances would allow such substances to enter the potable water system. Other substances may be gases, liquids or solids such as chemicals, waste products, steam, water from other sources (potable or nonpotable), or any matter that may change the color or add odor to the water.

(j) "Cross Connections; Controlled " means a connection between a potable water system and a nonpotable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

(k) "Cross Connection Control by Containment" means the installation of an approved backflow prevention assembly at the water service connection to any customer's premises, where it is physically and economically unfeasible to find and permanently eliminate or control all actual or potential cross connections within the customer's water system; or it means the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross connections that cannot be effectively eliminated or controlled at the point of the cross connection.

(l) "Hazard, Degree of". The term is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

(1) "Hazard-health" means a cross connection or potential cross connection involving any substance that could, if introduced in the potable water supply, cause death, illness, spread disease, or have a high probability of causing such effects.

(2) "Hazard-plumbing" means a plumbing-type cross connection in a consumer's potable water system that has not been properly protected by an approved air gap or an approved backflow prevention assembly.

(3) "Hazard-nonhealth" means a cross connection or potential cross connection involving any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable, if introduced into the potable water supply.

(4) "Hazard-system" means an actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system or of a pollution or contamination that would have a protracted effect on the quality of the potable water in the system.

(m) "Industrial Fluids System" means any system containing a fluid or solution that may be chemically, biologically or otherwise contaminated or polluted in a form of concentration, such as would constitute a health, pollution or plumbing hazard, if introduced into an approved water supply. This may include, but not be limited to: polluted or contaminated waters; all types of process waters and used waters originating from the public potable water system that may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalies; circulating cooling waters connected to an open cooling tower; and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters, such as wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems, and so forth; oils, gases, glycerine, paraffins, caustic and acid solutions, and other liquid and gaseous fluids used in industrial or other purposes for fire-fighting purposes.

(n) "Pollution" means the presence of any foreign substance in water that tends to degrade its quality so as to constitute a nonhealth or impair the usefulness of the water.

(o) “Water - Potable” means water that is safe for human consumption as described by the public health authority having jurisdiction.

(p) "Water - Nonpotable" means water that is not safe for human consumption or that is of questionable quality.

(q) "Service connection" means the terminal end of a service connection from the public potable water system, that is, where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the

customer's water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter. There should be no unprotected takeoffs from the service line ahead of any meter or backflow prevention assembly located at the point of delivery to the customer's water system. Service connection shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

(r) "Water - Used" means any water supplied by a water purveyor from a public potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the water purveyor.
(Ord. 43-91. Passed 7-8-91.)

945.04 REQUIREMENTS.

(a) Water System.

(1) The water system shall be considered as made up of two parts: the utility system and the customer system.

(2) Utility system shall consist of the source facilities and the distribution system, and shall include all those facilities of the water system under the complete control of the utility, up to the point where the customer's system begins.

(3) The source shall include all components of the facilities utilized in the production, treatment, storage and delivery of water to the distribution system.

(4) The distribution system shall include the network of conduits used for the delivery of water from the source to the customer's system.

(5) The customer's system shall include those parts of the facilities beyond the termination of the utility distribution system that are utilized in conveying utility-delivered domestic water to points of use.

(b) Policy.

(1) No water service connection to any premises shall be installed or maintained by the water purveyor unless the water supply is protected as required by state/provincial laws and regulations and this chapter. Service of water to any premises shall be discontinued by the water purveyor if a backflow prevention assembly required by this chapter is not installed, tested, and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

(2) The customer's system should be open for inspection at all reasonable times to authorized representatives of the (water or health agency name) to determine whether cross connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the Service Director and/or Environmentalist shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition(s) in conformance with State and City legislation relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(3) An approved backflow prevention assembly shall be installed on each service line to a customer's water system at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line wherever the following conditions exist:

A. In the case of premises having an auxiliary water supply that is not or may not be of safe bacteriological or chemical quality and that is not acceptable as an additional source by the Service Director and/or Environmentalist, the public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line, appropriate to the degree of hazard.

B. In the case of premises on which any industrial fluids or any other objectionable substances are handled in such a fashion as to create an actual or potential hazard to the public water system, the public system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line, appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the utility system that have been subject to deterioration in quality.

C. In the case of premises having internal cross connections that cannot be permanently corrected and controlled, or intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross connections exist, the public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line.

(4) The type of protective assembly required under subsections (b)(3)A., B. and C. shall depend upon the degree of hazard that exists as follows:

A. In the case of any premises where there is an auxiliary water supply as stated in subsection (b)(3)A. hereof, and it is not subject to any of the following rules, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly.

B. In the case of any premises where there is water or substances that would be objectionable but not hazardous to health, if introduced into the public water system, the public water system shall be protected by an approved double check valve assembly.

C. In the case of any premises where there is any material dangerous to health that is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.

D. In the case of any premises where there are "uncontrolled" cross connections, either actual or potential, the public water system shall be protected by an approved air-gap separation or an approved reduced-pressure principle backflow prevention assembly at the service connection.

E. In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross connection survey, the public water system shall be protected against backflow from the premises by either an approved reduced pressure principle backflow prevention assembly on each service to the premises.

F. In the case of any premises where, in the opinion of the Service Director and/or Health Environmentalist, an undue health threat is posed because of the presence of extremely toxic substances, the Service Director and/or Health Environmentalist may require an air gap at the service connection to protect the public water system. This requirement will be at the discretion of the Service Director and/or Health Environmentalist and is dependent on the degree of hazard.

(5) Any backflow prevention assembly required herein shall be a model and size approved by the Service Director and/or Health Environmentalist. The term approved backflow prevention assembly means an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association titled:

AWWA C510-89 - Standard for Double Check Valve Backflow Prevention Assembly, and

AWWA C511-89 - Standard for Reduced Pressure Principle Backflow Prevention Assembly,

and have met completely the laboratory and field performance specifications of the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California established by:

"Specification of Backflow Prevention Assemblies" - Sec. 10 of the most current issue of the Manual of Cross Connection Control.

Such AWWA and FCCHR standards and specifications have been adopted by the Service Director and/or Health Environmentalist. Final approval shall be evidenced by a "Certificate of Approval" issued by an approved testing laboratory certifying full compliance with the AWWA standards and FCCHR specifications. The following testing laboratory has been qualified by the Service Director and/or Health Environmentalist to test and certify backflow preventors:

Foundation for Cross Connection Control and Hydraulic Research
University of Southern California
University Park
Los Angeles, CA 90089

Testing laboratories, other than the laboratory listed above, will be added to an approved list as they are qualified by the Service Director and/or Health Environmentalist. Backflow preventers that may be subjected to backpressure or backsiphonage that have been fully tested and have been granted a certificate of approval, by the qualified laboratory and are listed on the laboratory's current list of approved backflow prevention assemblies may be used without further testing or qualification.

(6) It shall be the duty of the customer user at any premises where backflow prevention assemblies are installed to have certified inspections and operational tests made at least once per year. In those instances where the Service Director and/or Health Environmentalist deems the hazard to be great enough, certified inspections may be required at more frequent intervals. These inspections and tests shall be at the expense of the water user and shall be performed by the assembly manufacturer's representative, (water department) personnel, or by certified tester approved by the Service Director and/or Health Environmentalist. It shall be the duty of the Service Director and/or Health Environmentalist to see that these tests are made in a timely manner. The customer user shall notify the Service Director and/or Health Environmentalist in advance when the tests are to be undertaken so that the customer user may witness the tests if so desired. These assemblies shall be repaired, overhauled, or replaced and records of such tests, repairs and overhaul shall be kept and made available to the Service Director and/or Health Environmentalist.

(7) All presently installed backflow prevention assemblies that do not meet the requirements of this section but were approved assemblies for the purpose described herein at the time of installation and that have been properly maintained, shall, except for the inspection and maintenance requirements under subsection (b)(6) hereof, be excluded from the requirements of these rules so long as the Service Director and/or Health Environmentalist is assured that they will satisfactorily protect the utility system. Whenever the existing assembly is moved from the present location, requires more than minimum maintenance, or when the Service Director and/or Health Environmentalist finds that the maintenance constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this section. (Ord. 43-91. Passed 7-8-91.)

CHAPTER 946
Fire Sprinkler Systems and Fire Hydrants

946.01 Definitions.
946.02 Materials.
946.03 Emergency use.
946.04 Non-emergency use.
946.05 Enforcement authority.
946.99 Penalty.

CROSS REFERENCES

Power to provide and regulate water system - see Ohio R. C. 715.08, 717.01, 743.01
Compulsory water connections - see Ohio R. C. 729.06, 743.23
Management and control of waterworks - see Ohio R. C. 743.02 et seq.
Tampering with hydrants, pipes or meters; unauthorized connections - see Ohio R. C. 4933.22
Sewer charges based on water consumption - see S. U. & P. S. 933.04 et seq.
Licensing plumbers - see BLDG. Ch. 1313

946.01 DEFINITIONS.

(a) "Fire Sprinkler System" means a piping within a building or dwelling holding water or to use water supplied by the City of New Philadelphia to extinguish fires.

(b) "Fire Hydrant" means an appurtenance supplied with water from the City of New Philadelphia to extinguish fires. (Ord. 22-2002. Passed 4-8-02.)

946.02 MATERIALS.

(a) All materials used for a Fire Sprinkler System shall meet NFPA (National Fire Protection Association) Chapter #13 and #24.

(b) All materials used for a Fire Hydrant shall meet the American Water Works standards and the standards of the City of New Philadelphia Water Department. (Ord. 22-2002. Passed 4-8-02.)

946.03 EMERGENCY USE.

All Fire Sprinkler Systems and Fire Hydrants shall be used at anytime to fight a fire. All emergency repairs to a Fire Sprinkler System or Fire Hydrant are to be reported to the Water Department Superintendent immediately. (Ord. 22-2002. Passed 4-8-02.)

946.04 NON-EMERGENCY USE.

The Water Department Superintendent must be notified seven (7) days in advance of any test, installation, repair, or service call to be performed to any Fire Sprinkler System or Fire Hydrant. The Water Department Superintendent shall determine at which hours the above services will be performed. (Ord. 22-2002. Passed 4-8-02.)

946.05 ENFORCEMENT AUTHORITY.

The Water Department Superintendent shall have the authority to enforce this chapter. (Ord. 22-2002. Passed 4-8-02.)

946.99 PENALTY.

Any person who violates any section of this chapter shall be fined not more than one thousand dollars ($1,000.00) per occurrence per day.
(Ord. 22-2002. Passed 4-8-02.)

CHAPTER 947
Water Wells and Ground Water Protection

947.01 Definitions.
947.02 Potable water well (well for human consumption, culinary or domestic purposes) standards.
947.03 Non-potable water well (not intended for human consumption, culinary or domestic purposes) standards.
947.04 Test well/sampling well/monitoring well/soil boring/soil sampling standards.
947.05 Regulation of geothermal heating/cooling systems.
947.06 Bonding/registration of geothermal installers.
947.07 Materials.
947.08 Water withdrawal regulations.
947.09 Water withdrawal facility registration.
947.10 Bonding/registration of water withdrawal facility operators.
947.11 Enforcement authority.
947.99 Penalty.

CROSS REFERENCES
Water regulations - see S.U. & P.S. Ch. 935

947.01 DEFINITIONS.

(a) General Definitions.

(1) "Abandoned Well" means any water well from which the pumping apparatus or well seal has been removed for other than routine cleaning, repair or replacement and which has not been used as a source of water for at least thirty days.

(2) "Agricultural Well" is any water well that is to be used solely for non-potable purposes and that is not used as a Supply well for a Geothermal heating/cooling system.

(3) "Alter" or "Alteration" means to make a change in the type of construction or configuration of a private water system, including without limitation,

A. Adding or changing the design of continuous disinfection, water treatment, or methane treatment device or a cyst reduction filter;

B. Converting a well with a buried seal to a well with a pitless adapter or well house installation;

C. Extending a distribution system to a dwelling or dwellings;

D. Disconnecting the water source from a service line going to one or more service connections including when connecting to a public water supply;

E. Converting a well that uses a well pit to a well with a pitless adapter or well house type of construction; extending the casing above ground; deepening a well; or repairing, extending, or replacing any portion of the inside or outside casing or wall, or the walls of a spring or cistern, that extend below ground level;

F. Conversion of a permitted test well to a private water system.

(4) "Applicant" means the person, individual, corporation, partnership, proprietor, or public agency that is making an application with the City of New Philadelphia.

(5) "Aquifer" means a consolidated or unconsolidated geologic formation or series of formations that are hydraulically interconnected and that have the ability to receive, store, or transmit water.

(6) "Capped Well" means a well in which the casing is sealed by a threaded or welded cap or well sealed.

(7) "Contamination" means the presence of any contaminant into the aquifer(s) or ground water(s) below the City of New Philadelphia which renders the water unfit for human consumption or other potable uses.

(8) "Groundwater" means all water occurring in an aquifer.

(9) "Five Year Time of Travel" means the amount of time it would take ground water or a ground water contaminant to reach the municipal water wells of the City of New Philadelphia. See Appendix A for the area covered by the Five Year Time of Travel.

(10) "Limited Affected Area" means the property where the work of installing, developing or abandoning a water well, the work of installing or abandoning a monitoring or sampling well, or the work of securing a soil boring or a geoprobe sample, is taking place.

(11) "Person" means any agency of this State, any political subdivision of this State or the United States, or any individual, corporation and/or legal entity defined as a person under Section 1.59 of the Ohio Revised Code.

(12) "Plugged Well" means a water well so treated that the various aquifers are permanently separated and the surface opening of such water well and the casings are permanently sealed with bentonite or other material approved by the Ohio Department of Health (ODH) and/or the Ohio Environmental Protection Agency (OEPA).

(13) "Potable Water" means water which is satisfactory for drinking, culinary or domestic purposes; including flushing toilets and doing laundry.

(14) "Private Water System" means any water system, other than a public water supply system, for the provision of water for human consumption, if the system has fewer than fifteen service connections and does not regularly serve an average of at least twenty-five individuals daily at least sixty days each year. A private water system includes public water systems that are defined as exempt in Section 6109.02 of the Ohio Revised Code and use hauled water storage tanks as their only source of water. (Ohio Administrative Code Chapter 3701-28; Ohio Department of Health, Bureau of Environmental Health)

(15) "Private Water Well" means any excavation greater than ten feet below the ground surface regardless of design or method of construction that is done or used for any of the purposes of removing ground water for the provision of water for human consumption. Such a system will be considered part of a private water system if the system has fewer than fifteen service connections and does not regularly serve an average of at least twenty-five individuals daily at least sixty days each year.

(16) "Public Water System" means a system which provides water for human consumption through pipes or other constructed conveyances, and has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. A public water system is either a "community water system" or a "non-community water system." (Ohio Administrative Code Chapter 3745-81; Ohio EPA, Division of Drinking and Ground Waters)

(17) "Public Water Well" means any excavation greater than ten feet below the ground surface regardless of design or method of construction that is done or used for any of the following purposes of removing ground water for the provision of water for human consumption. Such a system will be considered part of a public water system if the system has at least than fifteen service connections and regularly serves an average of at least twenty-five individuals daily at least sixty days each year.

(18) "Registered Water Systems Contractor" or "Registrant" means a person who is registered as a water systems contractor in accordance with Division (B) (3) of Section 3701.344 of the Ohio Revised Code and Chapter 3701-28 of the Administrative Code.

(19) "Surface Water" means:

A. All water which is open to the atmosphere and subject to surface runoff, or

B. Ground water under the direct influence of water which is open to the atmosphere or subject to surface runoff, as indicated by:

1. Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as giardia lamblia or cryptosporidium, or
2. The presence of biological contamination significant to human health, or
3. Improper well construction or inadequate sanitary isolation radius; or
4. Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions.

(20) "Water Well" means any excavation, whether drilled, bored, driven or dug, which was made for the purpose of obtaining water from the ground or for the purpose of testing the quality or quantity of such water.

(21) "Well Owner" means the legal owner of the real estate containing the water well.

(b) Soil Boring Definitions.

(1) "Soil Boring" means any type of soil disturbance for the purpose of soil analysis, testing, or other environmental purpose(s). This may be conducted either with hand tools or with power-type equipment.

(2) "Geoprobe" means any device that is used to acquire a soil boring, soil sample, water sample, or a combination thereof, for analysis, testing, or other environmental purpose(s).

(3) "Soil Disturbance" means any type of moving, removal, grading or replacement of soil. Such a soil disturbance can be done alone or in conjunction with some other soil disturbing activity, such as securing a soil boring, a soil sample, or installing a geothermal heating/cooling system. Any such activity will not be considered a "soil disturbance" if in the regular process of the disturbance, the activity is conducted with under existing local, state or federal permit (e.g. - the drilling of a state-permitted water well). Soil disturbances that are not "environmental" in nature (such as installing a fence post, swimming pool, etc) are exempt from permitting.

(c) Monitoring Well/test Well Definitions.

(1) "Test Well," "Monitoring Well," or "Sampling Well" means any excavation, regardless of design or method of construction, done for the purpose of determining the most suitable site for removing ground water from an aquifer for any testing, sampling or other type of environmental assessment purpose(s), or for assessing the quality, quantity, or level of ground water in or the stratigraphy of an aquifer, excluding borings for instrumentation in dams, dikes or levees or highway embankments.

(2) "Test Hole" means any excavation, regardless of design or method of construction, for the purpose of determining the most suitable site for removing ground water from an aquifer.

(d) Geothermal Definitions.

(1) "Alter or Alteration" means to make a change in the type of construction or configuration of a geothermal heating and cooling system, including without limitation:

A. The adding or changing the design of the system;

B. The converting a closed loop system to an open loop system, or converting an open loop system to a closed loop system;

C. The extending or expanding the scope or size of the geothermal heating and cooling system;

D. The changing of water sources for an open loop system;

E. The changing of coolant type(s) and/or antifreeze in a geothermal heating and cooling system;

F. The conversion of a non-potable well used in whole or in part as a supply well for a geothermal heating and cooling system to a dual use well; that is, a well that is used in whole or in part for both potable and geothermal purposes.

(2) "Antifreeze" - A substance, often a liquid such as ethylene glycol or alcohol, mixed with another liquid to lower its freezing point.

(3) "Cascading Well" - A well that allows water to cascade down an open borehole.

(4) "Closed-Loop System" - A low-temperature geothermal heating and cooling system that circulates a heat transfer fluid, usually water with an antifreeze additive, through a loop or multiple loops of piping installed below the ground surface or within a surface water body. A closed-loop system does not involve the withdrawal of ground water. In the winter, the earth's heat is absorbed by the heat transfer fluid within the piping and transmitted to the unit's heat exchanger and compressor to provide heating or cooling. In the summer, the cycle is reversed and the system removes heat from the building and transfers it into the earth.

(5) "Direct Exchange" - A type of closed-loop geothermal heating and cooling system that uses loops of copper piping installed in pits, trenches or vertical borings in the earth, through which a refrigerant is circulated.

(6) "Dual-Use Well" - A well used to provide both on-site potable water and water for heat transfer in an on-site geothermal heating and cooling system.

(7) "Geothermal Heating and Cooling System" - A mechanical system for space heating or cooling that relies on the transfer of thermal energy between the earth, including ground water, and a heat transfer fluid and consists of a heat pump, a heat exchange well or loop, and a heat distribution network.

(8) "Ground Water Discharge" - The direct or indirect discharge of water used as a source of, or reservoir for, heat in an open-loop geothermal heating and cooling system to ground water. Ground water discharge may occur within aquifers or anywhere below land surface, where percolation may ultimately reach ground water.

(9) "Inner Management Zone" - The surface and subsurface area around a public water system well that will provide water to the well within one year, as delineated or endorsed by the Ohio Environmental Protection Agency under the wellhead protection program and the source water assessment and protection program.

(10) "Karst" - A suite of landforms caused by the dissolution of limestone and to a lesser extent dolomite and gypsum. Features of karst terrain include fissures, sinkholes, underground streams and caverns.

(11) "Local Health District" - A district organized by county, city or a combination of counties and cities that work closely with the Ohio Department of Health and Ohio Environmental Protection Agency to address environmental health issues, including private water systems and small flow on-lot sewage treatment systems.

(12) "Notice of Intent" - Written notification to a regulatory agency or other government body of the intent to act on a legal right. In this document Notice of Intent is specific to the written notice a geothermal heating and cooling system owner or operator must provide to the Ohio Environmental Protection Agency that a system discharging to surface water will be installed or operated under the National Pollution Discharge Elimination System (NPDES) General Permit for Geothermal Systems.

(13) "Non-Contact Heating and Cooling Water" - Water used for heating or cooling which does not come into contact with any raw material, product, by-product or waste.

(14) "Open-Loop System" - A geothermal heating and cooling system that withdraws water from an extraction well or body of water, passes the water through a heat exchange system, and discharges the temperature-altered water either into the ground in a discharge or return well or to the ground surface or into surface water.

(15) "Paleokarst" - A buried carbonate unit exhibiting typical karst fractures such as large interconnected fractures and voids.

(16) "Refrigerant" - A substance, such as air, ammonia, water, or carbon dioxide, used to provide cooling either as the working substance of a refrigerator or by direct absorption of heat.

(17) "Standing Column Well" - A semi-open-loop geothermal heating and cooling system consisting of a vertical boring from which ground water is withdrawn and into which ground water that has passed through a geothermal heating and cooling system is discharged.

(18) "Supply Well" is any well that is used, either in part or in whole, for the purpose of providing water to a Geothermal heating/cooling system.

(19) "Surface Water Discharge" - The direct or indirect discharge of water used as a source of or reservoir for heat in an open-loop geothermal heating and cooling system to streams, lakes or ponds.

(20) "Vertical Closed-Loop System" - A set of grouted borings containing sealed pipe installed in the earth in boreholes in a vertical, angled, or diagonal configuration, for the purpose of transferring heat between a building space and the earth, including ground water, in a geothermal heating and cooling system.

(e) Water Withdrawal Definitions.

(1) "Commercial Use" means water used by a business and includes, but is not limited to, motels, hotels, restaurants, marinas, and golf courses.

(2) "Domestic Use" means withdrawal of ground water by an individual for use on residential property by means of a pump or other device that generally has a discharge line with an outside diameter of not more than one and one-half inches. This definition excludes water withdrawn for public water supply use.

(3) "Industrial Use" means water used by a business or corporation and includes, but is not limited to, manufacturing, processing, or other industrial or mineral extraction processes and the like. Industrial use shall also include the sale of water for both commercial and/or industrial usages.

(4) "One Hundred Thousand Gallons Per Day" means an average of one hundred thousand gallons per day for any consecutive thirty day period.

(5) "Private Water Supply Use" means water used by a system that pipes water for human consumption if such system has less than fifteen service connections or regularly serves less than twenty individuals sixty or more days out of the year.

(6) "Public Water Supply Use" means water used by a system that pipes water for human consumption if such system has at least fifteen service connections or regularly serves at least twenty individuals sixty or more days out of the year.

(7) "Water Enhancer" means any chemical, radiological, mineral, or other non-naturally-occurring additive that is added to water withdrawn from the ground or a surface source for agricultural, industrial, commercial, or any other non-domestic, non-private water supply use.

(8) "Water Withdrawal Facility" means any facility, structure or location that is designed, in whole or in part, to withdraw water from the ground and/or a surface water location for commercial and/or industrial usage of the water withdrawn.

(9) "Waters of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within, or border upon, this State or are within its jurisdiction.

(10) "Withdrawal" means the removal or taking of any waters of the State of Ohio. (Ord. 17-2012. Passed 1-14-13.)

947.02 POTABLE WATER WELL (WELL FOR HUMAN CONSUMPTION, CULINARY OR DOMESTIC PURPOSES) STANDARDS.

(a) No person shall drill or otherwise construct a potable water well within the corporate limits of New Philadelphia, Ohio, for the purpose of extracting ground water as defined by Ohio Administrative Code Section 3745-9-01(H), which is intended for human consumption, culinary or domestic purposes, unless the area where the water well is to be drilled in the City of New Philadelphia is not served by the municipal water system.

(b) In areas within the corporate limits of New Philadelphia, Ohio, not served by the municipal water system, all potable water wells shall be constructed in accordance with Chapter 3701-28 of the Ohio Administrative Code. The permit fee for the potable water well shall be established by the New Philadelphia City Health Department according to the process required by the Ohio Department of Health in the Ohio Administrative Code, Sec 3701-28-06.

(c) No person shall abandon or plug or otherwise deconstruct a potable water well within the corporate limits of New Philadelphia, Ohio unless a permit has been secured as required in Ohio Administrative Code 3701-28. All work in abandoning a well shall be done in accordance with Chapter 3701-28 of the Ohio Administrative Code. The permit fee for the potable water well shall be established by the New Philadelphia City Health Department according to the process required by the Ohio Department of Health in the Ohio Administrative Code, Sec. 3701-28-06. (Ord. 17-2012. Passed 1-14-13.)

947.03 NON-POTABLE WATER WELL (NOT INTENDED FOR HUMAN CONSUMPTION, CULINARY OR DOMESTIC PURPOSES) STANDARDS.

(a) Any water well not intended for human consumption, including but not limited to: water wells, (including commercial use, industrial use, livestock consumption, sprinkling, etc.), monitoring wells, test wells, or any other type of sampling well, shall not be drilled or otherwise constructed in the current five year time of travel zone or within one-half mile from the center of the municipal water well field. Any water well not intended for human consumption outside of the five year time of travel zone and not within one-half mile of the center of the municipal well field must be approved in writing by the New Philadelphia City Health Department and the Water Department Superintendent prior to the drilling or construction of a water well.

(b) Every person drilling or otherwise constructing a water well not intended for human consumption shall submit an application to the New Philadelphia City Health Department for a permit for the drilling or constructing of said water well on a form provided by the Health Department. Such application shall indicate the proposed usage, location, type, depth, limited affected area, and such other information as may be required in the form established for such registration by the New Philadelphia, Ohio, City Board of Health.

(c) The application fee for a permit to drill or otherwise construct a water well not intended for human consumption shall be one hundred dollars ($100.00). The application fee for the permit to abandon a well not intended for human consumption shall be fifty dollars ($50.00). All such permits shall remain in force for one year from the date of submittal to the City of New Philadelphia.

(d) Standards for water wells not intended for human consumption.

(1) All sources of water supply other than the municipal water system shall henceforth be subject to inspection and approval by the New Philadelphia City Health Department and/or the Water Department Superintendent.

(2) In no event shall a well supply source be permitted which can or does cross-connect with the municipal water system. The municipal water supply, on any parcel of land with a water well, shall be protected against potential backflow by the installation of an approved reduced pressure principle backflow prevention device installed immediately after the water meter.

(3) The well casing shall extend a minimum of twelve (12) inches above the surrounding grade level with no visual obstructions.

(4) All aspects of the construction and maintenance of the water well shall be in compliance with Chapter 3745 of the Ohio Administrative Code (OAC):

A. Construction shall be in accordance with OAC Sections 3745-9-05, 06 and 07;

B. Development shall be in accordance with OAC Section 3745-9-09;

C. Disinfection (if needed) shall be in accordance with OAC Section 3745-9-08; and

D. Abandonment shall be in accordance with OAC 3745-9-10.

(5) For any well drilled under these rules, a copy of the well log required by Ohio R.C. 1521.05(B) shall be submitted to this office within thirty (30) days of completion of the water well, monitoring well and/or sampling well.

(6) For any well abandoned under these rules, a copy of the abandonment report required by Ohio R.C. 1521.05(C) shall be submitted to this office within (30) days of the completion of the abandonment process. (Ord. 17-2012. Passed 1-14-13.)

947.04 TEST WELL/SAMPLING WELL/MONITORING WELL/SOIL BORING/SOIL SAMPLING STANDARDS.

(a) If not otherwise regulated by the Director of the Ohio Environmental Protection Agency (Ohio EPA), or another Ohio agency, board, or commission, then the "Ohio EPA Technical Guidance Manual for Hydrogeologic Investigations and Ground Water Monitoring," or other standards adopted by the Director, shall be used as a guide for monitoring well construction and sealing to prevent the contamination of ground water.

(b) A test well, sampling well and/or monitoring well that is damaged or deteriorated shall be either repaired to a state consistent with construction requirements of paragraph (a) of this rule, or sealed in accordance with paragraph (a) of this rule.

(c) A monitoring well that is no longer being used shall be sealed in accordance with paragraph (a) of this rule.

(d) Any sampling well, test well and/or monitoring well drilled under these rules, a copy of the well log required by Ohio R.C. 1521.05(B) shall be submitted to this office within thirty (30) days of completion of the water well, monitoring well and/or sampling well.

(e) Any well abandoned under these rules, a copy of the abandonment report required by Ohio R.C. 1521.05(C) shall be submitted to this office within (30) days of the completion of the abandonment process.

(f) All aspects of a test well, sampling well and/or monitoring well or soil boring or soil sampling activity shall follow Ohio Administrative Code Section 3745-9-03, and shall incorporate the recommendations of the "Ohio EPA Technical Guidance Manual for Hydrogeologic Investigations and Ground Water Monitoring (TGM)."
[Comment: TGM refers to a series of PDF documents that was originally published in 1995. These documents will be periodically updated by the Ohio EPA. This rule incorporates this guidance by reference. At the effective date of this rule, a copy may be obtained from "Ohio EPA, Lazarus Government Center, 50 West Town Street, Columbus, OH, 43215-3425," (614) 644-3020, www.epa.state.oh.us. The document is available for review at "Ohio EPA, Lazarus Government Center, 50 West Town Street, Columbus, OH, 43215-3425." Individual sections can be downloaded from the Ohio EPA website at the following URL: http://epa.ohio.gov/ddagw/tgmweb.aspx]

(g) Every person drilling or otherwise constructing a test well, sampling well and/or monitoring well or securing a soil boring or any type of sample from a soil sampling activity shall submit an application to the New Philadelphia City Health Department for a permit for the conducting of such work on a form provided by the Health Department. Such application shall indicate the proposed usage, location, type, depth, limited affected area, and such other information as may be required in the form established for such registration by the New Philadelphia, Ohio, City Board of Health. A permit shall be required for each property on which such work is to be conducted, regardless of the number of said wells or sampling sites. If said owner owns more than one contiguous parcel, only one permit shall be required per drilling event or sampling event.

(h) The application fee for a permit for a test well, sampling well and/or monitoring well or securing a soil boring or any type of sample from a soil sampling activity shall be one hundred dollars ($100.00). The application fee for the permit to abandon a test well, sampling well and/or monitoring well shall be fifty dollars ($50). All such permits shall remain in force for one year from the date of submittal to the City of New Philadelphia.

(i) At any point subsequent to the drilling of the test well, sampling well and/or monitoring well or securing a soil boring or any type of sample from a soil sampling activity, a contaminant is identified in excess of applicable Ohio EPA and/or US EPA standards, the City of New Philadelphia is to be notified in harmony with the notification requirements of the Ohio EPA and/or U.S. EPA. (Ord. 17-2012. Passed 1-14-13.)

947.05 REGULATION OF GEOTHERMAL HEATING/COOLING SYSTEMS.

(a) Before installing, drilling or otherwise constructing a geothermal heating and cooling system within the City of New Philadelphia, Ohio, an application shall be submitted to the New Philadelphia City Health Department for a permit for the drilling and/or construction of such geothermal heating and cooling system on a form provided by the Health Department. Such application shall indicate the proposed usage, location, type, depth, limited affected area, and other such information as may be required in the form established for such registration by the New Philadelphia Ohio, City Board of Health. All such permits shall remain in force for one year from the date of submittal to the City of New Philadelphia.

(b) No geothermal heating and cooling system or part thereof shall be drilled or otherwise constructed in the current five year time of travel zone or within one-half mile from the center of the municipal water well field.

(c) Construction Standards for Geothermal Heating and Cooling Systems.

(1) Any geothermal heating and cooling system installed within the limits of the City of New Philadelphia shall be constructed, at a minimum, according to the recommendations set forth in Ohio Water Resources Council (OWRC) document entitled "Recommendations for Geothermal Heating and Cooling Systems: Guidance for Protecting Ohio's Water Resources", published February 2012.

(2) In addition to the requirements above, each geothermal heating and cooling system shall meet the following requirements:

A. Any water well (if installed) shall be constructed, operated, maintained and abandoned in compliance with Chapter 3745 of the Ohio Administrative Code.

B. An approved backflow device must be appropriately installed in relation to a heating and/or cooling unit, heat pump unit or similar device, to protect both the supply well from contamination and the water user from contamination.

C. A heating and/or cooling unit, heat pump unit, or such similar device shall be valved on the intake and discharge sides of the unit and the intake valve shall be located between the unit and backflow prevention device.

D. The heating and/or cooling unit, heat pump unit or such similar device shall be equipped with an automatic device to shut down the entire system if a leak occurs in the refrigeration system.

E. Water returned to the subsurface through a well or similar means shall be of essentially the same quality both chemically and bacteriologically as it was prior to use except for the temperature differential.

F. Each geothermal heating unit or such similar device shall be so designed and shall operate so that incoming water from one well or aquifer for use in cooling or heating unit is returned to its original aquifer as waste water in accordance with this paragraph.

(d) The application fee for a permit for the installation of a geothermal heating and cooling system shall be one hundred dollars ($100.00).

(e) The application fee for the abandonment/de-commissioning of a geothermal heating and cooling system shall be fifty dollars ($50.00).

(f) The requirements of Section 947.03 shall apply to any and all geothermal heating and cooling system wells constructed, maintained or abandoned within the City. (Ord. 17-2012. Passed 1-14-13.)

947.06 BONDING/REGISTRATION OF GEOTHERMAL INSTALLERS.

(a) No person shall engage in the work or business of installing of geothermal systems within the City of New Philadelphia without first obtaining a license from the City.

(b) Any person desiring a license shall make written application to the Director of Public Service and shall submit such information as requested by the Director.

(c) For each individual the Director of Public Services finds to be qualified and fit for such business under this chapter, the Director of Public Service shall issue a Geothermal Heating and Cooling Installer's License for a period of one year expiring December 31 of the year of registration. The fee for said license shall be fifty dollars ($50.00) per calendar year or part thereof.

(d) At the time of application, the applicant shall enter into a bond payable to the City of New Philadelphia of five thousand dollars ($5,000) which sureties are to be approved by the Director of Public Service. Such bonds shall contain a condition that the applicant will indemnify and save the City harmless from all loss and damages that may be occasioned in anyway by the negligence of the applicant or his employees in the prosecuting of such work or business.

(e) The holder of a license for the installation of geothermal heating and cooling systems shall at all times observe and comply with the rules and regulations of the Department of Public Service and the ordinances of the City in the prosecution of his work or business, and upon failure to do so shall forfeit his license, and thereupon the Director of Public Service is authorized to revoke the license. The Director is also authorized to revoke any license issued hereunder when it is found that a licensee is no longer fit or qualified to carry on such work or business and the Director is authorized to require additional security upon any such bonds whenever he deems it necessary for the proper protection of the City.

(f) No installation, connection, extension, alteration or repair shall be made to or in any part of a geothermal heating and cooling system by any person except by such as is licensed as described above in paragraph (a) above, under the supervision of the Department of Public Service, and in accordance with the ordinances of the City pertaining thereto. Exceptions from this provision are:

(1) Work being done by the City, and
(2) Work being done by a contractor who gave bond for the faithful performance of his duties under such contract, and
(3) Persons who may desire to make repairs, changes, alterations or additions within their own premises, in which case such owner must do the work to the satisfaction of the Director.

(Ord. 17-2012. Passed 1-14-13.)

947.07 MATERIALS.

No materials shall be used for water wells, test wells, sampling wells, soil borings, well abandonment, any other manner of water well or water or soil sampling or geothermal systems unless approved by the New Philadelphia City Board of Health pursuant to State of Ohio Guidelines (e.g.-Ohio EPA, Ohio Department of Health, or other regulatory agency) and the Water Department Superintendent.
(Ord. 17-2012. Passed 1-14-13.)

947.08 WATER WITHDRAWAL REGULATIONS.

(a) No person shall construct and/or maintain a water withdrawal facility without first obtaining a registration for such water withdrawal facility from the City of New Philadelphia, as specified in Section 947.09.

(b) No person shall operate a water withdrawal facility capable of withdrawing one hundred thousand gallons or more a day without first obtaining the proper bonding as required in Section 947.10.

(c) A water withdrawal facility shall not store chemicals, lubricants, pesticides and the like in any manner that may compromise the integrity of the water withdrawn or the source of that water and shall comply with all other applicable federal, state and/or local regulations concerning registration, storage, handling, etc. of chemicals, lubricants, pesticides and the like.

(d) All spills of any chemicals, lubricants, pesticides and the like, whether by the registrant or any other person using the water withdrawal facility shall be reported immediately (within the same business day) to the City of New Philadelphia. All records of any such spills shall be kept on site for a period of at least ten years or that which is required for the product spilled, whichever is longer.

(e) At no time shall chemicals, additives, enhancers or any other material be added to the withdrawn water at the water withdrawal facility without prior notification of the City of New Philadelphia of said additives. The quantities and relative concentrations shall be submitted to the City at least thirty (30) days prior to their introduction into the withdrawn water. All water enhancers shall be stored in a safe manner consistent with its labeling and in a manner that is protective to the water withdrawal facility and the source water. Any spills of such enhancers shall be reported immediately (within the same business day) to the City of New Philadelphia. The water withdrawal facility shall keep records, including, but not limited to, the following on all materials stored and/or utilized at the water withdrawal facility:

(1) U.S. EPA registration number.
(2) The label of said product.
(3) The Materials Safety Data Sheet (MSDS) for the product.
(4) A copy of any federally required usage logs for said product.
(5) Any other information required to be retained for the safe and proper use of said product.

(f) Each water withdrawal facility shall submit to the City of New Philadelphia a copy of any water testing reports, results, etc. on the withdrawn water that are in excess of the most recent US EPA maximum contaminant levels or secondary contaminant levels. Results shall be submitted to the City of New Philadelphia within thirty (30) days of testing.

(g) Each water withdrawal facility shall be inspected annually by the City of New Philadelphia for compliance with the provisions of this chapter.

(h) The withdrawal of ground water for domestic use is exempt in accordance with Section 1520.03(C) of the Ohio Revised Code. The withdrawal of ground water for solely agricultural purposes is exempt from the provisions of this chapter. Further, such withdrawals are still subject to other existing regulations as required in the Ohio Revised Code and/or Ohio Administrative Code.

(i) Any water withdrawn for commercial, industrial, agricultural, hydroelectric power generation, or public water supply use shall be measured by a metering system or other method acceptable to the division. All withdrawals as mentioned above shall be reported to the City of New Philadelphia annually by the registrant and shall be submitted to the City no later than 31 March of each year.

(j) All political subdivisions shall be exempt from the water withdrawal facility registration requirements of this chapter.

(k) Registration under this chapter is not a permit to withdraw water, nor does registration impose any restrictions on withdrawals.
(Ord. 17-2012. Passed 1-14-13.)

947.09 WATER WITHDRAWAL FACILITY REGISTRATION.

(a) Withdrawals of one hundred thousand gallons per day or more.

(1) Any person that shall withdraw ground water in quantities of one hundred thousand gallons per day or more shall comply with the requirements of the Ohio R.C. 1521.16 regarding water withdrawal registration.

(2) In addition to the requirements of paragraph (a)(1) of this rule, all such persons making such water withdrawals shall register the water withdrawal facility with the City of New Philadelphia. The cost of this registration is five hundred dollars ($500.00) per facility per year.

(3) Any person proposing to create such a water withdrawal facility shall submit an application for registration. Such application shall contain the information that is stipulated in subsection (c) hereof.

(b) Withdrawals of less than one hundred thousand gallons per day.

(1) All such persons making such water withdrawals shall register the water withdrawal facility with the City of New Philadelphia. The cost of this registration is five hundred dollars ($500.00) per facility per year.

(2) Any person who is installing a well solely for the purpose of a domestic withdrawal, regardless of volume, shall be exempt from this registration.

(3) Any person proposing to create such a water withdrawal facility shall submit an application for registration. Such application shall contain the information that is stipulated in subsection (d) hereof.

(c) Application for a water withdrawal facility of one hundred thousand gallons or more of water per day. An application shall contain the following information:

(1) The name, address, email address, and telephone number of applicant.

(2) The location of the proposed withdrawal facility; a description of all proposed and existing systems for the storage, treatment, transportation, and distribution of water; and the location of the proposed well(s) for the withdrawal facility; the location of any discharge of water or wastewater effluent within the area to which the applicant intends to supply water from the facility.

(3) The average quantity of water in gallons to be diverted daily and a description of the uses to which the water is to be put, including the proportion allocated to each use.

(4) A description and/or an analysis of applicant's present and future needs for the withdrawal of water.

(5) The expected life of the water withdrawal facility.

(6) Maps showing the items listed in paragraph (c)(2) of this rule as well as:

A. The county and township roads

B. The location of any and all utilities

C. The topography of the water withdrawal facility site environs; and

D. Any structures or facilities (existing or proposed) affected by or part of the water withdrawal facility.

Maps published by the State, County, and the United States geological survey, and aerial photographs, may be used for these purposes.

(7) Water withdrawal facility design specifications and site plans accurately drawn and in sufficient detail to clearly indicate the extent and complexity of the proposed diversion.

(8) An analysis of anticipated effects on water uses caused by this facility resulting from this withdrawal. The analysis shall include an assessment of short-term and long-term impacts on natural, historic, community, economic and scenic resources, in-stream uses, and economic and ecologic aspects of water withdrawal. The assessment shall include the identification of all known or anticipated competing uses for the withdrawn water.

(9) An analysis of needs and requirements of land acquisition, land use requirements, relocation or resiting of existing facilities, rights of way, structures, and all equipment, including energy needs of the equipment, and total costs, direct and indirect, to construct and/or maintain this facility.

(10) An analysis of the impact of the proposed water withdrawal on the levels and flows in the watershed from which the water would be withdrawn over the expected life of the facility, including low flows, flood events, and the like.

(11) An analysis of the impact of the proposed withdrawal on water quality in the watershed from which the water would be withdrawn over the expected life of the diversion.

(12) Projections of water use needs for the life of the facility in the watershed from which the water would be withdrawn, and an analysis of the potential impact of the water withdrawal on water supply in the watershed over the life of the project.

(13) Proof of ownership of all parcels, lots, etc. on which the water withdrawal facility is to be located. If the operator of the water withdrawal facility is not the owner of the facility or of the parcels, lots, etc, on which the facility is located, a copy of the rental/lease agreement for said property.

(14) Such additional information as the City of New Philadelphia may require.

(d) Application for a water withdrawal facility of less than one hundred thousand gallons of water a day. An application shall contain the following information:

(1) The name, address, email address, and telephone number of applicant.

(2) The location of the proposed withdrawal facility; a description of all proposed and existing systems for the storage, treatment, transportation, and distribution of water; and the location of the proposed well(s) for the withdrawal facility; the location of any discharge of water or wastewater effluent within the area to which the applicant intends to supply water from the facility.

(3) The average quantity of water in gallons to be diverted daily and a description of the uses to which the water is to be put, including the proportion allocated to each use.

(4) A description and/or an analysis of applicant's present and future needs for the withdrawal of water.

(5) The expected life of the water withdrawal facility.

(6) Maps showing the items listed in paragraph (c)(2) of this rule as well as:
A. The county and township roads
B. The location of any and all utilities
C. The topography of the water withdrawal facility site environs; and
D. Any structures or facilities (existing or proposed) affected by or part of the water withdrawal facility.
Maps published by the state, county, and the United States geological survey, and aerial photographs, may be used for these purposes.

(7) Water withdrawal facility design specifications and site plans accurately drawn and in sufficient detail to clearly indicate the extent and complexity of the proposed diversion.

(8) Proof of ownership of all parcels, lots, etc. on which the water withdrawal facility is to be located. If the operator of the water withdrawal facility is not the owner of the facility or of the parcels, lots, etc, on which the facility is located, a copy of the rental/lease agreement for said property.
(Ord. 17-2012. Passed 1-14-13.)

947.10 BONDING/REGISTRATION OF WATER WITHDRAWAL FACILITY OPERATORS.

(a) No person shall engage in the work or business of operating a water withdrawal facility capable of withdrawing one hundred thousand gallons of water per day within the City of New Philadelphia without first filing a registration with the City.

(b) At the time of application for registration of a water withdrawal facility, the applicant shall enter into a bond payable to the City of New Philadelphia of one million dollars ($1,000,000) which sureties are to be approved by the Director of Public Service. Such bonds shall contain a condition that the applicant will indemnify and save the City harmless from all loss and damages that may be occasioned in any way by the negligence of the applicant or his employees in the proper operation of such water withdrawal facility and that said operator(s) of said water withdrawal facility shall be responsible for any and all cleanup, remediation or other procedures that are a result of improper or poor management or operation of said facility.
(Ord. 17-2012. Passed 1-14-13.)

947.11 ENFORCEMENT AUTHORITY.

The Water Department Superintendent or his authorized representative and/or the Director of Environmental Health for the New Philadelphia City Health Department or his authorized representative shall have the enforcement authority for this chapter.
(Ord. 17-2012. Passed 1-14-13.)

947.99 PENALTY.

Any person who violates any section of this chapter shall be guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 17-2012. Passed 1-14-13.)

TITLE FIVE - Additional Public Services

Chap. 971. Garbage and Rubbish Collection.
Chap. 973. City Park.
Chap. 975. Flood Control.

CHAPTER 971
Garbage and Rubbish Collection

971.01 Definitions.
971.02 Regular pick-up.
971.03 Individual collection rules.
971.04 Special pick-up.
971.05 Accumulation of uncollected garbage prohibited.
971.06 Trash collection rates.
971.99 Penalty.

CROSS REFERENCES

Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01
Vehicle loads dropping, leaking - see TRAF. 339.08
Tree trimming business regulations - see BUS. REG. Ch. 777
Open burning - see FIRE PREV. Ch. 1515

971.01 DEFINITIONS.

As used in this chapter:

(a) "Garbage" means all putrescible wastes, except human excreta, sewage and other water-carried wastes, including vegetable and animal offal and carcasses of dead animals, and includes all such substances from all public and private establishments, and from all residences.

(b) "Other refuse" means ashes, grass, glass, crockery, tin and aluminum cans, paper, boxes, rags and old clothing and other similar nonputrescible wastes. The term does not include any materials such as earth, sand, trees, tree trunks, tree stumps, shrubs, concrete, brick, roofing, tile, stone, plasterboard, oil, paint, plaster, dry wall, lumber, wood, carpet or other similar substances that may accumulate as a result of remodeling or construction projects.

(c) "Bulky waste" means hot water tanks, mattresses, box springs, freezers, dishwashers, washers, dryers, unusable furniture, stoves, ovens, and refrigerators. The term does not include any materials such as earth, sand, trees, tree trunks, tree stumps, shrubs, concrete, brick, roofing tile, stone, plasterboard, oil, paint, plaster, dry wall, lumber, wood, carpet or other similar substances that may accumulate as a result of remodeling or construction projects.

(d) "Householder" means the head of family or one maintaining separate living quarters and includes owners, tenants and occupants of all premises where garbage or other refuse or both are created. Nothing in this definition shall be construed to apply to commercial operators as defined in subsection (f) hereof.

(e) "Premises" means land or building or both, or parts of either or both, occupied by a householder or a commercial operator.

(f) "Commercial operator" means all persons, firms or corporations who own or operate stores, restaurants, industries, institutions and other similar places, public or private, charitable or non-charitable, and includes all responsible persons other than householders, upon the premises of which garbage or other refuse or both are created.

(g) "Nonresident" means person or persons living outside of City limits.

(h) "Red Tagged" means a licensed technician must remove the Freon/coolant and tag the appliance. (Ord. 57-2004. Passed 1-10-05.)

971.02 REGULAR PICK-UP.

(a) No householder or commercial operator shall permit to accumulate upon the premises any garbage or other refuse except in covered containers, up to twenty-gallon capacity, approved by the Director of Public Service.

When plastic containers are used, the City shall not be responsible for the cost if the containers are split, torn or damaged.

(b) All garbage and refuse shall be kept in rust-resistant, watertight, nonabsorbent, and easily washable containers which are covered with close-fitting lids except as provided in subsection (c) hereof. Where practicable, all garbage shall be drained of liquid and wrapped in paper. These containers shall be of adequate capacity and provided in sufficient number to hold all garbage and refuse that accumulates between collections. All containers shall be washed and treated with a disinfectant as often as necessary to prevent nuisance.

(c) Garbage and refuse can also be stored in other reasonably tight and substantial containers that are easy to handle. Such containers can be plastic bags of adequate capacity and thickness, tied at the top and provided in sufficient number to hold all other refuse that accumulates between collections.

(d) Boxes, papers, tree cuttings and odd articles shall be crushed and bundled in lengths not more than three feet and not more than fifty pounds in weight. Such items of refuse shall be placed at locations designated by the Public Service Director on normal day of collection.

(e) Garbage and rubbish shall not be placed on the curb strip before 5:00 p.m. on the day prior to the designated pickup.

(f) Garbage and rubbish containers shall not remain on the curb strip after 12:00 midnight on the day of designated pickup.

(g) The Director of Public Service shall provide for the collection of all garbage from all premises within the City at least once each week. Garbage shall be placed at one location on the premises where collection can be made in a normal routine route by the Sanitation Department. Other refuse shall be collected according to a schedule determined by the Director of Public Service or the Superintendent of the Sanitation Department.

The Director shall provide for the collection of all garbage and other refuse from the premises of all commercial operators within the City at least three times each week. If three collections per week is not adequate for health issues, commercial operators must provide a dumpster to secure all garbage and other refuse.

(h) Nonresidents are prohibited from disposing of any garbage, other refuse or bulky waste anywhere in the City limits.
(Ord. 57-2004. Passed 1-10-05.)

971.03 INDIVIDUAL COLLECTION RULES.

(a) All garbage or other refuse transported on the street or other public thoroughfares in the City shall be in containers, or shall be in vehicles, the bodies of which are leakproof and of easily cleanable construction, and shall be completely covered with metal or heavy canvas. Spillage or drippings from vehicles transporting garbage and other refuse is not permitted.

(b) Individuals must obtain approval from the Director of Public Service forty-eight hours prior to placement of a container on City property.
(Ord. 57-2004. Passed 1-10-05.)

971.04 SPECIAL PICK-UP.

(a) All garbage and other refuse created within the City shall be disposed of by the City as hereinafter provided or in a manner and at such place or places as specified by the Director of Public Service.

(b) It shall be the duty of the Director to dispose of or provide for the disposal of all garbage and other refuse created within the City in a manner so as not to cause a public health nuisance, the attracting of rats and flies or other conditions detrimental to public health and comfort.

(c) All Christmas Trees will be picked up between the period of January 2 and January 25.

(d) Nonresidents are prohibited from disposing of any garbage, other refuse or bulky waste anywhere in the City limits.

(e) The City shall not be responsible for any materials such as, sand, earth, tree trunks, tree stumps, concrete, brick, roofing tile with nails, stone, oil, paint, tires, batteries, or other similar substances that the landfill does not except.

(f) It shall be the duty of the Director of Public Service to dispose of or provide for disposal of all bulky waste such as hot water tanks, mattresses, box springs, washers, dryers, unusable furniture, stoves, ovens, dishwashers. These items shall be collected after resident makes a request by phone or letter to the General Services Superintendent. The City shall provide up to three (3) special pick-ups each calendar year to each address. Items will be picked up on a first come basis. Also, addressee may get a ticket from the general services department to haul items themselves to the landfill. Freezers, refrigerators, air conditioners and any other appliance that has or has had Freon/coolant cannot be picked up until the item has been red tagged.

(g) If address exceeds the three (3) pickups the City shall charge expenses. Examples labor, equipment, and landfill costs.
(Ord. 57-2004. Passed 1-10-05.)

971.05 ACCUMULATION OF UNCOLLECTED GARBAGE PROHIBITED.
No person shall permit fermenting, putrefying or odoriferous garbage or other refuse in containers or dumped in the open to accumulate or remain in any place.
(Ord. 57-2004. Passed 1-10-05.)

971.06 TRASH COLLECTION RATES.
Rates shall be as established by Council from time to time.

971.99 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.
(Ord. 17-2009. Passed 5-28-09.)

CHAPTER 973
City Park

973.01 Park regulations.
973.99 Penalty.

CROSS REFERENCES
Land appropriation for parks - see Ohio R.C. 715.21, 719.01
Parks and playgrounds - see Ohio R.C. Ch. 755
Power to regulate vehicle speed in parks - see Ohio R.C. 4511.07(E)
Flood control in Tuscora Park - see S.U. & P.S. Ch. 975

973.01 PARK REGULATIONS.

(a) All persons using the bathing pool in the park shall conduct themselves in a proper, orderly manner. They shall not interfere with, molest, frighten or intimidate other users of the bathing pool.

(b) The park shall be closed every evening at 10:30 p.m. No person shall be or remain within the limits of the park after 10:30 p.m. except those who may be regularly employed therein. The Director of Parks and Recreation, or his designee, has the authority to alter hours of operations for special events or occasions or weather related situations.

(c) No persons shall operate a motor vehicle, motorcycle, tricycle, bicycle, unicycle, moped, roller blades, roller skates, or skateboard within the park.

(d) No beer, intoxicating liquor, alcoholic beverage or drug of abuse shall be brought in, consumed, or sold on the premises of the park.

(e) Pets of any kind are not permitted on any park property, except for service certified animals (i.e. seeing eye dogs).
(Ord. 12-2009. Passed 4-27-09.)

973.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars ($100.00).
(Ord. 2861. Passed 5-9-60.)

CHAPTER 975
Flood Control

975.01 Regulations for the storm water detention pool at Tuscora Park.

975.02 Drainage control in Lagoon Lake and Tuscora Park Lake.

CROSS REFERENCES
Power to construct levees, etc. - see Ohio R.C. 717.01(Q)
Flood information - see Ohio R.C. 1521.14

975.01 REGULATIONS FOR THE STORM WATER DETENTION POOL AT TUSCORA PARK.

(a) The operation of the gates and valves controlling the run-off from the storm water detention pool in Tuscora Park and the storm water detention pool lying north of Wabash Avenue, and adjacent to the Reeves Realty Company's Park Lane Addition to the City, shall be under the complete control and charge of the Superintendent of the Street Department. The Street Superintendent shall designate a competent man from the Department to control and operate the gates and valves in case of his absence from the City, sickness or for any other reason.

(b) In the operation of the gates and valves controlling the run-off from the pools, careful consideration shall be given to the effect of the discharge of water on the north end of the City and on Beaverdam Creek below the outlet of the four-foot brick sewer, through which the run-off is discharged into the Creek. (Ord. 2825. Passed 5-11-59.)

(c) Since each storm or flood situation presents different problems, a fixed set of detailed rules and regulations cannot be formulated for the operation of the gates and valves but the following general procedures shall be followed:

The slide gates in each pool shall normally be left open, permitting the normal flow of water through the pools into the storm sewer and thereby maintaining a normal pool level at the elevation of the lower weir in each pool.

When a heavy rainfall occurs or when a water control problem arises from any cause, an effort shall be made to discharge as much of the run-off as possible through the four-foot brick sewer outlet into Beaverdam Creek before the Creek gets bank full or before the run-off begins to flood North Avenue. When either of these conditions develops the slide gates shall be closed, permitting the water to be stored in the two pools until the water in Beaverdam Creek recedes to such a level that the stored water may be released, without causing damage, into the Creek below the storm sewer outlet.

The Street Superintendent shall keep a record of the time at which the gate or gates are opened to release the stored water and also the elevation of Beaverdam Creek at the Beaver Avenue bridge, immediately prior to the release of the stored water.

(d) In the event that an excessive rainfall occurs or any water control problems develop when the Street Superintendent is not on duty, then the desk officer at the Police Department office shall notify the Superintendent of such conditions.
(Ord. 2825. Passed 5-11-59.)

975.02 DRAINAGE CONTROL IN LAGOON LAKE AND TUSCORA PARK LAKE.

(a) The Director of Public Service shall be responsible for the control and supervision of drainage of water from Lagoon Lake, located north of Wabash Avenue, and Tuscora Park Lake.

(b) The Director is hereby directed and ordered to formulate regulations and procedures to establish the method and amount of drainage of accumulated water during flood periods, and to establish a minimum level to which the lakes shall be drained during flood periods.

(c) In the event of an emergency whereby it is necessary to completely drain these artificial bodies of water during flood periods, some means of general notice of this fact shall be given to the residents of the northeast section of the City.
(Res. 1959-8. Passed 4-27-59.)

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Planning
Chap. 1101. Planning Commission.

TITLE THREE - Subdivision Control
Chap. 1121. Plat Approval and Acceptance of Streets.

TITLE FIVE - Zoning Administration and District
Chap. 1131. Definitions.
Chap. 1133. Establishment of Districts; Provision for Official Zoning Map.
Chap. 1135. Interpretation of District Boundaries.
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Chap. 1139. Provisions of Zoning Ordinance Declared to be Minimum Requirements.
Chap. 1141. Administration and Enforcement; Building Permits and Certificates of Zoning Compliance.
Chap. 1145. Board of Appeals.
Chap. 1147. Nonconforming Lots; Nonconforming Uses of Land; Nonconforming Structures; Nonconforming Uses of Structures and Premises; and Nonconforming Characteristics of Use.
Chap. 1149. Duties of Administrative Official; Board of Appeals; Council and Courts on Matters of Appeal.
Chap. 1151. Amendments.
Chap. 1153. Building Permits.
Chap. 1157. Commercial Advertising Regulations.
Chap. 1161. Residential District.
Chap. 1163. Office District.
Chap. 1165. Central Business District.
Chap. 1167. Business District.
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Chap. 1171. House Trailer Park District.
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Chap. 1175. Condominiums.

ZONING CODE INDEX

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Planning
Chap. 1101. Planning Commission

CHAPTER 1101
Planning Commission

1101.01 Establishment.

CROSS REFERENCES
Powers and duties - see Ohio R. C. 713.02 et seq.
Planning Commission shall be Platting Commission - see Ohio R.C. 713.03
Plat approvals - see P. & Z. Ch. 1121
Commission reports required for zoning amendment - see P. & Z. 1139. 01, 1139.02
Power to determine private stable location - see P. & Z. 1161.03(c)

1101.01 ESTABLISHMENT.

A Planning Commission for the City is hereby established consisting of such members as are authorized by Ohio R.C. 713.01 plus two additional citizen members. The Planning Commission shall have such powers and duties as set forth in Ohio R.C. 713.01 et seq. (Ord. 2684. Passed 10-10-55; Res. 1-77. Passed 2-28-77.)

CHAPTER 1121
Plat Approval and Acceptance of Streets

1121.01 Required improvements.
1121.02 Performance bond.
1121.03 Variances.

CROSS REFERENCES

Plat and subdivision defined - see Ohio R. C. 711.001
Plat and contents - see Ohio R. C. 711.01 et seq.
Planning Commission shall be Platting Commission - see Ohio R.C. 713.03
Permit required for curb cuts - see S.U. & P.S. 901.04
Sidewalk widths regulated - see S.U. & P.S. 903.01, 903.02
Street designations - see S.U. & P.S. 907.01
Building numbering system - see S.U. & P.S. 907.02
Sewer Regulations and construction - see S.U. & P.S. Ch. 931

1121.01 REQUIRED IMPROVEMENTS.

No plat of any addition or allotment of lots or grounds within the limits of the City shall hereafter be submitted to Council nor will the same be received by Council for approval, until, at his own entire expense, the proprietor shall have first caused the streets and alleys in the plat to be graded, the sanitary and storm sewers and water main extensions and curbs and sidewalks to be completely installed unless a performance bond is executed as provided in Section 1121.02. Such grading and construction shall be in accordance with the plans and specifications approved by the Director of Public Service and the City Engineer. The proprietor shall supply the Director of Public Service with "as built" plans upon the completion of the required improvements.
(Ord. 14-80. Passed 4-28-80.)

1121.02 PERFORMANCE BOND.

The proprietor of any subdivision or the dedicator of any proposed new public street in the City is required, prior to the acceptance of the proposed street by the City, to surface the streets in accordance with the specifications on file with the Director of Public Service or to execute a performance bond in an amount to be determined by the Director. The performance bond shall be executed by the owner with such additional sureties as may be required by the Director in order to adequately insure the performance as required herein. A cashiers or certified check, or other legal instrument securing such amount, approved by the Law Director and Director

of Public Service, filed with the Director of Public Service, may be substituted for such performance bond. The proprietor is responsible for providing the Director of Public Service with construction cost estimates prepared by a registered engineer for all construction which is to be covered by the performance bond. All construction which is to be covered by a performance bond shall be completed within one year from the date of the provision of the bond, provided however, that the Service Director may extend such period of completion for good cause. In any event, the street must be graded and sewer and water main extensions must be installed prior to issuance of a building permit for the excavation for or construction of any building in the plat. Proprietor shall be financially responsible for the correction of any defects which arise within one year after completion of the required improvements except those due to acts of God. (Ord. 14-80. Passed 4-28-80.)

1121.03 VARIANCES.

(a) Upon written application by the proprietor, where the Planning Commission finds that extraordinary hardship, as distinguished from an inconvenience, may result from strict compliance with these required improvements, due to exceptional topographic or other physical conditions, it may vary or modify these required improvements so as to relieve such hardship, provided such release may be granted without detriment to the public interest and without impairing the intent and purpose of these required improvements. Such variations shall not have the effect of nullifying the intent and purpose of these required improvements or the zoning code of the City. Such variances shall insure that there is provision for adequate public space and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the intent and purpose of these required improvements.

(b) No variance or modification shall be granted by the Planning Commission without the affirmative vote of two-thirds of the members appointed to the Planning Commission. The minutes of the Planning Commission shall set forth in detail, the variance or modification granted. A copy of such minutes shall be forwarded to the person who applied for the variance. In the case of ambiguity concerning the extent of the variance or modification, such variance or modification shall be construed strictly against the applicant.

(c) In granting variances and modifications, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objective of the standards or requirements so varied or modified.
(Ord. 14-80. Passed 4-28-80.)

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TITLE FIVE - Zoning Administration and Districts

CHAPTER 1131
Definitions

1131.01 Interpretation.
1131.02 Alley.
1131.03 Certificate of zoning compliance.
1131.04 Curb level.
1131.05 One-family dwelling.
1131.06 Two-family dwelling.
1131.07 Multiple dwelling.
1131.08 Family.
1131.09 Garage.
1131.10 Private garage.
1131.11 Community garage.
1131.12 Public garage.
1131.13 Height of building.
1131.14 Lot.
1131.15 Depth of lot.
1131.16 Corner lot.
1131.17 Interior lot.
1131.18 Through lot.
1131.19 Mixed occupancy.
1131.20 Nonconforming use.
1131.21 Porch.
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1131.23 Private stable.
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1131.39 House trailer.
1131.40 House trailer park.
1131.41 Zoning Code.
1131.42 Zoning Ordinance.

CROSS REFERENCE
Plat and subdivision defined - see Ohio R. C. 711.001

1131.01 INTERPRETATION.

For the purpose of this Zoning Code, certain terms and words are defined as set forth in this chapter. Words used in the present tense include the future; the singular number includes the plural and the singular; the term "used for" includes the meaning "designed for"; the word "structure" includes the word "building".
(Ord. 4-87. Passed 3-23-87.)

1131.02 ALLEY.

"Alley" means any roadway or public way dedicated to public use and twenty feet or less in width. (Ord. 4-87. Passed 3-23-87.)

1131.03 CERTIFICATE OF ZONING COMPLIANCE.

"Certificate of zoning compliance" means a statement, signed by the Administrative Officer, setting forth either that a building or structure complies with this Zoning Code or that a building, structure or parcel of land may lawfully be employed for specified uses, or both. (Ord. 4-87. Passed 3-23-87; Ord. 50-2004. Passed 11-8-04.)

1131.04 CURB LEVEL.

"Curb level" means the elevation of the top of the curb or the established curb grade opposite the center of the building or portion thereof under consideration. Where no curb level has been established, the elevation of the ground at the center of the traveled portion of the street in front thereof shall be considered the equivalent of the curb level and where the building does not adjoin the street, the average elevation of the proposed grade line of the ground immediately adjacent to the building, as shown on the building plans, shall be considered as the curb level.
(Ord. 4-87. Passed 3-23-87.)

1131.05 ONE-FAMILY DWELLING.

"One-family dwelling" means a separate building designed for and occupied exclusively as a residence for one family. Trailers or mobile homes, regardless of the permanence with which they are attached to real estate, shall not be considered as one-family dwellings for the purpose of administering and enforcing this Zoning Code. Trailers and mobile homes are understood to be vehicles designed for transportation as well as for living or residential occupancy. The removal of the wheels for vehicular travel shall not permit the classification of such devices as one-family dwellings.
(Ord. 4-87. Passed 3-23-87.)

1131.06 TWO-FAMILY DWELLING.

"Two-family dwelling" means a separate building designed for or occupied exclusively as a residence for two families.
(Ord. 4-87. Passed 3-23-87.)

1131.07 MULTIPLE DWELLING.

"Multiple dwelling" means a dwelling designed for occupancy other than as a one-family dwelling or a two-family dwelling. "Multiple dwelling" includes apartment houses, tenement houses and all other family dwellings of similar character, but does not include hotels or apartment hotels. (Ord. 4-87. Passed 3-23-87.)

1131.08 FAMILY.

"Family" means an individual or two or more persons related by blood or marriage, living together, or a group of not more than six persons, not related by blood or marriage, but living together as a single housekeeping unit. In each instance, "family" shall be understood to include the necessary servants; and in addition, in the first two instances, it may be understood to include not more than four lodgers or roomers taken for hire.
(Ord. 4-87. Passed 3-23-87.)

1131.09 GARAGE.
"Garage" means a building, structure or any portion thereof used for housing or repairing motor vehicles. This does not include rooms for storing, exhibiting or showing new cars for sale. (Ord. 4-87. Passed 3-23-87.)

1131.10 PRIVATE GARAGE.
"Private garage" means a garage for housing only, with a capacity for not more than two motor vehicles. A garage exceeding a two-vehicle capacity, intended primarily for housing of cars belonging to occupants of the premises, shall be considered a private garage, if the lot whereon such garage is located contains not less than 1,800 square feet for each vehicle capacity. (Ord. 4-87. Passed 3-23-87.)

1131.11 COMMUNITY GARAGE.
"Community garage" means a group of private garages, either detached or under one roof, arranged in a row or around a common means of access, and erected for the use of residents in the immediate vicinity.
(Ord. 4-87. Passed 3-23-87.)

1131.12 PUBLIC GARAGE.
"Public garage" means any garage not included within the definition of a private garage or a community garage.
(Ord. 4-87. Passed 3-23-87.)

1131.13 HEIGHT OF BUILDING.
"Height of building" means the vertical distance measured from the curb level to the highest point of the roof.
(Ord. 4-87. Passed 3-23-87.)

1131.14 LOT.
"Lot" means a parcel of land which is or may be occupied by a building and accessory buildings, including the open spaces required under this Zoning Code.
(Ord. 4-87. Passed 3-23-87.)

1131.15 DEPTH OF LOT.
"Depth of lot" means the mean horizontal distance between the front lot line and the rear lot line. (Ord. 4-87. Passed 3-23-87.)

1131.16 CORNER LOT.
“Corner lot” means a lot abutting upon two or more streets at the intersections.
(Ord. 4-87. Passed 3-23-87.)

1131.17 INTERIOR LOT.
"Interior lot" means a lot the lines of which do not abut on a street.
(Ord. 4-87. Passed 3-23-87.)

1131.18 THROUGH LOT.
"Through lot" means an interior lot having frontage on two streets.
(Ord. 4-87. Passed 3-23-87.)

1131.19 MIXED OCCUPANCY.
"Mixed occupancy" means occupancy of a building or land for more than one use.
(Ord. 4-87. Passed 3-23-87.)

1131.20 NONCONFORMING USE.
"Nonconforming use" means a use of a building or land that does not agree with the regulations of the district in which it is situated.
(Ord. 4-87. Passed 3-23-87.)

1131.21 PORCH.
"Porch" means a roofed or unroofed open structure projecting from the front, side or rear wall of a building, and having no enclosed features of glass, wood or other material more than thirty inches above the floor thereof, except wire screening and the necessary columns to support the roof. (Ord. 4-87. Passed 3-23-87.)

1131.22 STABLE
"Stable" means any building, structure or portion thereof which is used for the shelter or care of horses, cattle or other similar animals, either permanently or transiently.
(Ord. 4-87. Passed 3-23-87.)

1131.23 PRIVATE STABLE.
"Private stable" means a stable with a total capacity for not more than four animals.
(Ord. 4-87. Passed 3-23-87.)

1131.24 PUBLIC STABLE.
"Public stable" means a stable with a capacity for more than four animals.
(Ord. 4-87. Passed 3-23-87.)

1131.25 SIGNBOARD.
"Signboard" means any structure or part thereof on which lettered or pictorial matter is displayed for advertising or notice purposes.
(Ord. 4-87. Passed 3-23-87.)

1131.26 STORY.
“Story” means that portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.
(Ord. 4-87. Passed 3-23-87.)

1131.27 HALF STORY.
"Half story" means a story under a gabled, hipped or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the finished floor of such story. (Ord. 4-87. Passed 3-23-87.)

1131.28 STRUCTURE.
"Structure" means anything constructed or erected, the use of which demands its permanent location on the land or anything attached to something having a permanent location on the land. (Ord. 4-87. Passed 3-23-87.)

1131.29 STRUCTURAL ALTERATIONS.
"Structural alterations" means any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders.
(Ord. 4-87. Passed 3-23-87.)

1131.30 STREET.
"Street" means any roadway or public way dedicated to public use, except an alley.
(Ord. 4-87. Passed 3-23-87.)

1131.31 TELEPHONE EXCHANGE BUILDING.
"Telephone exchange building" means a building with its equipment used or to be used for the purpose of facilitating transmission and exchange of telephone messages between subscribers, and other business of the telephone company; but in a Residence District, as established by this Zoning Code, it does not include public business facilities, repair facilities, storage of plant materials or spare parts, other than those carried for the particular building, or storage of equipment, automobiles or trucks, housing or quarters for installation, repair or trouble crews. (Ord. 4-87. Passed 3-23-87.)

1131.32 TERRACE.
"Terrace" means a natural or artificial embankment between a building and its lot lines.
(Ord. 4-87. Passed 3-23-87.)

1131.33 HEIGHT OF TERRACE.
"Height of terrace" means the difference in elevation between the curb level and the top of the terrace at the center of the building wall.
(Ord. 4-87. Passed 3-23-87.)

1131.34 YARD.
"Yard" means an open, unoccupied space, other than a court, on the same lot with a building, unobstructed from the ground to the sky, except as otherwise provided.
(Ord. 4-87. Passed 3-23-87.)

1131.35 FRONT YARD.
"Front yard" means a yard across the full width of the lot, extending from the front line of the building to the front line of the lot.
(Ord. 4-87. Passed 3-23-87.)

1131.36 REAR YARD.
"Rear yard" means a yard across the full width of the lot, extending from the rear line of the building to the rear line of the lot.
(Ord. 4-87. Passed 3-23-87.)

1131.37 SIDE YARD.
"Side yard" means a yard between the side line of the building and the adjacent side line of the lot, extending from the front yard to the rear yard. If there is no front yard, the side yard shall be considered as extending to the front line of the lot and if there is no rear yard, the side yard shall be considered as extending to the rear line of the lot.
(Ord. 4-87. Passed 3-23-87.)

1131.38 HEDGE.

"Hedge" means any row, line or cluster of shrubs or plants placed close together so as to form a continuous and intermingled growth.
(Ord. 4-87. Passed 3-23-87.)

1131.39 HOUSE TRAILER.

"House trailer" means any self-propelled or nonself-propelled vehicle so designed, constructed, reconstructed, or added to by means of accessories in such manner as will permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks, or other foundation and used, or so constructed as to permit its being used as a conveyance upon the public streets or highways.
(Ord. 4-87. Passed 3-23-87.)

1131.40 HOUSE TRAILER PARK.

"House trailer park" means any site, lot, field or tract of land upon which three or more house trailers used for habitation are parked either free of charge or for revenue purposes and includes any roadway, building, structure, vehicle or enclosure used or intended for use as a part of the facilities of such park. A tract of land which is subdivided and the individual lots are leased or otherwise contracted for shall constitute a house trailer park if three or more house trailers are parked thereon.
(Ord. 4-87. Passed 3-23-87.)

1131.41 ZONING CODE.

"Zoning Code" means Ordinance 4-87, passed March 23, 1987, as amended, which is codified as Title Five of this Planning and Zoning Code.
(Ord. 4-87. Passed 3-23-87.)

1131.42 ZONING ORDINANCE.

"Zoning Ordinance" means Ordinance 4-87, passed March 23, 1987.
(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1133
Establishment of Districts; Provision for Official Zoning Map

1133.01 Official Zoning Map.
1133.02 Replacement of Official Zoning Map.

CROSS REFERENCES
Interpretation of district boundaries - see P.& Z. 1135.01
Nonconforming uses, etc. - see P.& Z. 1147.01 et seq.
Amendments - see P.& Z. 1151.01 et seq.

1133.01 OFFICIAL ZONING MAP.

(a) The City is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon and any amendments thereto, is hereby adopted by reference and declared to be a part of this Zoning Code.

(b) The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Clerk of Council, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 1133.01 of the Zoning Code of the City of New Philadelphia, Ohio," together with the date of the adoption of the Zoning Code.

(c) If, in accordance with the provisions of the Zoning Code and Ohio R.C. Chapter 713, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map within ten days after the amendment has been approved by Council.

(d) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in the Zoning Code.

(e) Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Director of Public Service shall be the final authority as to the current zoning status of land and water areas in the City.
(Ord. 4-87. Passed 3-23-87.)

1133.02 REPLACEMENT OF OFFICIAL ZONING MAP.

(a) In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, a new Official Zoning Map which shall supersede the prior Official Zoning Map shall be prepared. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Council Clerk, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance 4-87 of the City of New Philadelphia, Ohio."

(b) Unless the prior Official Zoning Map has been lost, or has been totally destroyed the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.
(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1135
Interpretation of District Boundaries

1135.01 Rules.

CROSS REFERENCES
Establishment of districts - see P. & Z. 1133.01
Appeals - see P. & Z. 1145.01

1135.01 RULES.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(a) Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines;

(b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(c) Boundaries indicated as approximately following City limits shall be construed as following such City limits;

(d) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(e) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, the boundary shall be construed as moving with the actual shore line. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines;

(f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) hereof shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(g) Where none of the above rules are applicable, the Director of Public Service shall determine the location of the boundaries.

(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1137
Application of District Regulations

1137.01 District regulations.

CROSS REFERENCES

Zoning provisions to be minimum requirements - see P. & Z. 1137.01
Administration and enforcement - see P.& Z. 1141.01 et seq.
Appeals - see P.& Z. 1145.01 et seq.

1137.01 DISTRICT REGULATIONS.

The regulations set by this Zoning Code within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

(a) No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(b) No building or other structure shall hereafter be erected or altered
  (1) To exceed the height;
  (2) To accommodate a greater number of units;
  (3) To occupy a greater percentage of lot area;
  (4) To have narrower or smaller rear yards, front yards, side yards or other open spaces

  than herein required; or in any other manner contrary to the provisions of this Zoning Code.

(c) No yard, or other open space, lot size, or off-street parking space required about or in connection with any building for the purpose of complying with this Zoning Code, shall be included as a yard, open space lot, or off-street parking space similarly required for any other building.

(d) No yard or lot existing at the time of passage of this Zoning Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Zoning Code shall meet at least the minimum requirements established by this Zoning Code.

(e) All territory which may hereafter be annexed to the City shall be considered to be in the residential district until otherwise classified.
(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1139
Provisions of Zoning Ordinance Declared to be Minimum Requirements

1139.01 Minimum requirements.

CROSS REFERENCES
Application of district regulations - see P . & Z. 1137.01
Administration and enforcement - see P.& Z. 1141.01 et seq.

1139.01 MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this Zoning Code shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Nothing contained in this Zoning Code shall abrogate the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants.
(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1141
Administration and Enforcement; Building Permits and Certificates of Zoning Compliance

1141.01 Administration and enforcement.
1141.02 Certificates of zoning compliance.
1141.03 Expiration of building permit.
1141.04 Construction and use to be as provided in applications, plans, permits and certificates of zoning compliance.
1141.05 Recreational vehicle parking and storage.

CROSS REFERENCES

Certificate of zoning compliance defined - see P.& Z. 1131.03
Appeals - see P. & Z. 1145.01 et seq.
Building permits - see P. & Z. 1153.01 et seq.
Penalties - see P.& Z. 1173.99

1141.01 ADMINISTRATION AND ENFORCEMENT.

(a) The Director of Public Service shall administer and enforce this Zoning Code. He may be provided with the assistance of such other persons as the Mayor may direct.

(b) If the Director of Public Service finds that any of the provisions of this Zoning Code are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. If after a reasonable effort has been made, the Director of Public Service is unable to determine the person who is responsible for such violation, notice to the owner on record will be sufficient for the purposes of this Zoning Code. The Director of Public Service shall thereafter order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done, and shall take any other action authorized by this Zoning Code to ensure compliance with or to prevent violation of its provisions.
(Ord. 4-87. Passed 3-23-87.)

1141.02 CERTIFICATES OF ZONING COMPLIANCE.

(a) It shall be unlawful to use 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 until a certificate of zoning compliance shall have been issued therefor by the Director of Public Service stating that the proposed use of the building or land conforms to the requirements of this Zoning Code.

(b) No nonconforming structure or use shall be renewed, changed or extended until a certificate of zoning compliance shall have been issued by the Director of Public Service. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this Zoning Code.

(c) The Director of Public Service shall maintain a record of all certificates of zoning compliance.

(d) Failure to obtain a certificate of zoning compliance shall be a violation of this Zoning Code and punishable under Section 1173.99(a).
(Ord. 4-87. Passed 3-23-87; Ord. 50-2004. Passed 11-8-04.)

1141.03 EXPIRATION OF BUILDING PERMIT.

(a) If the work described in any building permit has not begun within six months from the date of issuance thereof, such permit shall expire.

(b) If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, the permit shall expire. The Director of Public Service may extend the original permit for a period of one year if good cause is shown.
(Ord. 4-87. Passed 3-23-87.)

1141.04 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES OF ZONING COMPLIANCE.

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Director of Public Service authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Minor alterations in the permit, not violating any provision of this Zoning Code, may be made upon approval by the Director of Public Service. Use, arrangement or construction at variance with that authorized shall be deemed violation of this Zoning Code, and punishable as provided by Section 1173.99(a) hereof.
(Ord. 4-87. Passed 3-23-87; Ord. 50-2004. Passed 11-8-04.)

1141.04 RECREATIONAL VEHICLE PARKING AND STORAGE.

(a) Definitions. For the purposes of this section, words shall have the following meanings:

(1) "Recreational vehicle" means any vehicle or equipment designed for or primarily used as a camper, motor home, horse trailer, watercraft, off road vehicle, or any non-commercial trailer used for the conveyance of the aforementioned vehicles.

(2) "Park" means to place a recreational vehicle for the purposes of convenient departure from or return to the vehicle in connection with a planned trip, outing or vacation, including the processes of loading or unloading the vehicle and preparation of the vehicle.

(3) "Store" means to place a recreational vehicle for the purposes of preserving, protecting and securing it for a period in excess of twenty-four hours.

(b) Garage Parking and Storage. Any such recreational vehicle may be parked or stored in a parking garage on the "R" (residential) zoning lot if such vehicle is of such a size as to permit to be conveniently stored in such a garage with the garage door closed.

(c) Other Recreational Vehicle Storage and Parking. One recreational vehicle may be stored or seasonally parked on a lot in an "R" (Residential) Zoning District subject to the requirements of this section and the following conditions:

(1) From April 1 to November 15 in any calendar year, one such recreational vehicle may be parked in a front yard on a vehicle access driveway or head surfaced parking area.

(2) If no recreational vehicle is otherwise stored on a zoning lot, then one such recreational vehicle may be stored on the zoning lot in the rear yard or the side yard.

(d) Front Yard Requirements. Any recreational vehicle parked in a front yard shall comply with the following requirements:

(1) Such vehicle shall be parked in the vehicular access driveway or hard surfaced parking area.

(2) Such vehicle shall be parked as close to the main building line as is possible and not nearer than ten feet to any public right of way or any sidewalk or established pedestrian walkway.

(e) Rear Yard Requirements. Any recreational vehicle parked or stored in a rear yard shall comply with the following requirements:

(1) Such vehicle shall be stored no nearer than ten feet to the main structure on the lot or adjoining rear lot line, and no nearer than five feet to any side lot line.

(2) The grading of the lot shall not be altered and the drainage of the area shall not be obstructed or altered.

(f) Side Yard Requirements. Any recreational vehicle parked or stored in a side yard or front yard in a residential district shall be no nearer than five feet to any side lot line. No recreational vehicle shall be parked on a side lot that faces the side street on a corner lot.

(g) General Requirements. Any recreational vehicle stored or parked in any zoning district shall comply with the following requirements.

(1) No such recreational vehicle shall be parked or stored on a public or private street, alley, unopened grass alley, tree lawn or sidewalk, in violation of Chapter 351.

(2) No such recreational vehicle shall have fixed connections to electricity, water, gas or sanitary sewer facilities, nor shall any such recreational vehicle at any time be used for living or housekeeping purposes on the zoning lot.

(3) Any such recreational vehicle shall be kept in good repair and in working condition, with current license plate, unless stored in a parking garage.

(4) A person shall be permitted to park a recreational vehicle on a City street on a temporary basis two times a year for a maximum two days at a time. (Ord. 22-2013. Passed 3-10-14.)

CHAPTER 1145
Board of Appeals

1145.01 Establishment.
1145.02 Proceedings.
1145.03 Hearings; appeals; notice.
1145.04 Stay of proceedings.
1145.05 Powers and duties.
1145.06 Reversing decision of the Director of Public Service.
1145.07 Appeals from the Board of Appeals.

CROSS REFERENCES
Duties of City on appeals - see P. & Z. 1149.01 et seq.
Amendments - see P.& Z. 1151.01 et seq.

1145.01 ESTABLISHMENT.
The Board of Appeals is hereby established, which shall consist of five members, residents of New Philadelphia, to be appointed by the Mayor, each for a term of three years. (Ord. 4-87. Passed 3-23-87.)

1145.02 PROCEEDINGS.
(a) The Board of Appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Zoning Code. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(b) The Board shall annually elect a chairman.

(c) The Board of Appeals 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 actions, all of which shall be a public record and be filed in the office of the Director of Public Service.
(Ord. 4-87. Passed 3-23-87.)

1145.03 HEARINGS; APPEALS; NOTICE.

(a) Appeals to the Board of Appeals concerning interpretation or administration of the Zoning Code may be taken by any person aggrieved by any decision of the Director of Public Service arising under this Zoning Code. Such appeals shall be taken within a reasonable time, not to exceed sixty days or such lesser period as may be provided by the rules of the Board by filing with the Director of Public Service and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Director of Public Service shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(b) The Board of Appeals shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party shall appear in person or by agent or attorney.
(Ord. 4-87. Passed 3-23-87.)

1145.04 STAY OF PROCEEDINGS.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Director of Public Service from whose decision the appeal is taken, certifies to the Board of Appeals after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Director of Public Service from whom the appeal is taken and on due cause shown.
(Ord. 4-87. Passed 3-23-87.)

1145.05 POWERS AND DUTIES.

The Board of Appeals shall have the following powers and duties:

(a) Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Director of Public Service in the enforcement of this Zoning Code.

(b) Variances; Conditions Governing Applications; Procedures. To authorize upon appeal in specific cases such variance from the terms of this Zoning Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Zoning Code would result in unnecessary hardship. A variance from the terms of this Zoning Code will not be granted by the Board of Appeals unless and until:

(1) A written application for a variance is submitted demonstrating:

A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

B. That literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Zoning Code;

C. That the special conditions and circumstances do not result from the actions of the applicant;

D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other lands, structures or buildings in the same district.

No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

(2) Notice shall be given at least five days in advance of hearing of the Appeal. The owner of the property for which variance is sought or his agent shall be notified by mail by the chairman of the Board of Appeals. Notice of such hearings shall be posted at the City Hall, at least five days prior to the hearing of the appeal.

(3) Any party to the appeal shall appear in person, or by agent or by attorney;

(4) The Board of Appeals shall make findings as to whether the requirements of subsection (b)(1) hereof have been met by the applicant for a variance;

(5) The Board of Appeals shall further make a finding whether the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;

(6) The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Zoning Code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(c) In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Code and punishable under Section 1173.99(b).

(d) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Zoning Code in the district involved, or any use expressly or by implication prohibited by the terms of this Zoning Code in such district.

(Ord. 4-87. Passed 3-23-87.)

1145.06 REVERSING DECISION OF THE DIRECTOR OF PUBLIC SERVICE.

(a) The Board of Appeals may, so long as such action is in conformity with the terms of this Zoning Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made.

(b) The affirmative vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Director of Public Service, or to decide in favor of the applicant on any matter upon which it is required to pass under this Zoning Code, or to effect any variation in the application of this Zoning Code.
(Ord. 4-87. Passed 3-23-87.)

1145.07 APPEALS FROM THE BOARD OF APPEALS.

Any person or persons, aggrieved by any decision of the Board of Appeals may seek review by a court of record of such decision, in the manner provided by the laws of the State.
(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1147
Nonconforming Lots; Nonconforming Uses of Land; Nonconforming Structures; Nonconforming Uses of Structures and Premises; and Nonconforming Characteristics of Use

1147.01 Intent.
1147.02 Nonconforming uses of land or land with minor structures only.
1147.03 Nonconforming structures.
1147.04 Nonconforming uses of structures and premises in combination.
1147.05 Repairs and maintenance.
1147.06 Uses under special exception provisions not nonconforming uses.

CROSS REFERENCES

Retroactive measures - see Ohio R. C. 713.15
Nonconforming use defined - see P. & Z. 1131.20
Variances - see P. & Z . 1145.05

1147.01 INTENT.

(a) Within the districts established by this Zoning Code or amendments that may later be adopted there exist:

(1) Lots;
(2) Structures;
(3) Uses of land and structures; and
(4) Characteristics of use

which were lawful before this Zoning Code was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Zoning Code or future amendments. It is the intent of this Zoning Code to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Zoning Code that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(b) Nonconforming uses are declared by this Zoning Code to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this Zoning Code by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.
(Ord. 4-87. Passed 3-23-87.)

1147.02 NONCONFORMING USES OF LAND OR LAND WITH MINOR STRUCTURES ONLY.

Where at the time of passage of this Zoning Code lawful use of land exists which would not be permitted by the regulations imposed by this Zoning Code, the use may be continued so long as it remains otherwise lawful provided:

(a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Code;

(b) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Zoning Code;

(c) If any such nonconforming use of land ceases for any reason for a period of more than one year, subsequent use of such land shall conform to the regulations specified by this Zoning Code for the district in which such land is located;

(d) No additional structure not conforming to the requirements of this Zoning Code shall be erected in connection with such nonconforming use of land.
(Ord. 4-87. Passed 3-23-87.)

1147.03 NONCONFORMING STRUCTURES.

Where a lawful structure exists or a valid building permit has been issued at the effective date of adoption or amendment of this Zoning Code that could not be built under the terms of this Zoning Code by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;

(b) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction and is not repaired or reconstructed within a period of one year from the date of destruction; it shall not be repaired or reconstructed except in conformity with the provisions of this Zoning Code.

(c) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
(Ord. 4-87. Passed 3-23-87.)

1147.04 NONCONFORMING USES OF STRUCTURES AND PREMISES IN COMBINATION.

If lawful use involving structures or involving structure and premises in combination, exists at the effective date of adoption or amendment of this Zoning Code, that would not be allowed in the district under the terms of this Zoning Code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Zoning Code, but no such use shall be extended to occupy any land outside such buildings;

(b) If no structural alterations are made, any nonconforming use of a structure and premises, may be changed to another nonconforming use provided that the Board of Appeals finds that the proposed use is equally appropriate or more appropriate to the district as the existing nonconforming use. In permitting such change, the Board of Appeals shall require appropriate conditions and safeguards in accord with the provisions of this Zoning Code;

(c) Any use of structure, or use of a structure and land in combination, in or on which a nonconforming use is superseded by a permitted or conditional use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(d) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for one year, except when government action impedes access to the premises causing such discontinuance or abandonment, the structure or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(Ord. 4-87. Passed 3-23-87.)

1147.05 REPAIRS AND MAINTENANCE.

Nothing in this Zoning Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof.

(Ord. 4-87. Passed 3-23-87.)

1147.06 USES UNDER SPECIAL EXCEPTION PROVISIONS NOT NONCONFORMING USES.

Any use which is permitted as a conditional use in a district under the terms of this Zoning Code shall not be deemed a nonconforming use in such district, but shall be considered a conforming one.

(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1149
Duties of Administrative Official; Board of Appeals; Council and Courts on Matters of Appeal

1149.01 Duties.

CROSS REFERENCES
Board of Appeals - see P.& Z. Ch. 1145
Amendments - see P.& Z. Ch. 1151

1149.01 DUTIES.

(a) It is the intent of this Zoning Code that all questions of interpretation and enforcement shall be first presented to the Board of Appeals only on appeal from the decision of the Director of Public Service, and that recourse from the decision of the Board of Appeals shall be to the courts as provided by law.

(b) It is further the intent of this Zoning Code that the duties of Council in connection with this Zoning Code shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and the Zoning Code. Under this Zoning Code, Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this Zoning Code, as provided by law, and of establishing a schedule of fees and charges as stated in Section 1309.01.
(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1151
Amendments

1151.01 Initiation of zoning amendments.
1151.02 Planning Commission action.
1151.03 Public hearing.
1151.04 Action by Council.
1151.05 Notice of Planning Commission meeting.

CROSS REFERENCES

Council may amend districting or zoning - see Ohio R.C. 713.10
Council to hold public hearings - see Ohio R.C. 713.12
Nonconforming uses - see P. & Z. Ch. 1147

1151.01 INITIATION OF ZONING AMENDMENTS.

Council, either on petition of a property owner, recommendation of the Planning Commission, or on its own initiative, may amend or change the number, shape, area or regulations of or within any zone or district, but no such amendment or change shall be effective, unless the ordinance proposing it is first submitted to the Planning Commission for its approval, disapproval or recommendation. The Commission shall be allowed a reasonable time, to be not more than forty-five days after referral or submittal, for consideration and report. (Ord. 4-87. Passed 3-23-87.)

1151.02 PLANNING COMMISSION ACTION.

(a) It shall be the duty of the Chairman of the Planning Commission to forthwith file with the Clerk of Council a report of the action and recommendation of the Commission with respect to the referral or submittal of all requested information.

(b) If a proposed changed or amendment is denied by the Planning Commission, it need not reconsider the same change or amendment if resubmitted within one year after date of decision unless the underlying conditions have substantially changed.
(Ord. 4-87. Passed 3-23-87.)

1151.03 PUBLIC HEARING.

Before any ordinance, measure or regulation amending or changing the number, shape, area or regulations of or within any zone or district may be passed, Council shall hold a public hearing thereon. It shall publish notice of such hearing in the newspaper of general circulation within New Philadelphia adequately describing the nature of the pending legislation not less than thirty days prior to the public hearing. During such thirty days the text or copy of the text of such ordinance, measure, regulation or proposed change, together with the maps or plans or copies thereof forming part of or referred to in such ordinance, measure, regulation or proposed change and the maps, plans and reports submitted by the Planning Commission, shall be on file for public examination in the Mayor's office.
(Ord. 80-89. Passed 12-28-89.)

1151.04 ACTION BY COUNCIL.

No such ordinance, measure, regulation or proposed change, which violates, differs from or departs from the recommended plan, or report submitted by the Planning Committee, shall take effect unless passed or approved by not less than three-fourths of the membership of Council. (Ord. 4-87. Passed 3-23-87.)

1151.05 NOTICE OF PLANNING COMMISSION MEETING.

(a) Notice shall be given to any adjacent real estate owner of any Planning Commission Zoning Board of Appeals and/or Council Committee Meeting wherein action is contemplated to change zoning for any parcels within the City of New Philadelphia, Ohio.

(b) In addition the public notice hereinbefore specified, the Planning Commission shall give notice of the time, place and purpose of public hearings to be held by it on proposed amendments or supplements by mailing a postal card or letter notice not less than twenty days prior to the date of hearing to the owners of all properties lying within 200 feet of any part of the property proposed to be changed. The failure to notify as provided in this section shall not invalidate any recommendation adopted hereunder, it being the intention of this section to provide notice to the persons substantially interested in the proposed change that an application is pending, before the Commission, proposing to make a change in the Zoning District Map or the regulations set forth in this Zoning Ordinance.

(c) It shall be the obligation of those requesting modification to provide names and addresses for the property owners adjacent and within 200 feet so that notice can be given.
(Ord. 17-2002. Passed 3-25-02.)

CHAPTER 1153
Building Permits

1153.01 Permit required.
1153.02 Applications for permits.
1153.03 Required information.
1153.04 Conditional use permits.
1153.05 Determination of similar uses.

CROSS REFERENCES

Plat approval - see P. & Z. Ch. 1121
Expiration of building permit - see P. & Z. 1141.03
Building permit fee - see BLDG. 1309.01

1153.01 PERMIT REQUIRED.

Excavation for, construction or alteration of any building, sidewalk, parking lot, driveway, curb, sign, fence, wall or other permanent exterior structural improvement as determined by the Director of Public Service, shall not be undertaken until a Building Permit has been issued by the Director of Public Service. A Building Permit shall not be required for replacement work or for repair or restoration work undertaken to eliminate the effects of decay of or damage to a structure provided such work does not alter the original configuration of such structure.

(a) Compliance to Zoning Regulations. Building Permits shall be issued by the Director of Public Service only if the work described in an application complies with all the provisions of this Zoning Code and all the other ordinances of the City. If a proposed use does not comply, the Director of Public Service shall not have the power to grant variances or make exceptions unless specifically empowered.

(b) Conditional Use Permits. A Building Permit for a use requiring a Conditional Use Permit shall not be issued until the Building Permit Application for such a use has been submitted to and reviewed by the Board of Zoning Appeals, and the Conditional Use Permit approved by the same.

(c) Determination of Similar Uses. A Building Permit for a use which requires approval as a similar use shall not be issued until the inclusion of such a use as a permitted use has been made by the Board of Zoning Appeals.
(Ord. 4-87. Passed 3-23-87.)

(d) Subdivision. A building permit shall be required to subdivide a lot or other parcel of land that has been previously annexed. The Director of Public Service is hereby authorized to grant such permit when the subdivision of land does not create any undersized parcels as described within these ordinances. No lot split shall be granted by the Director of Public Service which creates any undersized lot. Any such lot split creating an undersized lot shall only be approved by the Zoning Board of Appeals prior to deed transfer by the county.
(Ord. 42-95. Passed 10-23-95.)

(e) Sewer; Water Systems. A Building Permit or Certificate of Zoning Compliance may be denied by the Director of Public Service if he determines that the sanitary sewer system or public water system is not adequate to handle the additional improvement(s). In no case shall the Director be required or obligated to provide new systems to handle the proposed improvement.

(f) Drainage. A Building Permit may be denied by the Director of Public Service if he determines that the overland or concentrated drainage will be affected in such a manner that it will cause public health problems or will have a detrimental effect on the public drainage system or the public streets and alleys. The Director may require the applicant to provide detailed information regarding the drainage problem or solution thereof from a Registered Professional Engineer at the applicant's own expense. This information shall not make the applicant or Engineer liable to any greater degree then is already established by law, but also does not obligate the Director to approve the application.

(g) Minimum Area. No tract shall be subdivided into an area less than 6,500 square feet after the effective date of this section.

(h) Deed Restrictions. The City does not assume any responsibility for the enforcement restrictions previously set forth in the deed to the property for which application is made.

(i) Plat Restrictions; Variances. Any plat restriction or variance governed by existing or new subdivisions shall take precedence over these rules and regulations provided they are more restrictive than these regulations.

(j) Addresses. All addresses on new construction shall be assigned by the City Surveyor.

(k) Violations. Any violations of these rules after issuance of a permit, without authorization are subject to the penalties as provided in Section 1173.99(a). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 4-87. Passed 3-23-87.)

1153.02 APPLICATIONS FOR PERMITS.

(a) Applications. Upon payment of required fees, applications shall be submitted to the Director of Public Service upon forms provided by the same. Applications which require Conditional Use Permits shall be submitted by the Director of Public Service to the Board of Zoning Appeals after the Director of Public Service determines that such applications are in general compliance with the provisions of this Zoning Code.

(b) Approval. Upon finding that a proposed use is in compliance with the provisions of this Zoning Code, and upon receiving a report of approval from the Board of Zoning Appeals regarding a proposed conditional use, the Director of Public Service shall issue a Building Permit.

(c) Disapproval. If an application for a Building Permit or a Conditional Use Permit is denied, the Director of Public Service shall indicate in writing on the permit the reasons for such disapproval.

(d) Fees. Required fees are for processing of permit applications and are nonrefundable. (Ord. 4-87. Passed 3-23-87.)

1153.03 REQUIRED INFORMATION.

The following information shall be provided in conjunction with an application for a Building Permit.

(a) All applicable questions on the application for a Building Permit shall be answered.

(b) A site plan in duplicate, drawn to scale (the scale shall be shown on the site plan), showing the dimensions of the lot(s) to be built upon; the dimensions and locations of all proposed and existing structures except existing slab, fence, walls, sidewalks, located on the lot t

o be built upon; the locations of all the streets, alleys, rights of way and easements located on and contiguous to the lot to be built upon. In addition, the following information shall be provided on the site plan when the provision of such features is required by this Zoning Code:

(1) The locations and dimensions of all the proposed and existing off-street parking areas and driveways located on the lot(s) to be built upon.

(2) The locations and dimensions of all the fences and hedges which are to be used for screening, and a written description of such fences and hedges.

(3) The locations and dimensions of all the landscaping and trees to be provided in conjunction with a conditional use and a written description of such landscaping and trees.

(4) All setback dimensions shall be measured from the property line to the nearest part of the structure, i.e., overhang, porch, stoop, patio, chimney, spouting or outside air conditioning unit, etc. Sidewalks, driveways, fences and retaining walls are not subject to setback requirements.

(c) Applicants for Building Permits shall provide other information as requested by the Director of Public Service necessary to insure that the proposal conforms to the provisions of this Zoning Code. Each application shall show the name of the building or paving contractor and the sewer and water contractor. Sewer and water contractors shall be licensed by the City and all contractors shall abide by all regulations, standards and specifications set forth by the Director of Public Service.

(d) Where construction or physical improvement of land is involved, the lot and location of the buildings to be erected thereon shall be staked out on the ground before construction is started and all dimensions shown on the filed plans shall be subject to inspection by the Department of Public Service.

(e) With the exception of new subdivisions or developments, all new curbs and sidewalks within the City right of way shall be staked by the City Surveyor prior to construction of such and at that time the City Surveyor shall inform the applicant of the final curb height or shall make available other pertinent information regarding the curb or walks. Determination as to whether a sidewalk or curb should be staked rests with the City Surveyor after review of the situation.

(f) All curb and walks within the City right of way shall be built to City standards as established by the Director of Public Service and are subject to inspection by the Department of Public Service.

(Ord. 4-87. Passed 3-23-87.)

1153.04 CONDITIONAL USE PERMITS.

Conditional Use Permits shall be required for certain types of uses in Residential Districts as enumerated in Section 1161. Upon receiving an application for a Conditional Use Permit from the Director of Public Service, the Board of Zoning Appeals shall hold a hearing thereon. Notice of such a hearing shall be mailed to the owners of property contiguous to and across the street from the lot under consideration, or within two hundred feet of the lot under consideration, whichever is most inclusive, at least fourteen days before the hearing. The Board of Zoning Appeals shall take action upon such an application within forty days from the date of the public hearing on such an application.

(Ord. 4-87. Passed 3-23-87.)

1153.05 DETERMINATION OF SIMILAR USES.

(a) The determination as to whether a use is similar to uses permitted by right or conditional use shall be considered as an expansion of the use regulations of the district and not as a variance applying to a particular situation. Any use found similar shall thereafter be included in the enumeration of uses permitted by right.

(b) All applications for permits for a use not specifically listed in any of the districts shall be submitted to the Board of Zoning Appeals and, after approval by it, confirmed by Council in compliance with the following standards:

(1) That such use is not listed in any other classification of permitted principal or conditional uses.

(2) That such a use is more appropriate and conforms to the basic characteristics of the classification to which it is to be added then to any other classification.

(3) That such a use does not create dangers to health and safety, and does not create offensive noise, vibration, dust, heat, smoke, odor, glare or other objectional influences to an extent greater than normally resulting from other uses listed in the classification.

(4) That such a use does not create traffic to a greater extent than the other uses listed in the classification.

(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1157
Commercial Advertising Regulations

1157.01	Purpose.	1157.06	Permits.
1157.02	Applicability.	1157.07	Sign removal.
1157.03	Nonconforming signs.	1157.08	Violation and enforcement.
1157.04	Maintenance and repair required.	1157.09	Size; height.
		1157.10	Standards.
1157.05	Vegetation impairing sign visibility.	1157.11	Near residential areas.
		1157.99	Penalty.

1157.01 PURPOSE.

The purpose of this chapter is to regulate commercial and noncommercial signs and advertising displays designed to be visible outdoors in a manner that without significantly restricting the content thereof:

(a) Recognizes the mass communications, advertising and marketing needs of both businesses and other parties;

(b) Preserves the legibility of competing sign messages so that the communications effectiveness of signs is not impaired;

(c) Protects property values and the character of both business districts and surrounding neighborhoods;

(d) Creates a more prosperous business climate; and

(e) Promotes pedestrian and traffic safety by reducing hazardous sign distractions and obstructions. (Ord. 1-2003. Passed 2-10-03.)

1157.02 APPLICABILITY.

(a) No sign as defined herein shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, replaced or altered except in conformance with the provisions of this chapter and after issuance of a sign permit by the City, except as exempted herein.

(b) All other provisions of this chapter shall apply to such signs except as otherwise provided herein. (Ord. 1-2003. Passed 2-10-03.)

1157.03 NONCONFORMING SIGNS.

(a) Temporary and Portable Signs. All temporary signs and portable signs shall be either removed or brought into full conformity with the applicable requirements of this Zoning Code within forty-five days of the adoption or of any amendment to this ordinance.

(b) Other Signs.

(1) All other signs lawfully existing, or holding sign permits issued, prior to the date of adoption of this Code, but which are not in conformance with applicable regulations herein, may be continued as nonconforming signs.

(2) Nonconforming signs shall be subject to all the requirements governing the continuation of the nonconforming structures as provided in the regulation governing nonconformities in this Code.

(3) Copy on changeable copy signs as defined herein, whether nonconforming or not, may be changed, and faces replaced on other types of signs, provided that there has been no change in use of the premises, that the copy change involves non structural change or change in any dimension of the sign, and that the change does not create any further nonconformity. No nonconforming sign may otherwise be replaced with another nonconforming sign except as approved by the Board of Zoning Appeals under provisions for change of use within the Codified Ordinances of this City.

(4) No elimination or partial elimination of any nonconformity shall be required as a condition of issuance of any sign permit unless there is a change of use or other action specified within the Codified Ordinances of this City that requires such elimination or partial elimination.

(Ord. 1-2003. Passed 2-10-03.)

1157.04 MAINTENANCE AND REPAIR REQUIRED.

The appearance and safety of a sign shall be maintained by the owner at all times. The sign shall be repainted as necessary to prevent rust, corrosion, rotting or other deterioration in the appearance or structural safety of the sign. The source of illumination shall be kept in safe working order at all times. The area on the same lot within ten feet in all directions from any part of a sign structure located upon the ground shall be kept clear of all debris and all undergrowth more than five inches in height. (Ord. 1-2003. Passed 2-10-03.)

1157.05 VEGETATION IMPAIRING SIGN VISIBILITY.

For the purpose of enhancing the visibility of a sign, a tree, shrub or other vegetation may be trimmed, removed, damaged or destroyed only if:

(a) The vegetation is on property within the same ownership or control as the sign and is not required under any permit issued under this Zoning Code; or

(b) The vegetation is on other private or public property and the owner or management thereof has given express written authorization for the work.

(Ord. 1-2003. Passed 2-10-03.)

1157.06 PERMITS.

(a) Contents of Sign Permit Application. An application for a sign permit shall be made upon forms provided by the Service Director and shall include the name, address and telephone number of both the sign owner and real estate owner. Any transfer in ownership shall be provided in writing to Service Director.

(b) Issuance of Sign Permits. The Service Director shall issue a sign permit for any sign for which a complete and accurate sign permit application and sign is in compliance with this and other applicable City ordinances. The permit fee shall be doubled if the sign has been fully or partially installed prior to issuance of the permit.

(c) Suspension, Revocation and Denial.

(1) A sign permit shall become void if the sign authorized thereby has not been completely installed within six months of the date the permit was issued, unless the Service Director has granted an extension. Such extension shall be applied for before expiration of the initial six-month period and shall be limited to a single extension of six months.

(2) The Service Director shall give written notice to the applicant of denial of a sign permit application together with the reason for the denial.

(3) The Service Director may suspend or revoke, in writing to the permittee, any sign permit issued on the basis of misstatement of fact.

(d) A one time permit fee shall be submitted at thirty-five dollars ($35.00) per side with the permit application. The fee is non-refundable. (Ord. 1-2003. Passed 2-10-03.)

1157.07 SIGN REMOVAL.

(a) Abandoned Signs.

(1) Any on-premise sign as defined herein that no longer identifies a business, activity, event or service conducted or product, service or entertainment sold on the premises where the sign is located shall be considered abandoned and shall be removed by the sign owner within ninety days of the discontinuation of the activity, product or service.

(2) If the message portion of any on-premise sign is removed leaving only the shell and/or support structure, the sign owner shall within ninety days of such removal either replace the entire message portion (unless this is prohibited under nonconformity provisions herein) or remove all the remaining components of the sign.

(b) Unsafe Signs. The Service Director may remove any sign or portion thereof that he or she determines to constitute an immediate threat to public health or safety. Whenever possible, a ten (10) day notice shall be provided to the sign owner.

After any such removal of a sign, the Service Director shall send a notice to the sign owner stating the nature of the removal work performed and demanding payment of the cost thereof plus ten percent (10%) for inspection and administration costs. If such amount is not paid within thirty days of the notice, it shall become a lien against the property of the sign owner.

(c) Temporary Signs. Nonexempt temporary signs shall be removed by the owner thereof within ten days of the expiration of the sign permit or of the date provided below, whichever comes first. Exempt temporary signs shall be removed within ten days of the applicable date provided below.

Type of Sign	Removal Date
Exempt	
Election campaign signs	Date of election to which sign pertains
Real estate signs	Consummation of sale or rental of all Properties to which sign pertains.

Type of Sign	Removal Date
Exempt	
Institution special event signs	End of special event to which sign pertains.
Yard sale signs	End of sale
Nonexempt	
Construction signs	Issuance of certificate of zoning compliance
Real estate signs	Consummation of sale or rental of all Properties to which sign pertains.

(Ord. 1-2003. Passed 2-10-03.)

1157.08 VIOLATION AND ENFORCEMENT.

(a) If upon inspection the Chief Building Official finds that any sign is abandoned, unsafe or in any way not in compliance with City ordinances, he or she shall issue a written order to the sign owner stating the nature of the violation and requiring the repair, replacement or removal of the sign within thirty days of the date of the order.

(b) If after thirty days of issuance an order has not been complied with, the sign owner shall be in violation of this Zoning Code. (Ord. 1-2003. Passed 2-10-03.)

1157.09 SIZE; HEIGHT.

No commercial advertising sign shall exceed 378 square feet per visible side and no sign shall exceed 40 feet in height. (Ord. 1-2003. Passed 2-10-03.)

1157.10 STANDARDS.

(a) All commercial advertising signs must meet Ohio Department of Transportation standards, Ohio Revised Code requirements and all City ordinances.

(b) No sign shall be erected within 600 feet of any existing off premise or commercial advertising sign. (Ord. 1-2003. Passed 2-10-03.)

1157.11 NEAR RESIDENTIAL AREAS.

Commercial advertising signs may only be permitted so as not to obstruct residential use in the following areas:

(a) West High Avenue from corporation limit to 10th Street SW;
(b) East High Avenue from corporation limit to 11th Street SE;
(c) Front Street SW from corporation limit to 6th Drive SE;
(d) Wabash Avenue from Logan Avenue NW to 4th Street NW;
(e) South Broadway from Commercial Avenue to central business district;
(f) Light industrial zones; and
(g) Industrial zones. (Ord. 1-2003. Passed 2-10-03.)

1157.99 PENALTY.

Any violation of this chapter shall be considered a minor misdemeanor punishable by fine not to exceed one hundred dollars ($100.00). Each day such violation shall continue shall be treated as a separate offense. (Ord. 1-2003. Passed 2-10-03.)

CHAPTER 1161
Residential District

1161.01 Residential District objectives.
1161.02 Permitted principal uses.
1161.03 Lot area requirements for permitted principal uses.
1161.031 Minimum frontage for residential lot.
1161.04 Lot coverage regulations for permitted principal uses.
1161.05 Yard requirements for permitted principal uses.
1161.06 Height regulations for permitted principal uses.
1161.07 Off-street parking requirements for permitted principal uses.
1161.08 Permitted conditional uses; statement of purpose and intent.
1161.09 Permitted conditional uses listed.
1161.10 Lot area requirements for permitted conditional uses.
1161.11 Lot coverage regulations for permitted conditional uses.
1161.12 Yard requirements for permitted conditional uses.
1161.13 Height regulations for permitted conditional uses.
1161.14 Off-street parking requirements for permitted conditional uses.
1161.15 Design and arrangement of permitted conditional use buildings in residential districts.
1161.16 Circulation systems for permitted conditional uses.
1161.17 Natural features of permitted conditional use sites.
1161.18 Permitted accessory uses.
1161.19 Screening of accessory uses.
1161.20 Supplementary regulations.

CROSS REFERENCES

Stored or abandoned junk and junk vehicles - see TRAF. 303.09, GEN. OFF. Ch. 543
Interpretation of district boundaries - see P. & Z. 1135.01
Nonconforming uses - see P. & Z. 1147.01 et seq.

1161.01 RESIDENTIAL DISTRICT OBJECTIVES.

District regulations are established in this chapter to carry out the purposes which are stated in the preamble to this Zoning Code and especially to achieve the following objectives:

(a) To regulate the bulk and spacing of buildings and other structures in order to assure proper light, air, privacy and usable open space.

(b) To protect residents from nuisances and objectionable influences such as abnormal vehicular traffic, offensive noises, noxious fumes, odors and dust.
(c) To regulate the density of population in scale with existing and proposed community facilities and services.
(d) To promote the most desirable and beneficial use of land and structures in order to stabilize and protect the character of land development within the City.
(Ord. 4-87. Passed 3-23-87.)

1161.02 PERMITTED PRINCIPAL USES.

To carry out the general purposes of this Zoning Code and specifically the objectives of Section 1161.01. Except for condominiums as listed within this section, there shall be no more than one dwelling structure permitted per lot. The following principal uses are permitted in residential districts:

(a) Single-family dwelling;
(b) Two-family dwellings;
(c) Condominiums, provided that such condominiums be limited to two-family dwellings and no more than six units per acre with a minimum two-acre size for such condominiums organization. For each such condominium unit all regulations within this Zoning Code and the Condominium Code and the Ohio Revised Code must be complied with and followed.
(Ord 8-2005. Passed 4-11-05.)

1161.03 LOT AREA REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

In Residential Districts, the minimum areas of lots which may be used for permitted principal uses shall be as follows:

(a) The minimum area of a lot for a single-family or two-family dwelling shall be 6,500 square feet.
(b) If a lot is already built upon, then the area available for a new use shall be that remaining after all applicable yard, lot coverage, lot area and off-street parking requirements have been applied to the existing use.
(c) Any vacant tract existing at the effective date of this section and not subdivided thereafter may be used for the erection of a single-family or two-family dwelling even though the tract area is less than the minimum requirements set forth herein, provided that all other requirements of this section are met.
(Ord. 4-87. Passed 3-23-87.)

1161.031 MINIMUM FRONTAGE FOR RESIDENTIAL LOT.

In a residential district the minimum front yard width shall be not less than fifty (50) feet. (Ord. 18-2004. Passed 5-10-04.)

1161.04 LOT COVERAGE REGULATIONS FOR PERMITTED PRINCIPAL USES.

In Residential Districts, the maximum building coverage of lots used for permitted principal uses shall be thirty-three percent (33%). (Ord. 4-87. Passed 3-23-87.)

1161.05 YARD REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

In Residential Districts, the minimum required yards for permitted principal uses shall be as follows:

(a) The minimum front yard depth shall be twenty-five feet or equal to the narrowest front yard depth of any building located on a contiguous lot and facing the same street, whichever is less.
(b) The minimum rear yard depth shall be five feet, or ten feet where the rear lot line is adjacent to a dedicated alley, lane or drive.

(c) The minimum side width shall be five feet on each side, or ten feet where a side lot is adjacent to a dedicated alley, lane or drive.
(d) On a corner lot, the front yard requirements as stated above shall apply to each side of the lot adjacent to a street.
(e) On a through lot, the front yard requirements as stated above shall apply to each side of the lot adjacent to a street.
(Ord. 4-87. Passed 3-23-87.)

1161.06 HEIGHT REGULATIONS FOR PERMITTED PRINCIPAL USES.

Buildings located in Residential Districts shall not exceed a height of forty-five feet above grade. This height regulation does not apply to spires, belfries, cupolas, antennae, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
(Ord. 4-87. Passed 3-23-87.)

1161.07 OFF-STREET PARKING REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

In Residential Districts, off-street parking shall be provided for all permitted principal uses as follows:
(a) Two off-street parking spaces shall be provided for each dwelling unit.
(b) All required off-street parking spaces shall be provided on the same lot as the use served; or on a contiguous lot owned by the same party.
(c) If a lot is already built upon, then the required off-street parking spaces for any new use built upon the same lot shall be provided only within the area remaining after all applicable yard, lot coverage, lot area and off-street parking requirements have been applied to the existing use.
(d) The minimum setback for a parking garage or carport which faces a dedicated street, alley, lane or drive shall be twenty feet.
(Ord. 4-87. Passed 3-23-87.)

1161.08 PERMITTED CONDITIONAL USES; STATEMENT OF PURPOSE AND INTENT.

Recognizing that certain uses are essential to the community, yet have characteristics which may be detrimental to and incompatible with other uses in Residential Districts if not properly developed, the Board of Zoning Appeals shall determine that in each case the standards and guidelines hereafter set forth are achieved before granting a Conditional Use Permit. In addition, it shall be determined that each use so permitted shall be in general accord with the Residential District objectives, shall not adversely affect the residential quality of neighborhoods, create undesirable traffic congestion or other hazards, or otherwise impair the safety and general welfare of the residents of the City.
(Ord. 4-87. Passed 3-23-87.)

1161.09 PERMITTED CONDITIONAL USES LISTED.

The following uses may be located within Residential Districts provided such uses conform to all regulations and requirements pertaining to conditional uses in Residential Districts and that such uses are consistent with the aforementioned Statement of Purpose and Intent.

(a) Residential: Multiple-family dwellings.

(b) Civic: Churches and other places of worship including rectories, convents, and monasteries; art galleries; museums; libraries; memorials; mortuaries; monuments; cemeteries; governmental buildings and attendant uses, but not including a jail, reformatory or other correctional institution.

(c) Educational: Primary and secondary public schools, non-profit, private or parochial schools, institutions of high education, and including fraternity/ sorority house or dormitory if located on the same property upon which the school is situated; auditoriums, gymnasiums and stadiums.

(d) Social Services: General and special hospitals, health centers, institutions for the aged; family homes.

(e) Recreational: Public parks, recreational fields and playgrounds, lakes, beaches, public gardens, golf courses, community centers.

(Ord. 4-87. Passed 3-23-87.)

1161.10 LOT AREA REQUIREMENTS FOR PERMITTED CONDITIONAL USES.

In Residential Districts, the minimum areas of lots which may be used for purposes of permitted conditional uses shall be as follows:

(a) The minimum area of a lot for a multiple-family dwelling shall be 2,000 square feet per dwelling unit, or 8,000 square feet whichever is greater.

(b) The minimum area of a lot for a permitted conditional use other than a multiple family dwelling shall be determined by the Board of Zoning Appeals, but in no case shall be less than 6,500 square feet, and shall not be less than required to provide a site adequate for the main and accessory buildings, off-street parking, accessory uses, and yards and open spaces to accommodate the use and maintain the character of the neighborhood.

(c) If a lot is already built upon, then the area available for a new use shall be that remaining after all applicable yard, lot coverage, lot area and off-street parking requirements have been applied to the existing use.

(Ord. 4-87. Passed 3-23-87.)

1161.11 LOT COVERAGE REGULATIONS FOR PERMITTED CONDITIONAL USES.

In Residential Districts, the maximum building coverage of lots used for permitted conditional uses shall be thirty-three percent (33%).

(Ord. 4-87. Passed 3-23-87.)

1161.12 YARD REQUIREMENTS FOR PERMITTED CONDITIONAL USES.

In Residential Districts, the minimum required yards for permitted conditional uses shall be as follows:

(a) The minimum required yards for multiple-family dwellings shall be as follows:

(1) The minimum front yard depth shall be twenty-five feet, or equal to the narrowest front yard depth of any building located on a contiguous lot and facing the same street, whichever is less.

(2) The minimum rear yard depth shall be five feet, or ten feet where the rear lot line is adjacent to a dedicated alley, lane or drive.

(3) The minimum side yard width shall be five feet on each side, or ten feet where a side lot line is adjacent to a dedicated alley, lane or drive.

(4) On a corner lot, the front yard requirements as stated above shall apply to each side of the lot adjacent to a street.

(5) On a through lot, the front yard requirements as stated above shall apply to each side of the lot adjacent to a street.

(b) The minimum required yards for permitted conditional uses other than multiple-family dwellings shall be as follows:

(1) The minimum front yard depth shall be twenty-five feet, or equal to the narrowest front yard depth of any building located on a contiguous lot and facing the same street, whichever is less.

(2) The minimum side yard widths and the minimum rear yard depth shall all be equal to the height of the tallest building located on the lot.

(3) On a corner lot, the front yard requirements as stated above shall apply to each side of the lot adjacent to a street.

(4) On a through lot, the front yard requirements as stated above shall apply to each side of the lot adjacent to a street.

(Ord. 4-87. Passed 3-23-87.)

1161.13 HEIGHT REGULATIONS FOR PERMITTED CONDITIONAL USES.

Buildings located in Residential Districts shall not exceed a height of forty-five feet above grade. This height regulation does not apply to spires, belfries, cupolas, antennae, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(Ord. 4-87. Passed 3-23-87.)

1161.14 OFF-STREET PARKING REQUIREMENTS FOR PERMITTED CONDITIONAL USES.

In Residential Districts, off-street parking shall be provided for all permitted conditional uses as follows:

(a) Off-street parking spaces for permitted conditional uses shall be provided in quantities not less than set forth in the following schedule:

Conditional Use	Required Spaces
Multiple-family dwellings	Two for each dwelling unit
Church or other place of worship, auditoriums, gymnasiums, stadiums	One for each five seats in the main auditorium or assembly room
Art galleries, libraries, museums	Ten plus one additional for each 300 square feet of floor area in excess of 2,000 square feet
Elementary schools, junior high schools	One for each two employees, plus one for each seven seats in the main auditorium or assembly room
Senior high schools, trade and vocational schools, colleges	One for each five seats in the main auditorium or assembly room or four for each classroom, whichever is greater
Hospitals	One for each bed
Institutions for the aged, mental health hospitals, family homes	One for each three beds
Community centers	One for each two hundred fifty square feet of gross floor area
Commercial golf courses or private golf clubs	Forty for each nine holes plus one for each employee
Mortuaries	One for each 100 square feet of floor space in slumber rooms, parlors or individual funeral service room.

* References to employees refer to the number of employees on duty during normal peak periods.

A building occupied by one use shall provide off-street parking spaces as required for that specific use. A building or a group of buildings occupied by two or more uses shall provide spaces for not less than the sum of the spaces required for each use.

(b) Each use shall be permitted one two-way access driveway or two one-way access driveways for each seventy-five feet of street or alley frontage of the lot occupied by that use. Such access driveways shall be at least ten feet, but not more than twelve feet in width for each direction, and shall not be located less than fifteen feet from the right-of-way line of an alley which intersects the same street or alley as the proposed access driveways, or less than twenty-five feet from the right-of-way line of a street which intersects the same street or alley as the proposed access driveways. No access driveway shall be located less than fifteen feet from any other access driveway which intersects the same street or alley as the proposed access driveway.

(c) Each side of an off-street parking area which is less than ten feet from another lot located in a Residential District shall be effectively screened by a dense, evergreen hedge or a solid natural-finished wooden fence. Such hedges and fences shall not be less than four feet or more than six feet in height.

(d) Off-street parking areas shall be so designed that all required parking spaces are accessible and that no parking or maneuvering incidental to parking shall be on any street, alley or sidewalk.

(e) Adequate area shall be provided on each lot for the accumulation of snow which is removed from the off-street parking areas located on that lot.

(f) If a lot is already built upon, then the required off-street parking spaces for any new use built upon the same lot shall be provided only within the area remaining after all applicable yard, lot coverage, lot area and off-street parking requirements have been applied to the existing use and provided that this tract has not been designated for parking provided under subsection (h) hereof, or otherwise restricted.

(g) The minimum setback for a parking garage or carport which faces a dedicated street, alley, lane or drive shall be twenty feet.

(h) All required off-street parking spaces shall be provided on the same lot as the use served, or on a contiguous lot owned by the same party.

(Ord. 4-87. Passed 3-23-87.)

1161.15 DESIGN AND ARRANGEMENT OF PERMITTED CONDITIONAL USE BUILDINGS IN RESIDENTIAL DISTRICTS.

In Residential Districts, permitted conditional use buildings shall be designed and arranged in such a manner as to enhance, rather than detract, from the overall quality of the surrounding area. All proposed developments shall conform to the following standards and guidelines:

(a) All permitted conditional use buildings shall relate harmoniously to the terrain, other buildings, and the surrounding neighborhood with respect to location and orientation.

(b) Adequate provision shall be made for light, air and privacy in the design and arrangement of multiple-family dwellings. Each dwelling unit shall have at least one exterior exposure, and no multiple-family main or accessory building shall be located less than ten feet from any other multiple-family main or accessory building. (Ord. 4-87. Passed 3-23-87.)

1161.16 CIRCULATION SYSTEMS FOR PERMITTED CONDITIONAL USES.

In Residential Districts, on-site circulation systems serving permitted conditional uses shall be designed in such a manner as to provide for safe and convenient movement of persons and vehicles. All proposed developments shall conform to the following standards and guidelines:

(a) Vehicular circulation systems shall allow free and safe movement within the proposed development and shall be compatible and functional with circulation systems outside the proposed development. Streets shall have suitable alignments and gradients for safety of traffic, satisfactory drainage, and proper functioning of sanitary and storm sewer systems. Street intersections shall be at right angles if possible, and intersections of more than two streets shall be prohibited.

(b) Safe and efficient access to all areas of the proposed development shall be provided for emergency and service vehicles.

(c) Pedestrian circulation systems shall be separated insofar as possible from vehicular circulation systems. On-site walks shall be provided for safe and convenient access to all dwellings from parking areas and project access to all dwellings from parking areas and project facilities, such as garbage collection buildings. Small jogs in the alignment of such walks shall be avoided and steps and stepped ramps shall be avoided if possible in order to facilitate servicing with wheeled vehicles.

(Ord. 4-87. Passed 3-23-87.)

1161.17 NATURAL FEATURES OF PERMITTED CONDITIONAL USE SITES.

In Residential Districts, sites for permitted conditional uses shall be developed in such a manner as to preserve, perpetuate and improve existing natural features. All proposed developments shall conform to the following standards and guidelines:

(a) At least one tree shall be provided for every 5,000 square feet of lot area. Such trees shall be at least two inch caliper and shall be planted in suitable areas of sufficient size to accommodate the future growth of the trees. Existing trees which are to be preserved shall be counted toward compliance with this requirement provided such trees are at least two inch caliper and are located in areas of sufficient size to accommodate the future growth of the trees.

(b) Plantings such as shrubs, bushes and low ornamental trees shall be provided in such quantities and located in such areas as is necessary to insure that the proposed development is compatible and harmonious with nearby uses.

(Ord. 4-87. Passed 3-23-87.)

1161.18 PERMITTED ACCESSORY USES.

In Residential Districts, accessory uses, buildings or structures may be established provided such uses are customarily accessory and clearly incidental and subordinate to the permitted principal or conditional use. Accessory uses in Residential Districts may include the following:

(a) Garages, storage sheds or other similar structures.

(b) A home occupation shall be permitted in or directly attached to any dwelling provided that:

(1) No person other than members of the family residing on the premises shall be engaged in such occupation.
(Ord. 4-87. Passed 3-23-87.)

(2) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one nonilluminated sign, provided such sign does not exceed two square feet in area, except for a change in the outside appearance of the building or premises can exist for the sale of Christmas trees which must remain neatly maintained upon the property between November 15 and December 25 of any year, so long as there exists written consent from owners or occupiers of any adjacent property. Consents do not need to be renewed yearly.
(Ord. 54-92. Passed 9-28-92.)

(3) No equipment shall be used which creates objectionable disturbances beyond the premises.

(4) Traffic shall not be generated by such home occupation in significantly greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.

(c) The keeping of household pets including dogs, cats, rabbits, monkeys, canaries, parakeets and other kindred animals and fish usually and ordinarily kept as household pets is permitted. Domesticated animals including horses, mules, donkeys, cows, bulls, swine, sheep, goats, fowl and others shall not be permitted except on lots of at least two acres and any structure used for housing such animals shall be at least one hundred feet from all lot lines.

(d) The placement, number and nature of signs shall be governed by the following regulations:

(1) No more than one identification sign shall be permitted for each permitted principal or conditional use provided such sign does not exceed two square feet in area each.

(2) A single non-illuminated real estate sign advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed, during the period of active, diligent effort to sell, rent or lease such premise shall be permitted provided such sign is removed within fourteen days after an agreement to sell or lease is entered into.

(3) Political signs shall be permitted provided they are not erected more than thirty days prior to the election for which they are intended and are removed within forty-eight hours after such election.

(4) A single non-illuminated construction sign shall be permitted on the site of a building under construction or a subdivision under development provided such sign is used for identification purposes only and does not exceed forty square feet in area.

(5) Temporary signs related to a specific holiday, religious event or historical observance, or to an event conducted by a church or by a public or private non-profit school or college or to a community event, or to a porch, garage or yard sale, shall be permitted. Such signs shall not be erected more than thirty days prior to the event, holiday or observance for which they are intended and shall be removed within forty-eight hours after such event, holiday or observance.

(6) A multiple-family dwelling shall be permitted one non-illuminated sign facing each street provided the sign does not exceed ten square feet in area.

(7) A permitted conditional use other than a multiple-family dwelling shall be permitted one sign provided such sign does not exceed sixteen square feet in area each.

(8) A home professional office or home occupation shall be permitted one nonilluminated sign provided such sign does not exceed two square feet in area.

(9) No signs erected in any yard shall exceed a height of six feet above the finished grade.

(10) Illuminated signs shall be permitted unless specifically prohibited. No signs, other than those conveying information such as the time and the temperature, shall be illuminated by moving or flashing lights, nor shall any sign, or any part thereof, revolve, oscillate or otherwise move. Illumination used on or with respect to any sign shall not be directed or reflected outside the premises on which the sign is located to such an extent that it interferes materially with the use and enjoyment of any other premises.

(11) No sign or any part thereof, shall be located on or extend above a public right of way.

(e) Fences, walls and hedges shall be permitted provided they are not electrified and that barbed wire does not constitute any part of such fences, walls and hedges. No fence, wall or hedge shall exceed a height of six feet above the finished grade. Gate should be same height as the rest of the fence. Gate should open from the inside.

(f) "Private swimming pool" means any pool, ground level or elevated; where swimming is normally permitted, not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half feet and having a surface area of 200 square feet or more. No such swimming pool shall be allowed unless it complies with the following conditions and requirements:

(1) The pool is intended and is to be used solely for the enjoyment of the occupant and guests of the principal use of the property on which it is located.

(2) The pool, accessory buildings, patio or other structures shall not be located in any front yard or within any required side or rear yard setback.

(3) The swimming pool area of all pools, or the entire rear or side property on which the pool is located shall be enclosed with a secure fence not less than five feet in height. For above-ground pools, the pool wall may be a part of the five foot fence. A fence shall be erected around a swimming pool prior to its being filled with water.
(Ord. 23-2008. Passed 5-12-08.)

(4) No lighting used on or with respect to any swimming pool shall be directed or reflected outside the premises on which the swimming pool is located to such an extent that it interferes materially with the use and enjoyment of any other premises.

(5) The area of the pool, elevated decks and accessory buildings will be included as part of the total lot coverage permitted in the Zoning District where the pool is located.

(g) Accessory to each multi-family dwelling shall be a building for the collection and storage of garbage which conforms to the following regulations:

(1) Such a building shall be located a minimum of ten feet from any such dwelling.

(2) Such a building shall include an entrance way which is a minimum of seven feet in height and three feet in width.

(3) The upper two feet of at least two of the walls of such a building shall be fully screened.

(4) Such a building shall include at least the following number of square feet of usable floor area for each dwelling unit served:

One bedroom dwelling unit: Five square feet
Two bedroom dwelling unit: Eight square feet
Three bedroom dwelling unit: Eleven square feet
Four bedroom dwelling unit: Fourteen square feet.

Shelf area may be counted towards compliance with this requirement provided all shelves are located at least two and one-half feet, but not more than three feet, above the ground level and that no shelf is more than three feet wide.

(5) Interior walkways shall be provided in such locations and maintained in such a manner as to permit convenient access to all garbage containers within such a building. (Ord. 4-87. Passed 3-23-87.)

1161.19 SCREENING OF ACCESSORY USES.

The Board of Zoning Appeals may require the provision of screening in the form of hedges or fences where it is deemed that such screening will make an accessory use to a permitted conditional use more compatible with the surrounding area.
(Ord. 4-87. Passed 3-23-87.)

1161.20 SUPPLEMENTARY REGULATIONS.

On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of three and one-half feet and ten feet above the centerline elevation of the intersecting streets or alleys in the triangular area bounded by the street right-of-way lines of such corner lot and a line joining points along such street right-of-way lines twenty-five feet from the points of their intersection.
(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1163
Office District

1163.01 Office District objectives.
1163.02 Permitted principal uses.
1163.03 Lot area requirements for permitted principal uses.
1163.04 Lot coverage requirements for permitted principal uses.
1163.05 Yard requirements for permitted principal uses.
1163.06 Height regulations for permitted principal uses.
1163.07 Off-street parking requirements for permitted principal uses.
1163.08 Permitted accessory uses.
1163.09 Supplementary regulations.
1163.10 Uses, permitted conditional uses statement of purpose and intent.

CROSS REFERENCES

Interpretation of district boundaries - see P. & Z. 1135.01
Appeals - see P.& Z. Ch. 1145, 1149
Nonconforming uses - see P. & Z. Ch. 1147

1163.01 OFFICE DISTRICT OBJECTIVES.

District regulations are established in this section to carry out the purposes which are stated in the preamble and especially to achieve the following objectives:

(a) To provide areas along certain major streets in which residential, office, civic, welfare, limited service and limited recreational uses are permitted, but from which more intensive commercial uses and other incompatible uses are prohibited.

(b) To foster the continuation of existing office, civic, welfare, limited service and limited recreational uses, and to provide appropriate space for their expansion and for new development of such uses.

(c) To prohibit development which would create conditions detrimental to public health, safety and general welfare and which would be incompatible with and detrimental to adjacent and surrounding uses.

(d) To promote, in accordance with a well-considered plan, the most desirable and beneficial use of land and structures in order to stabilize and protect the character of land development within the City.

(Ord. 4-87. Passed 3-23-87.)

1163.02 PERMITTED PRINCIPAL USES.

To carry out the general purposes of this Zoning Code and specifically the objectives of Section 1163.01, the following principal uses are permitted in Office Districts:

(a) Residential: Single-family dwellings and two-family dwellings

(b) Offices: Administrative and professional offices and services including: banking, finance companies, securities sales and services, insurance sales and services, real estate sales and services, legal services, architectural services, engineering services, medical and dental services including out-patient clinics, governmental administrative offices and functions and administrative offices of businesses, utilities and other organizations.

(c) Civic: Churches and other places of worship including rectories, convents and monasteries; art galleries; museums; libraries; memorials; mortuaries; monuments.

(d) Welfare: General and special hospitals, health centers, institutions for the aged, group homes and similar institutions.

(e) Services: Personal services such as beauty and barber shops and interior decorating.

(f) Recreational: Parks.

(Ord. 4-87. Passed 3-23-87.)

1163.03 LOT AREA REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

Office Districts, the minimum areas of lots which may be used for permitted principal uses shall be as follows:

(a) The minimum area of a lot for a single-family or two-family dwelling shall be 6,500 square feet.

(b) The minimum area of a lot for a multiple-family dwelling shall be 2,000 square feet per unit, or 8,000 square feet whichever is greater.

(c) The minimum area of a lot for an office building shall be 6,500 square feet.

(d) If a lot is already built upon, then the area available for a new use shall be that remaining after all applicable yard, lot coverage, lot area and off-street parking requirements have been applied to the existing use.

(e) Any vacant tract existing at the effective date of this section and not subdivided thereafter may be used for the erection of a single-family or multi-family dwelling even though the tract area is less than the minimum requirements set forth herein, provided that all other requirements of this section are met.

(Ord. 4-87. Passed 3-23-87.)

1163.04 LOT COVERAGE REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

In Office Districts, the maximum building coverage of lots used for permitted principal uses shall be fifty percent (50%).
(Ord. 4-87. Passed 3-23-87.)

1163.05 YARD REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

In Office Districts, the minimum required yards for permitted principal uses shall be as follows:

(a) The minimum front yard depth shall be twenty-five feet or equal to the narrowest front yard depth of any building located on a contiguous lot and facing the same street, whichever is less.

(b) The minimum rear yard depth shall be five feet, or ten feet where the rear lot line is adjacent to a dedicated alley.

(c) The minimum side yard width shall be five feet on each side, or ten feet where a side lot line is adjacent to a dedicated alley.

(d) On a corner lot, the front yard requirements as stated in subsection (a) hereof shall apply to each side of the lot adjacent to a street.

(e) On a through lot, the front yard requirements as stated in subsection (a) hereof shall apply to each side of the lot adjacent to a street.

(f) At the intersection of two streets, nothing exceeding the height of three and one-half feet above the respective centerline elevations of each street shall be erected, placed, planted or allowed to grow within the setback area as previously defined. This restriction will apply only for a distance of twenty-five feet from the right-of-way line of each street regardless of the size of the tract.
(Ord. 4-87. Passed 3-23-87.)

1163. 06 HEIGHT REGULATIONS FOR PERMITTED PRINCIPAL USES.

Buildings located in Office Districts shall not exceed a height of forty-five feet above grade. This height regulation does not apply to spires, belfries, cupolas, antennae, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
(Ord. 4-87. Passed 3- 23-87.)

1163.07 OFF-STREET PARKING REQUIREMENTS FOR PRINCIPAL PERMITTED USES.

In Office Districts, off-street parking shall be provided for all permitted principal uses as follows:

(a) Off-street parking spaces for permitted principal uses shall be provided in quantities not less than set forth in the following schedule:

Principal Use	Required Spaces
Single-family dwellings, two-family dwellings, multiple family dwellings	Two for each dwelling unit
Administrative and professional offices and services (except medical and dental services)	One for each 300 square feet of gross floor area
Medical and dental services	One for each 150 square feet of gross floor area
Church or other place of worship	One for each five seats in the main auditorium or assembly room
Art galleries, libraries, museums	Ten plus one additional for each 300 square feet of floor area in excess of 2,000 square feet.
Hospitals	1 ½ for each bed
Institutions for the aged, mental health hospitals, family homes and similar institutions	4 plus one for each two beds
Personal services	One for each 250 square feet of gross floor area

A building occupied by one use shall provide off-street parking spaces as required for that specific use. A building or group of buildings occupied by two or more uses shall provide spaces for not less than the sum of the spaces required for each use.

(b) Each use shall be permitted one two-way access driveway or two one-way access driveways for each seventy-five feet of street or alley frontage of the lot occupied by that use. Such access driveways (except those access driveways serving single and two-family dwellings) shall be at least ten feet, but not more than twelve feet in width for each direction and shall not be located less than fifteen feet from the right-of-way line of an alley which intersects the same street or alley as the proposed access driveways, or less than twenty-five feet from the right-of-way line of a street which intersects the same street or alley as the proposed access driveways. No access driveway (except those access driveways serving single and two-family dwellings) shall be located less than fifteen feet from any other access driveway which intersects the same street or alley as the proposed access driveway.

(c) Each side of an off-street parking area (except those off-street parking areas accessory to single- and two-family dwellings) which is less than ten feet from a lot located in a Residential District shall be effectively screened by a dense, evergreen hedge or a solid, natural-finish wooden fence. Such hedges or fences shall not be less than four feet or more than six feet in height.

(d) Off-street parking areas shall be so designed that all required parking spaces are accessible and that no parking or maneuvering incidental to parking shall be on any street, alley or sidewalk.

(e) Adequate area shall be provided on each lot (except lots containing only single and two-family dwellings) for the accumulation of snow which is removed from the off-street parking areas located on that lot.

(f) If a lot is already built upon, then the required off-street parking spaces for any new use built upon the same lot shall be provided only with the area remaining after all applicable yard, lot coverage, lot area and off-street parking requirements have been applied to the existing use and provided that this tract has not been designed for parking provided under subsection (h) or otherwise restricted.

(g) The minimum setback for a parking garage or carport which faces a dedicated street, alley, lane or drive shall be twenty feet.

(h) All required off-street parking spaces shall be provided on the same lot as the use service, or on a contiguous lot owned by the same party.

(Ord. 4-87. Passed 3-23-87.)

1163.08 PERMITTED ACCESSORY USES.

In Office Districts, accessory uses, buildings or structures may be established provided such uses are customarily accessory and clearly incidental and subordinate to the permitted principal or conditional use. Accessory uses in Office Districts may include the following:

(a) Garages, storage sheds or other similar structures.

(b) A home occupation shall be permitted in or directly attached to any dwelling provided that:

(1) No person other than members of the family residing on the premises shall be engaged in such occupation.

(2) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one non-illuminated sign, provided such sign does not exceed four square feet in area.

(3) No equipment shall be used which creates objectionable disturbances beyond the premises.

(4) Traffic shall not be generated by such home occupation in significantly greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.

(c) The keeping of household pets, including dogs, cats, rabbits, monkeys, canaries, parakeets and other kindred animals and fish usually and ordinarily kept as household pets is permitted. Domesticated animals including horses, mules, donkeys, cows, bulls, swine, sheep, goats, fowl and others shall not be permitted except on lots of at least two acres, and any structure used for housing such animals shall be at least 100 feet from all lot lines.

(d) The placement, number and nature of signs shall be governed by the following regulations:

(1) No more than two identification signs shall be permitted for each permitted principal use provided such signs do not exceed four square feet in area each.

(2) A single, non-illuminated real estate sign advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed, during the period of active, diligent effort to sell, rent or lease such premises shall be permitted provided such sign is removed within fourteen days after an agreement to sell or lease is entered into.

(3) Political signs shall be permitted provided they are not erected more than thirty days prior to the election for which they are intended and are removed within forty-eight hours after such election.

(4) A single non-illuminated construction sign shall be permitted on the site of a building under construction or a subdivision under development provided such sign is used for identification purposes only and does not exceed forty square feet in area.

(5) Directional signs shall be permitted provided they do not exceed four square feet in area each.

(6) Temporary signs related to a specific holiday, religious event or historical observance, or to an event conducted by a church or by a public or private non-profit school or college, or to a community event, or to a porch, garage or yard sale shall be permitted. Such signs shall not be erected more than thirty days prior to the event, holiday or observance for which they are intended and shall be removed within forty-eight hours after such event, holiday or observance.

(7) A multiple-family dwelling shall be permitted one non-illuminated sign provided such sign does not exceed ten square feet in area.

(8) A home professional office or home occupation shall be permitted one non-illuminated sign provided such a sign does not exceed four square feet in area.

(9) The maximum total area of all the on-site signs accessory to an office, civic, welfare or service use shall be related to the width of the building, or unit thereof, occupied by the use. The maximum permitted sign area for each use shall be determined by the following formula:

Maximum sign area (in square feet) = (W x 0. 5) + 10

The elements of such formula being defined as follows:
Maximum sign area = the sum of the areas of all the on-site signs accessory to a use.
W = the width of the street frontage of the building, or unit thereof, occupied to a use.

Example: Assume an office building fifty feet wide faces one street in an Office District. Maximum total area of on-site signs =(50 x 0. 5) + 10 = 35 square feet. In no case shall the maximum permitted sign area for a use exceed fifty square feet.

(10) No signs erected in any yard shall exceed a height of six feet above the finished grade.

(11) Illuminated signs shall be permitted unless specifically prohibited. No signs, other than those conveying information such as the time and the temperature, shall be illuminated by moving or flashing lights, nor shall any sign, or any part thereof, revolve, oscillate or otherwise move. Illumination used on or with respect to any sign shall not be directed or reflected outside the premises on which the sign is located to such an extent that it interferes materially with the use and enjoyment of any other premises.

(12) No sign, or any part thereof, shall be located on or extend above a public right of way.

(e) Fences, walls and hedges shall be permitted provided they are not electrified and that barbed wire does not constitute any part of such fences, walls and hedges. No fence, wall or hedge shall exceed a height of six feet above the finished grade. Gate should be the same height of fence. Gate should open from the inside.

(f) "Private swimming pool" means any pool, ground level or elevated; where swimming is normally permitted, not located within a completely enclosed building, and containing or normally capable of containing water to a depth at any point greater than one and one-half feet and having a surface area of 200 square feet or more. No such swimming pool shall be allowed unless it complies with the following conditions and requirements:

(1) The pool is intended and is to be used solely for the enjoyment of the occupant and guests of the principal use of the property on which it is located.

(2) The pool, accessory buildings, patio or other structures shall not be located in any front yard or within any required side or rear yard setback.

(3) The swimming pool area of ground level pools, an area five feet beyond and surrounding elevated pools, or the entire rear or side property on which the pool is located shall be enclosed within a permanent fence not less than five feet in height. Such a fence shall be erected around a swimming pool before it is filled with water.

(4) No lighting used on or with respect to any swimming pool shall be directed or reflected outside the premises on which the swimming pool is located to such an extent that it interferes materially with the use and enjoyment of any other premises.

(5) The area of the pool, elevated decks and accessory buildings will be included as part of the total lot coverage permitted in the Zoning District where the pool is located.

(g) Accessory to each multiple-family dwelling shall be a building for the collection and storage of garbage which conforms to the following regulations:

(1) Such a building shall be located a minimum of ten feet from any dwelling.

(2) Such a building shall include an entrance way which is a minimum of seven feet in height and three feet in width.

(3) The upper two feet of at least two of the walls of such a building shall be fully screened.

(4) Such a building shall include at least the following number of square feet of usable floor area for each dwelling unit served:
One bedroom dwelling unit: Five square feet
Two bedroom dwelling unit: Eight square feet
Three bedroom dwelling unit: Eleven square feet
Four bedroom dwelling unit: Fourteen square feet

Shelf area may be counted towards compliance with this requirement provided all shelves are located at least two and one-half feet but not more than three, above the ground level and that no shelf is more than three feet wide.

(5) Interior walkways shall be provided in such locations and maintained in such a manner as to permit convenient access to all garbage containers within such a building.
(Ord. 4-87. Passed 3-23-87.)

1163.09 SUPPLEMENTARY REGULATIONS.

On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of three and one-half feet and ten feet above the centerline elevation of the intersecting streets in the triangular area bounded by the street right-of-way lines of such corner lot and a line joining points along the street right-of-way lines twenty-five feet from the point of their intersection.
(Ord. 4-87. Passed 3-23-87.)

1163.10 USES, PERMITTED CONDITIONAL USES STATEMENT OF PURPOSE AND INTENT.

(a) Recognizing that certain uses are essential to the community, yet have characteristics which may be detrimental to and incompatible with other uses in office districts, if not properly developed, the Board of Zoning Appeals shall determine that in each case the standards and guidelines hereafter set forth are achieved before granting a conditional use permit. In addition, it shall be determined that each use so permitted shall be in general accord with the office district objectives, shall not adversely affect the residential quality of neighborhoods, create undesirable traffic congestion or other hazards, or otherwise impair the safety and general welfare of the residents of the City.

(b) There shall be no multifamily dwellings unless a conditional use permit is granted by the Board of Zoning Appeals or as appealed pursuant to these ordinances and the Ohio Revised Code. (Ord. 31-02. Passed 5-13-02.)

CHAPTER 1165
Central Business District

1165.01 Central Business District objectives.
1165.02 Permitted principal uses.
1165.03 Height regulations for permitted principal uses.
1165.04 Off-street parking requirements for permitted principal uses.
1165.05 Special regulations for driveway banking facilities.
1165.06 Permitted accessory uses.

CROSS REFERENCES

Interpretation of district boundaries - see P. & Z. 1135.01
Appeals - see P.& Z. Ch. 1145, 1149
Nonconforming uses - see P. & Z. Ch. 1147

1165.01 CENTRAL BUSINESS DISTRICT OBJECTIVES.

District regulations are established in this section to carry out the purposes which are stated in the preamble of this Zoning Code and especially to achieve the following objectives:

(a) To acknowledge the existence of a unique area of the City which serves as a focal point of community life for the residents of New Philadelphia and as a symbol of the City to visitors.

(b) To encourage compact, pedestrian-oriented development of a wide array of retail, office and service uses in the Central Business District in order to insure the continued economic health and vitality of the area.

(c) To prohibit the development of uses which would exert detrimental or blighting influences upon the Central Business District in order to stabilize and protect the character and value of land development in this area.

(Ord. 4-87. Passed 3-23-87.)

1165.02 PERMITTED PRINCIPAL USES.

To carry out the general purposes of this Zoning Code and specifically the objectives of Section 1165.01, the following principal uses are permitted in the Central Business District:

(a) Offices: Administrative and professional office and services including: banking, finance companies, securities sales and services, insurance sales and services, real estate sales and services, legal services, architectural services, engineering services, medical and dental services including out-patient clinics, governmental administrative offices and functions, and administrative offices of businesses, utilities and other organizations.

(b) Retail Sales:

(1) The sale of food and beverages; eating and drinking places.

(2) The sale of general merchandise and dry goods, including: drugs, gifts, antique and art goods, flowers, pets and supplies with the exclusion of kennels, periodicals, books, cameras, musical instruments and supplies, sporting and athletic goods, wearing apparel, household hardware, hand tools, paint, garden supplies, appliances, china, jewelry, furniture, floor and wall coverings, radios and equipment for reproducing music, television, bicycles.

(3) Wholesale offices and show rooms, provided storage is limited to samples.

(c) Services:

(1) Personal services such as beauty and barber shops and interior decorating.

(2) Custom work shops for the making of articles to be sold only at retail on the premises.

(3) Laundry agencies and laundromats, tailors, pressing and dry cleaning shops in which only nonexplosive and nonflammable solvents are used.

(4) Repair services for such items as household appliances, shoes and hats, radios and televisions.

(5) Photographic developing, blue printing, letter printing, job printing.

(d) Dwelling Units: Provided they are located in the same building in which at least one of the uses in subsections (a), (b), (c) or (e) hereof is located and that such dwelling units are located only in the second story or any story above the second story.

(e) Civic: Churches and other places of worship, art galleries, museums, libraries, memorials, monuments, fraternal organizations, private clubs.

(f) Recreational: Parks, indoor theaters.

(g) Similar Principal Uses: Any other general commercial use not listed above or as a permitted principal or a conditional use in any other district and determined as similar by the Board of Zoning Appeals in accordance with the standards set forth in Section 1153.05.

(h) Social Services: General and special hospitals, health centers, institutions, for the aged; family homes; health care facilities, to include nursing homes, medical services organizations and similar organizations as permitted businesses within the central business district. (Ord. 79-2002. Passed 10-28-02.)

In the Central Business District, all permitted principal uses, except drive-in banking facilities, which are accessory to walk-in banking facilities, shall be conducted wholly within enclosed buildings.

(Ord. 4-87. Passed 3-23-87.)

1165.03 HEIGHT REGULATIONS FOR PERMITTED PRINCIPAL USES.

Permitted principal main and accessory buildings in the Central Business District may not exceed a height of sixty feet. This height regulation does not apply to spires, belfries, cupolas, antennae, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
(Ord. 4-87. Passed 3-23-87.)

1165.04 OFF-STREET PARKING REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

In the Central Business District, off-street parking shall be provided for permitted principal uses as follows:

(a) Off-street parking spaces shall not be required to be provided in conjunction with Offices, Retail Sales Establishments, Service Establishments and Dwelling Units as enumerated in Section 1165.02. Off-street parking areas which are provided in conjunction with these uses, however, must be constructed in conformance with the standards set forth in subsections (c), (d), (e), (f), (g) and (h) below.

(b) Off-street parking spaces for Civic and Recreational uses shall be provided in quantities not less than set forth in the following schedule:

Principal Use	Required Spaces
Church or other place of worship	One for each five seats in the main assembly room.
Art galleries, libraries, museums	Ten plus one additional for each 300 square feet of floor area in excess of 2,000 square feet.
Fraternal organizations, private clubs	One for each five seats in the main auditorium or assembly room.
Indoor theaters	One for each five seats in the main auditorium.

A building occupied by one use shall provide off-street parking as required for that specific use. A building or a group of buildings occupied by two or more uses shall provide spaces for not less than the sum of the spaces required for each use.

(c) Each side of a parking area in the Central Business District which is less than ten feet from a street right-of-way line shall be effectively screened by dense, evergreen hedges. Such hedges shall not be less than two feet or more than six feet in height.

(d) All required off-street parking spaces shall be provided on the same lot as the use served.

(e) Each use shall be permitted one two-way access driveway or two one-way access driveways for each seventy-five feet of street and alley frontage of the lot occupied by that use. Such access driveways shall be at least ten feet, but not more than twelve feet, in width for each direction, and shall not be located less than fifteen feet from the right-of-way line of an alley which intersects the same street or alley as the proposed access driveways. No access driveway shall be located less than fifteen feet from any other access driveway which intersects the same street or alley as the proposed access driveway.

(f) Off-street parking areas shall be so designed that all required parking spaces are accessible and that no parking or maneuvering incidental to parking shall be on any street, alley or sidewalk.

(g) Adequate area shall be provided on each lot for the accumulation of snow which is removed from the off-street parking areas located on that lot.

(h) If a lot is already built upon then the required off-street parking spaces for any new use built upon the same lot shall be provided only within the area remaining after all applicable yard, lot coverage, lot area and off-street parking requirements have been applied to the existing use.

(i) A parking garage or carport which faces a street or an alley shall be located at least twenty feet from the right-of-way line of such street or alley. (Ord. 4-87. Passed 3-23-87.)

(j) Off street parking spaces for health care facilities including nursing homes and medical service organizations to be provided in an amount determined by the Service Director to provide parking for employees and visitors and such parking spaces to be provided not in consistent with the New Philadelphia Zoning Code. (Ord. 80-2002. Passed 10-28-02.)

1165.05 SPECIAL REGULATIONS FOR DRIVE-IN BANKING FACILITIES.

Each drive-in banking facility shall conform to the following requirements, in addition to all other applicable regulations, before being permitted in the Central Business District:

(a) A drive-in banking facility shall only be permitted if it is an integral part of, and clearly incidental and subordinate to, a walk-in banking facility. The number of bays of a drive-in banking facility shall be less than the number of teller windows of the walk-in banking facility it is accessory to.

(b) Five vehicle waiting spaces shall be expressly designated and provided for each bay of a drive-in banking facility.

(c) Only one two-way access driveway or two one-way access driveways shall be permitted for each drive-in banking facility. Such access driveways shall be at least ten feet, but not more than twelve feet, in width for each direction, and shall not be located less than fifteen feet from the right-of-way line of an alley which intersects the same street or alley as the proposed access driveways, or less than twenty-five feet from the right-of-way line of a street which intersects the same street or alley as the proposed access driveways. No access driveway shall be located less than fifteen feet from any other access driveway which intersects the same street or alley as the proposed access driveway. (Ord. 4-87. Passed 3-23-87.)

1165.06 PERMITTED ACCESSORY USES.

In the Central Business District accessory uses, buildings or structures may be established provided such uses are customarily accessory and clearly incidental and subordinate to the permitted principal use. Accessory uses in the Central Business District may include the following:

(a) Garages, or carports, storage sheds or other structures.

(b) The placement, number and nature of signs shall be governed by the following regulations:

(1) No more than two identification signs shall be permitted for each permitted principal use provided such signs do not exceed four square feet in area each.

(2) A single non-illuminated real estate sign advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed, during the period of active, diligent effort to sell, rent or lease such premises shall be permitted provided such sign is removed within fourteen days after an agreement to sell or lease is entered into.

(3) Political signs shall be permitted provided they are not erected more than thirty days prior to the election for which they are intended and are removed within forty-eight hours after such election.

(4) A single non-illuminated construction sign shall be permitted on the site of a building under construction or a subdivision under development provided such sign is used for identification purposes only and does not exceed forty square feet in area.

(5) Directional signs shall be permitted provided they do not exceed four square feet in area each.

(6) Temporary signs related to a specific holiday, religious event or historical observance, or to an event conducted by a church or by a public or private non-profit school or college, or to a community event, or to a porch, garage or yard sale, shall be permitted. Such signs shall not be erected more than thirty days prior to the event, holiday or observance for which they are intended and shall be removed within forty-eight hours after such event, holiday or observance.

(7) Temporary signs related to a sale to be held on the premises shall be permitted.

(8) The maximum total area of all the on-site signs located on the premises of a permitted principal use shall be related to the width of the street frontage of the building, or unit thereof, occupied by the use. The maximum permitted sign area for each use shall be determined by the following formula:

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Maximum sign area (in square feet) = W + 25

The elements of such formula being defined as follows:

Maximum sign area = the sum of the areas of all the on-site signs located on the premises.

W = the width of the street frontage of the facade of the building, or unit thereof, occupied by the use.

Example: Assume a store twenty feet wide faces one street in the Central Business District. Maximum total area of signs = 20 + 25 = 45.

In no case shall the maximum permitted sign area for a use exceed eighty square feet.

(9) All on-site signs shall be attached to a building wall, marquee, canopy or other similar weather cover. No sign shall be attached to or project from the roof of a building, nor shall any sign extend beyond the top or end of the wall, marquee, canopy or weather cover to which it is attached. No portion of any sign shall project outward more than one foot from the face of the wall, marquee, canopy or other weather cover to which it is attached.

(10) Illuminated signs shall be permitted unless specifically prohibited. No sign, other than those conveying information such as the time and the temperature, shall be illuminated by moving or flashing lights, nor shall any sign, or any part thereof, revolve, oscillate or otherwise move. Illumination used on or with respect to any sign shall not be directed to such an extent that it interferes materially with the use and enjoyment of any other premises.
(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1167
Business District

1167.01 Business District objectives.
1167.02 Permitted principal uses.
1167.03 Yard requirements for permitted principal uses.
1167.04 Height regulations for permitted principal uses.
1167.05 Off-street parking requirements for permitted principal uses.
1167.06 Screening requirements for business uses located adjacent to residential uses.
1167.07 Special regulations for gasoline stations.
1167.08 Special regulations for drive-in business facilities.
1167.09 Permitted accessory uses.
1167.10 Light industrial assembly manufacturing.
1167.11 Daycare facilities.
1167.12 Business Zone Type B.
1167.13 Sign limitations within Business Zone Type B.

CROSS REFERENCES

Interpretation of district boundaries - see P. & Z. 1135.01
Appeals - see P. & Z. Ch. 1145, 1149
Nonconforming uses - see P. & Z. Ch. 1147

1167.01 BUSINESS DISTRICT OBJECTIVES.

District regulations are established in this section to carry out the purposes which are stated in the preamble to this Zoning Code especially to achieve the following objectives:

(a) To provide sufficient but not excessive land area for the business and commercial needs of the community.

(b) To foster the continuation of existing business and commercial establishments and to provide appropriate space for their expansion and for development of new business and commercial establishments.

(c) To encourage the tendency of business and commercial establishments to group in centers for the mutual advantage of such establishments and their customers.

(d) To prohibit development which would create detrimental or blighting influences upon the premises or the neighborhood or which would be incompatible or impair the enjoyment of neighboring premises.

(e) To insure the availability of suitable areas for business and commercial uses by discouraging unrelated uses in such areas.

(f) To promote in accordance with a well-considered plan, the most desirable and beneficial use of land and structures in order to stabilize and protect the character and value of land development within the City.
(Ord. 4-87. Passed 3-23-87.)

1167.02 PERMITTED PRINCIPAL USES.

To carry out the general purposes of this Zoning Code and specifically the objectives of Section 1167.01, the following principal uses are permitted in Business Districts:

(a) Offices: Administrative, professional, and services offices.

(b) Retail Sales:
- (1) The sale of food and beverages on premises and take out;
- (2) The sale of general merchandise;
- (3) The sale and leasing of new and used motor vehicles and recreational equipment;
- (4) The sale of nursery stock, garden supplies and equipment, monuments;
- (5) Wholesale offices and show rooms.

(c) Storage and Wholesale Facilities: Commercial storage of goods, supplies or equipment and the warehousing, wholesale marketing and distribution of such goods, supplies or equipment. Storage and wholesale facilities include: warehouses; storage units; wholesale operations; moving and storage company offices and warehouses; commercial vehicle storage; building materials; brick and lumber yards.

(d) Services:
- (1) Personal services.
- (2) Custom work shops.
- (3) Laundry agencies and Laundromats.
- (4) Repair services and shops.
- (5) Gasoline stations (provided they meet the supplementary regulations established in Section 1167.07), automobile washing facilities.
- (6) Radio and television stations, transmittal towers, telephone exchanges and utility distribution substations.
- (7) Hotels and motels.
- (8) Amusement and recreational facilities.
- (9) Mortuaries.
- (10) Rental equipment and sales related to rental equipment.

(e) Civic: Churches and other places of worship, art galleries, museums, libraries, memorials, monuments, fraternal organizations, private clubs.
(f) Recreational: Parks.
(g) Similar Principal Uses: Any other general commercial use not listed above determined as similar by the Board of Zoning Appeals in accordance with the standards set forth in Section 1153.05.
(h) Residential:
(1) Single family;
(2) Duplex;
(3) Multi-family. (Ord. 21-99. Passed 5-24-99.)

1167.03 YARD REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

In Business Districts, the minimum required yards for permitted principal uses shall be as follows:

(a) The minimum front yard depth shall be twenty-five feet or equal to the narrowest front yard depth of any building located on a contiguous lot and facing the same street, whichever is less.
(b) The minimum front yard depth shall be ten feet or equal to the narrowest front yard depth of any building located on a contiguous lot and facing the same alley, whichever is less.
(c) On a corner lot, the front yard requirements as stated in subsection (a) hereof shall apply to each side of the lot adjacent to a street.
(d) On a through lot, the front yard requirements as stated in subsection (a) hereof shall apply to each side of the lot adjacent to a street.
(e) All corner lots shall be subject to a more restrictive setback requirement than provided for by subsections (a), (b), (c) and (d) hereof, if the Director of Public Safety determines that a site distance problem is present.

(f) At the intersection of two streets, nothing exceeding the height of three and one-half feet above the respective centerline elevations of each street shall be erected, placed, planted or allowed to grow within the setback area as previously defined. This restriction will apply only for a distance of twenty-five feet from the right-of-way line of each street regardless of the size of the tract. (Ord. 4-87. Passed 3-23-87.)

1167.04 HEIGHT REGULATIONS FOR PERMITTED PRINCIPAL USES.

Buildings located in Business Districts shall not exceed a height of sixty feet. This height regulation does not apply to spires, belfries, cupolas, antennae, ventilators, chimneys or other appurtenances, usually required to be placed above the roof level and not intended for human occupancy. (Ord. 4-87. Passed 3-23-87.)

1167.05 OFF-STREET PARKING REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

In Business Districts, off-street parking shall be provided for all permitted principal uses as follows:

(a) Off-street parking spaces for permitted principal uses shall be provided in quantities no less than set forth in the following schedule:

Principal Use	Required Spaces
Administrative and professional offices and services (except medical and dental services)	One for each 300 square feet of gross floor area.
Medical and dental services	One for each 150 square feet of gross floor area.
Eating and drinking places	One for each 100 square feet of gross floor area.
General retail sales (except furniture, floor coverings, and wall coverings sales)	One for each 250 square feet of gross floor area plus one for each two employees.
Furniture, floor coverings and wall coverings sales	Two plus one for each 1,500 square feet of gross floor area over 1,000 square feet.
Motor vehicle and recreational equipment sales	One for each 1,500 square feet of sales and display area.
Nursery stock, garden supplies and equipment and monument sales	One for each 1,500 square feet of sales and display area.

(Ord. 5-2012. Passed 3-26-12.)

Principal Use (Cont.)	Required Spaces (Cont.)
Wholesale offices and show rooms	One for each 700 square feet of gross floor area.
Personal services, custom work shop, laundry agencies and laundromats, repair services	One for each 300 square feet of gross floor area.
Repair shops for motor vehicles and recreational equipment	One for each 500 square feet of gross floor area.
Hotels and motels	Five plus one for each guest room.
Skating rinks	One for each 250 square feet of gross floor area.
Bowling alleys	Five for each alley.
Racquet sports facilities	Three for each court.
Theaters	One for each five seats.
Other amusements or recreational services	One for each 300 square feet of gross floor area.
Mortuaries	One for each 100 square feet of floor area in slumber rooms, parlors or individual funeral service rooms.
Church or other place of worship	One for each five seats in the main auditorium or assembly room.
Art galleries, libraries, museums	Ten plus one additional for each 300 square feet of floor area in excess of 2,000 square feet.
Fraternal organizations, private clubs	One for each five seats in the main auditorium or assembly room.
Shopping mall peripheral properties	Four for each 1,000 square feet of gross leasable area.
Rental supplies, tools, appliances and party supplies	One for each 400 square feet gross floor area.

A building occupied by one use shall provide off-street parking spaces as required for that specific use. A building or a group of buildings occupied by two or more uses shall provide spaces for not less than the sum of the spaces required for each use. References to employees refer to the number of employees on duty during normal peak periods.

(b) Each use shall be permitted one two-way access driveway or two one-way access driveways for each seventy-five feet of street and alley frontage of the lot occupied by that use. Such access driveways shall be at least ten feet, but not more than eighteen feet, in width for each direction, and shall not be located less than fifteen feet from the right-of-way line of an alley which intersects the same street or alley as the proposed access driveways, or less than twenty-five feet from the right-of-way line of a street which intersects the same street or alley as the proposed access driveways. No access driveway shall be located less than fifteen feet from any other access driveway which intersects the same street or alley as the proposed access driveway.

(c) Off-street parking areas shall be so designed that all required parking spaces are accessible and that no parking or maneuvering incidental to parking shall be on any street, alley or sidewalk.

(d) Adequate area shall be provided on each lot for the accumulation of snow which is removed from the off-street parking areas located on that lot.

(e) If a lot is already built upon, then the required off-street parking spaces for any new use built upon the same lot shall be provided only within the area remaining after all applicable yard, lot coverage, lot area and off-street parking requirements have been applied to the existing use and provided that this tract has not been designated for parking provided under subsection (g) hereof otherwise restricted.

(f) The minimum setback for a parking garage or carport which faces a dedicated street, alley, lane or drive shall be twenty feet.

(g) All required off-street parking spaces shall be provided on the same lot as the use served, or on a contiguous lot owned by the same party.

(Ord. 35-88. Passed 6-27-88; Ord. 25-93. Passed 5-10-93.)

1167.06 SCREENING REQUIREMENTS FOR BUSINESS USES LOCATED ADJACENT TO RESIDENTIAL USES.

Each side of an occupied lot in a Business District which is contiguous to a lot located in a Residential District shall be provided with effective screening. Such screening shall consist of a dense evergreen hedge or a solid, natural-finish wooden fence, and shall not be less than four feet or more than six feet in height.
(Ord. 4-87. Passed 3-23-87.)

1167.07 SPECIAL REGULATIONS FOR GASOLINE STATIONS.

In addition to all other applicable regulations, each gasoline station shall conform to the following regulations:

(a) No main building or accessory structure shall be located less than fifty feet from any lot in a Residential District. (Ord. 4-87. Passed 3-23-87.)

(b) Each gasoline station shall be permitted a total storage of 100,000 gallons of fuel, lubricating oil and/or gasoline provided, however, that the installation and maintenance of the storage facilities must conform to the laws of the State of Ohio regulating the same. An airtight filler pipe connector made of non-sparking material so as to prevent overflowing of the filler pipe shall be used on all storage tanks used for the storage of gasoline, lubricating oil or other motor fuels. (Ord. 44-2003. Passed 9-22-03.)

(c) The owner or occupant of any gasoline station which becomes vacant and remains vacant for a period of ninety days shall, at the discretion of the Fire Chief and the Director of Public Safety, either remove all fuel storage tanks located on the premises or fill them with an appropriate substance. Notice to remove or fill such storage tanks shall be given by certified mail to the owner or the occupant of the premises and such work shall be completed within thirty days of notification.
(Ord. 4-87. Passed 3-23-87.)

1167.08 SPECIAL REGULATIONS FOR DRIVE-IN BUSINESS FACILITIES.

Five vehicle waiting spaces shall be expressly designed and provided for each bay of a drive-in banking facility, drive-through food and beverage store or automobile washing facility, or each serving window of a restaurant which serves food and beverages to customers in motor vehicles for consumption outside the premises.
(Ord. 4-87. Passed 3-23-87.)

1167.09 PERMITTED ACCESSORY USES.

In Business Districts, accessory uses, buildings or structures may be established provided such uses are customarily accessory and clearly incidental and subordinate to the permitted principal use. Accessory uses may include the following:

(a) Garages, or carports, storage sheds or other structures.

(b) The placement, number and nature of signs shall be governed by the following regulations:

(1) A single non-illuminated real estate sign advertising the sale, rental or lease of the premises on which the sign is displayed, during the period of active, diligent effort to sell, rent or lease such premises shall be permitted provided such sign is removed within fourteen days after an agreement to sell or lease is entered into.

(2) Political signs shall be permitted provided they are not erected more than thirty days prior to the election for which they are intended and are removed within forty-eight hours after such election.

(3) A single non-illuminated construction sign shall be permitted on the site of a building under construction or a subdivision under development provided such sign is used for identification purposes only and does not exceed forty square feet in area.

(4) Directional signs shall be permitted provided they do not exceed four square feet in area each.

(5) Temporary signs related to a specific holiday, religious event or historical observance, or to an event conducted by a church or by a public or private non-profit school or college, or to a community event, or to a porch, garage or yard sale, shall be permitted. Such signs shall not be erected more than thirty days prior to the event, holiday or observance for which they are intended and shall be removed within forty-eight hours after such event, holiday or observance.

(6) Temporary signs related to a sale to be held on the premises shall be permitted.

(7) The maximum total area of all the on-site signs located on the premises of a permitted principal use shall be related to the width of the street frontage of the building, or unit thereof, occupied by the use. The maximum permitted sign area for each use shall be determined by the following formula:

$$\text{Maximum sign area (in square feet)} = W + 40$$

The elements of such formula being defined as follows:

Maximum sign area = the sum of the areas of all the on-site signs located on the premises.

W = the width of the street frontage of the facade of the building, or unit thereof, occupied by the use.

Example: Assume a store thirty feet wide faces one street in a Business District. Maximum total area of on-site signs =
30 + 40 = 70.

In no case shall the maximum permitted sign area for a use exceed two hundred square feet.

(8) No sign, or any part thereof, shall be located on or extend above a public right-of-way.

(c) Fences, walls and hedges shall be permitted provided they are not electrified and that barbed wire does not constitute any part of such fences, walls and hedges. No fence, wall or hedge shall exceed a height of six feet above the finished grade. Gate should be same height as the rest of the fence. Gate should open from the inside.

(d) "Private swimming pool" means any pool, ground level or elevated; where swimming is normally permitted, not located within a completely enclosed building, and containing or normally capable of containing water to a depth at any point greater than one and one-half feet and having a surface area of 200 square feet or more. No such swimming pool shall be allowed unless it complies with the following conditions and requirements:

(l) The pool is intended and is to be used solely for the enjoyment of the occupant and guests of the principal use of the property on which it is located.

(2) The pool, accessory buildings, patio or other structures shall not be located in any front yard or within any required side or rear yard setback.

(3) The swimming pool area of ground level pools, an area five feet beyond and surrounding elevated pools, or the entire rear or side property on which the property is located shall be enclosed within a permanent fence not less than five feet in height. Such a fence shall be erected around a swimming pool before it is filled with water.

(4) No lighting used on or with respect to any swimming pool shall be directed or reflected outside the premises on which the swimming pool is located to such an extent that it interferes materially with the use and enjoyment of any other premises.

(5) The area of the pool, elevated decks and accessory buildings will be included as part of the total lot coverage permitted in the Zoning District where the pool is located.

(Ord. 4-87. Passed 3-23-87.)

1167.10 LIGHT INDUSTRIAL ASSEMBLY MANUFACTURING.

(a) Light Industrial Assembly Manufacturing shall be permitted in compliance with the following standards:

(1) That such a use is appropriate and conforms to the basic characteristics of the business district classification.

(2) That such a use does not create dangers to health and safety, and does not create offensive noise, vibration, dust, heat, odor, glare or other objectionable influences to an extent greater than normally resulting from other uses listed within the business district classification.

(3) That such a use does not create traffic to a greater extent than other uses listed within the business district classification.

(b) Light Industrial Assembly Manufacturing shall require a permit obtained as follows:

(1) An application for specific property and purpose must be presented to the Planning Commission; and

(2) Upon Planning Commission recommendation, Council may grant a "Light Industrial Assembly Manufacturing" permit by resolution.

(c) A Light Industrial Assembly Manufacturing permit shall be required for each new assembly manufacturing process.

(d) No Light Industrial Assembly Manufacturing process shall be commenced in a Business District until a permit has been approved pursuant to this section.
(Ord. 3-97. Passed 1-27-97.)

1167.11 DAYCARE FACILITIES.

(a) Daycare facilities shall be permitted in a business district providing all State regulations and New Philadelphia basis zoning regulations be complied with.

(b) Off street parking shall be required for each daycare center, one parking place per employee, and one parking place for each five children attending the daycare center.
(Ord. 83-99. Passed 12-13-99.)

1167.12 BUSINESS ZONE TYPE B.

Business Zone Type B shall contain all of the foregoing business district zoning requirements from 1167.01 through 1167.11 with the additional restrictions and modifications as follows:

(a) Side set back from the property line for all construction shall be not less than five (5) feet.

(b) Front set back from the property line for all construction shall be not less than fifty (50) feet.

(c) Rear set back from the property line for all construction shall be not less than ten (10) feet.

(d) Lot size shall be not less than ten thousand (10,000) feet.

(e) The lot coverage shall not exceed sixty percent (60%) of the lot size.
(Ord. 17-2004. Passed 5-24-04.)

1167.13 SIGN LIMITATIONS WITHIN BUSINESS ZONE TYPE B.

No sign shall be located within the Business Zone Type B District within fifteen (15) feet from the front property line. All other sign restrictions and requirements set forth in Chapter 1167 and the remainder of the Codified Ordinances of the City of New Philadelphia, Ohio shall apply.
(Ord. 42-2004. Passed 8-23-04.)

CHAPTER 1169
Industrial District

1169.01 Industrial District objectives.
1169.02 Permitted principal uses.
1169.03 Yard requirements for permitted principal uses.
1169.04 Off-street parking requirements for permitted principal uses.
1169.05 Screening requirements for industrial uses located adjacent to other uses.
1169.06 Special regulations for gasoline stations.
1169.07 Special regulations for drive-in commercial service facilities.
1169.08 Permitted accessory uses.
1169.09 Industrial Overlay District.

CROSS REFERENCES

Interpretation of district boundaries - see P. & Z. 1135.01
Appeals - see P.& Z. Ch. 1145, 1149
Nonconforming uses - see P. & Z. Ch. 1147

1169.01 INDUSTRIAL DISTRICT OBJECTIVES.

District regulations are established in this section to carry out the purposes which are stated in the preamble to this Zoning Code and especially to achieve the following objectives:

(a) To provide, in appropriate and convenient locations, sufficient but not excessive land area for industrial uses in order to promote employment and strengthen the economy of the community.

(b) To foster the continuation of existing industrial uses and to provide appropriate space for their expansion and for development of new industrial uses.

(c) To prohibit industrial development which would create detrimental or blighting influences upon the premises or the neighborhood or which would be incompatible with and detrimental to adjacent and surrounding uses.

(d) To insure the availability of suitable areas for industrial uses by discouraging unrelated or incompatible uses in such areas.

(e) To promote, in accordance with a well-considered plan, the most desirable and beneficial use of land and structures in order to stabilize and protect the character of land development within the City.

(Ord. 4-87. Passed 3-23-87.)

1169.02 PERMITTED PRINCIPAL USES.

To carry out the general purposes of this Zoning Code and specifically the objectives of Section 1169.01, the following principal uses are permitted in Industrial Districts:

(a) Commercial Service Facilities: This category refers to facilities which are primarily intended to provide services or products for commercial or industrial customers, or which generally require greater or more offensive use of machinery or equipment, than are associated with sales and service uses permitted in other districts, and which do not primarily involve retail sales for residential use. Commercial service facilities include: animal hospitals and kennels; automobile and truck washing establishments (provided they meet the regulations established in Section 1169.07); blue printing, letter printing and job printing; building material sales; contracting or trade facilities including electrical, glazing, heating, plumbing, painting, roofing, ventilating and similar contractors' establishments; crematories; dry cleaning and carpet cleaning; gasoline stations (provided they meet the supplementary regulations established in Section 1169.06); greenhouses and nurseries; laundries, linen, towel and diaper cleaning and supply; machinery sales, rental and storage; motor vehicle sales and rental; storage service and repair; photographic developing and printing; sign painting shops; soldering and welding shops.

(b) Storage and Wholesale Facilities: This category refers to the commercial storage of goods, supplies or equipment and the warehousing, wholesale marketing and distribution of such goods, supplies or equipment. Storage and wholesale facilities include: warehouses; wholesale operations; moving and storage company offices and warehouses; commercial vehicle storage; building materials, brick and lumber yards.

(c) Public Service and Utilities Facilities: This category refers to publicly or privately owned facilities provided or relating to the furnishing to the public of essential services including: water; sanitary sewer service; storm sewer service; parking facilities; maintenance of parks and other recreational areas and facilities; maintenance of streets; garbage and rubbish removal; electrical, gas and other fuel service; telephone service; radio and television stations and transmittal towers. (Ord. 4-87. Passed 3-23-87.)

(l) Jail law enforcement facilities. This category refers to facilities furnishing housing, education and/or related facilities for prisoners, and/or facilities to house any type of law enforcement personnel and facilities for law enforcement purposes.
(Ord. 34-89. Passed 4-24-89.)

(d) Research and Development Facilities: This category refers to facilities for research, design, experimental production and testing operations.

(e) Manufacturing Facilities: This category refers to facilities for the processing of goods, supplies and equipment. Manufacturing facilities include: apparel or other textile products from already produced textile goods; automobiles, trucks or trailers and parts and accessories thereof; beverages; boats and related products and accessories; bottling works; brushes and brooms; cameras and photographic equipment except film; carpentry, woodworking

and cabinets; carpets; canvas or canvas products; ceramic products such as pottery, small glazed tile and similar products; chemical compounding and packaging; concrete products and concrete batching; cosmetics or toiletries; electrical appliances and equipment; electrical supplies including wire or cable, switches, insulation, batteries and similar products; electrical machinery; food products and processing, except slaughtering of meat or preparation of fish for packaging; fur goods, not including hide tanning; glass products, not including glass manufacturing; hair, felt or feather products except washing, dyeing and curling; hosiery; household or office equipment machinery; ice, dry or natural; ink or inked ribbon; jute, hemp, sisal or oakum products; leather products, not including hide tanning or dyeing; luggage; light machinery such as lawn mowers; machine tools such as drills, saws; mattresses and bedding; metal finishing and plating; metal stamping or extrusion; medical supplies; mirror silvering and glass cutting; musical instruments; novelty products; optical equipment; clocks and similar precision instruments; orthopedic or medical devices; paper products and paper board products, not including paper rolling or manufacturing; perfumes, compounding only; plastic products; printing or publishing; rubber products, not including manufacture of natural or synthetic rubber; silverware and silver products; silverplating; soap and detergent packaging only; soldering and welding operations; sporting goods and athletic equipment; stationery; steel products, miscellaneous manufacturing and assembly; tobacco products; tool and die shops, pattern making and similar operations; toys; upholstering; venetian blinds, window shades and similar products; wax products; wood products.

(f) Similar Uses: Any other industrial use not listed above or in any other use classification and determined as similar by the Board of Zoning Appeals in accordance with the standards set forth in Section 1153.05.
(Ord. 4-87. Passed 3-23-87.)

1169.03 YARD REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

In Industrial Districts, the minimum required yards for permitted principal uses shall be as follows:

(a) The minimum front yard depth shall be twenty-five feet or equal to the narrowest front yard depth of any building located on a contiguous lot and facing the same street, whichever is less.

(b) The minimum front yard depth shall be ten feet or equal to the narrowest front yard depth of any building located on a contiguous lot and facing the same alley, whichever is less.

(c) On a corner lot, the front yard requirements as stated in subsection (a) hereof shall apply to each side of the lot adjacent to a street.

(d) On a through lot, the front yard requirements as stated in subsection (a) hereof shall apply to each side of the lot adjacent to a street.

(e) All corner lots shall be subject to a more restrictive setback requirement than provided for by subsections (a), (b), (c) and (d) hereof if the Director of Public Safety determines that a site distance problem is present.

(f) At the intersection of two streets, nothing exceeding the height of three and one-half feet above the respective centerline elevations of each street shall be erected, placed, planted or allowed to grow within the setback area as previously defined. This restriction will apply only for a distance of twenty-five feet from the right-of-way line of each street regardless of the size of the tract. (Ord. 4-87. Passed 3-23-87.)

1169.04 OFF-STREET PARKING REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

In Industrial Districts, off-street parking shall be provided for all permitted principal uses as follows:

(a) Off-street parking spaces for industrial uses shall be provided in quantities not less than set forth in the following schedule:

Principal Use	Required Spaces
Commercial Service Facilities	One for each 500 square feet of gross floor area plus one for each 1,000 square feet of outdoor storage area.
Storage and Wholesale Facilities	One for each 1,000 square feet of gross floor area plus one for each 2,000 square feet of outdoor storage area.
Public Service and Utilities Facilities	One for each 1,000 square feet of gross floor area plus one for each 2,000 square feet of outdoor storage area.
Research and Development Facilities	One for each 400 square feet of gross floor area.
Manufacturing	One for each 500 square feet of gross floor area plus one for each 1,000 square feet of outdoor storage area.

A building occupied by one use shall provide off-street parking spaces as required for that specific use. A building or a group of buildings occupied by two or more uses shall provide spaces for not less than the sum of the spaces required for each use.

(b) Each use shall be permitted one two-way access driveway or two one-way access driveways for each seventy-five feet of street and alley frontage of the lot occupied by that use. Such access driveways shall be at least ten feet, but not more than eighteen feet, in width for each direction, and shall not be located less than fifteen feet from the right-of-way line of an alley which intersects the same street or alley as the proposed access driveways, or less than twenty-five feet from the right-of-way line of a street which intersects the same street or alley as the proposed access driveways. No access driveway shall be located less than fifteen feet from any other access driveway which intersects the same street or alley as the proposed access driveway.

(c) Off-street parking areas shall be so designed that all required parking spaces are accessible and that no parking or maneuvering incidental to parking shall be on any street, alley or sidewalk.

(d) Adequate area shall be provided on each lot for the accumulation of snow which is removed from the off-street parking areas located on that lot.

(e) If a lot is already built upon then the required off-street parking spaces for any new use built upon the same lot shall be provided only within the area remaining after all applicable yard, lot coverage, lot area and off-street parking requirements have been applied to the existing use and provided that this tract has not been designated for parking provided under subsection (g) hereof or otherwise restricted.

(f) The minimum setback for a parking garage or carport which faces a dedicated street, alley, lane or drive shall be twenty feet.

(g) All required off-street parking spaces shall be provided on the same lot as the use served, or on a contiguous lot owned by the same party.

(Ord. 4-87. Passed 3-23-87.)

1169.05 SCREENING REQUIREMENTS FOR INDUSTRIAL USES LOCATED ADJACENT TO OTHER USES.

Each side of an occupied lot in an Industrial District which is contiguous to a lot located in any other kind of district shall be provided with effective screening. Such screening shall consist of a dense evergreen hedge or a solid, natural-finish wooden fence, and shall not be less than four feet or more than six feet in height.

(Ord. 4-87. Passed 3-23-87.)

1169.06 SPECIAL REGULATIONS FOR GASOLINE STATIONS.

In addition to all other applicable regulations, each gasoline station shall conform to the following regulations:

(a) No main building or accessory structure shall be located less than fifty feet from any lot in a Residential District.

(b) Each gasoline station shall be permitted a total storage of 50,000 gallons of fuel, lubricating oil and/or gasoline provided, however, that the installation and maintenance of the storage facilities must conform to the laws of the State regulating the same. An airtight filler pipe connecter made of nonsparking material, so as to prevent overflowing of the filler pipe shall be used on all storage tanks used for the storage of gasoline, lubricating oil or other major fuels.

(c) The owner or occupant of any gasoline station which becomes vacant and remains vacant for a period of ninety days shall, at the discretion of the Fire Chief and the Director of Public Safety, either remove all fuel storage tanks located on the premises or fill them with an appropriate substance. Notice to remove or fill such storage tanks shall be given by certified mail to the owner or the occupant of the premises and such work shall be completed within thirty days of notification.

(Ord. 4-87. Passed 3-23-87.)

1169.07 SPECIAL REGULATIONS FOR DRIVE-IN COMMERCIAL SERVICE FACILITIES.

Five vehicle waiting spaces shall be expressly designed and provided for each bay of an automobile or truck washing establishment, or other drive-in commercial service facility located in an Industrial District.

(Ord. 4-87. Passed 3-23-87.)

1169.08 PERMITTED ACCESSORY USES.

In Industrial Districts, accessory uses, buildings or structures may be established provided such uses are customarily accessory and clearly incidental and subordinate to the permitted principal use. Accessory uses may include the following:

(a) Parking garages and off-street parking areas; storage garages and other maintenance and storage facilities.

(b) The placement, number and nature of signs shall be governed by the following regulations:

(1) A single non-illuminated real estate sign advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed, during the period of active, diligent effort to sell, rent or lease such premises shall be permitted provided such sign is removed within fourteen days after an agreement to sell or lease is entered into.

(2) Political signs shall be permitted provided they are not erected more than thirty days prior to the election for which they are intended and are removed within forty-eight hours after such election.

(3) A single construction sign shall be permitted on the site of a building under construction or a subdivision under development provided such sign is used for identification purposes only and does not exceed forty square feet in area.

(4) Directional signs shall be permitted provided they do not exceed four square feet in area each.

(5) Temporary signs related to a specific holiday, religious event or historical observance, or to an event conducted by a church or by a public or private non-profit school or college, or to a community event, or to a porch, garage or yard sale, shall be permitted. Such signs shall not be erected more than thirty days prior to the event, holiday or observance for which they are intended and shall be removed within forty-eight hours after such event, holiday or observance.

(6) The maximum total area of all the on-site signs located on the premises of a permitted principal use that abuts a residentially zoned parcel shall be related to the width of the street frontage of the building, or unit thereof, occupied by the use. The maximum permitted sign area for each use shall be determined by the following formula:

Maximum sign area (in square feet) = W + 40

The elements of such formula being defined as follows:

Maximum sign area = the sum of the areas of all the on-site signs located on the premises.

W = the width of the street frontage of the facade of the building, or unit thereof, occupied by the use.

Example: Assume an industrial use sixty feet wide faces one street in an Industrial District. Maximum total area of signs =
60 + 40 = 100 square feet.

In no case shall the maximum permitted sign area for a use exceed two hundred square feet.

(7) No sign, or any part thereof, shall be located on or extend above a public right of way. (Ord. 4-87. Passed 3-23-87.)

1169.09 INDUSTRIAL OVERLAY DISTRICT.

(a) The City does hereby create a Tech Industrial Overlay Zone as described and with the detail outlined in the Tech Industrial Overlay District which is attached to Ordinance 10-2011 and is hereby incorporated herein.

(b) The Tech Industrial Overlay District shall be applied to the Tuscarawas Regional Technology Park and be an additional zoning requirement for such Tuscarawas Regional Technology Park.

(Ord. 10-2011. Passed 8-8-11.)

CHAPTER 1171
House Trailer Park District

1171.01 House Trailer Park objectives.
1171.02 Permitted principal uses.
1171.03 Lot area requirements for permitted principal uses.
1171.04 Streets, alleys and sidewalks.
1171.05 Sanitary sewer, water, electricity and toilet facilities.
1171.06 Skirting of house trailers.
1171.07 Screening.
1171.08 Other regulations.
1171.09 Permitted accessory uses.
1171.10 House trailers in locations other than house trailer parks.

CROSS REFERENCES

House trailer parks - see OAC Ch. 3701-27
House trailer defined - see P. & Z. 1131.39
Interpretation of district boundaries - see P. & Z. 1135.01

1171.01 HOUSE TRAILER PARK OBJECTIVES.

District regulations are established in this section to carry out the purposes which are stated in the preamble to this Zoning Code and especially to achieve the following objectives:

(a) To recognize house trailers in properly developed house trailer parks as important components of the City's housing stock.

(b) To regulate the bulk and spacing of buildings and other structures in order to assure proper light, air, privacy and usable open space.

(c) To protect residents from nuisances and objectionable influences such as abnormal vehicular traffic, offensive noises, noxious fumes, odors and dust.

(d) To regulate the density of population in scale with existing and proposed community facilities and services.

(e) To promote, in accordance with a well-considered plan, the most desirable and beneficial use of land and structures in order to stabilize and protect the character of land development within the City.

(Ord. 4-87. Passed 3-23-87.)

1171.02 PERMITTED PRINCIPAL USES.

To carry out the general purposes of this Zoning Code and specifically the objectives of Section 1171.01, the following principal uses are permitted in House Trailer Parks:

(a) House trailers.

(b) Service and laundry facilities.

(c) Management and sales offices.

(Ord. 4-87. Passed 3-23-87.)

1171.03 LOT AREA REQUIREMENTS FOR PERMITTED PRINCIPAL USES.

In House Trailer Parks, the minimum areas of lots which may be used for permitted principal uses shall be as follows:

(a) The minimum area of a lot for a house trailer shall be 4,800 square feet.

(Ord. 4-87. Passed 3-23-87.)

1171.04 STREETS, ALLEYS AND SIDEWALKS.

In House Trailer Parks, streets, alleys and sidewalks shall be provided in accordance with the regulations established by both the Ohio Department of Health and the City. All such streets, alleys and sidewalks shall be constructed in accordance with the standards and specifications established by the City Engineer.

(Ord. 4-87. Passed 3-23-87.)

1171.05 SANITARY SEWER, WATER, ELECTRICITY AND TOILET FACILITIES.

In House Trailer Parks, each house trailer shall be provided with City water, a sanitary sewer system connected to the City sewer system, and electrical connections, all of which shall be installed at the sole expense of the owners of the House Trailer Park. Each house trailer shall contain bathing facilities and toilet facilities.

(Ord. 4-87. Passed 3-23-87.)

1171.06 SKIRTING OF HOUSE TRAILERS.

In House Trailer Parks, each house trailer shall be provided with fire resistant skirting.

(Ord. 4-87. Passed 3-23-87.)

1171.07 SCREENING.

Where a House Trailer Park boundary line is contiguous with any District boundary line, the House Trailer Park shall be effectively screened by a dense, evergreen hedge or a solid, natural-finish wooden fence. Such hedges and fences shall not be less than four feet or more than six feet in height.

(Ord. 4-87. Passed 3-23-87.)

1171.08 OTHER REGULATIONS.

Aspects of House Trailer Parks not covered in this chapter shall be regulated in accordance with the Ohio Department of Health provisions concerning the design, construction and maintenance of House Trailer Parks.

(Ord. 4-87. Passed 3-23-87.)

1171.09 PERMITTED ACCESSORY USES.

In House Trailer Parks, accessory uses, buildings or structures may be established provided such uses are customarily accessory and clearly incidental and subordinate to the permitted principal use. Accessory uses in House Trailer Parks may include the following:

(a) Garages, carports, sheds or other similar structures.

(b) A home occupation shall be permitted in any house trailer or building accessory to a house trailer provided that:

(1) No person other than members of the family residing on the premises shall be engaged in such occupation.

(2) There shall be no change in the outside appearance of the house trailer or premises, or other visible evidence of the conduct of such home occupation other than one non-illuminated sign, provided such sign does not exceed four square feet in area.

(3) No equipment shall be used which creates objectionable disturbances beyond the premises.

(4) Traffic shall not be generated by such home occupation in significantly greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.

(c) The keeping of household pets including dogs, cats, rabbits, monkeys, canaries, parakeets and other kindred animals and fish usually and ordinarily kept as household pets is permitted. Domesticated animals including horses, mules, donkeys, cows, bulls, swine, sheep, goats, fowl and others shall not be permitted except on lots of at least two acres, and any structure used for housing such animals shall be at least 100 feet from all lot lines.

(d) The placement, number and nature of signs shall be governed by the following regulations:

(1) No more than two identification signs shall be permitted for each permitted principal use provided such signs do not exceed two square feet in area each.

(2) A single non-illuminated real estate sign advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed, during the period of active, diligent effort to sell, rent or lease such premises shall be permitted provided such sign is removed within fourteen days after an agreement to sell or lease is entered into.

(3) Political signs shall be permitted provided they are not erected more than thirty days prior to the election for which they are intended and are removed within forty-eight hours after such election.

(4) A single non-illuminated construction sign shall be permitted on the site of a building under construction or a subdivision under development provided such sign is used for identification purposes only and does not exceed forty square feet in area.

(5) Directional signs shall be permitted provided they do not exceed four square feet in area each.

(6) Temporary signs related to a specific holiday, religious event or historical observance, or to an event conducted by a church or by a public or private non-profit school or college, or to a community event, or to a porch, garage or yard sale, shall be permitted. Such signs shall not be erected more than thirty days prior to the event, holiday or observance for which they are intended and shall be removed within forty-eight hours after such event, holiday or observance.

(7) A home professional office or home occupation shall be permitted one non-illuminated sign provided such sign does not exceed four square feet in area.

(8) No signs erected in any yard shall exceed a height of six feet above the finished grade.

(9) Illuminated signs shall be permitted unless specifically prohibited. No signs, other than those conveying information such as the time and the temperature, shall be illuminated by moving or flashing lights, nor shall any sign, or any part thereof, revolve, oscillate or otherwise move. Illumination used on or with respect to any sign shall not be directed or reflected outside the premises on which the sign is located to such an extent that it interferes materially with the use and enjoyment of any other premises.

(10) No sign or any part thereof, shall be located on or extend above a public right of way.

(e) Fences, walls and hedges shall be permitted provided they are not electrified and that barbed wire does not constitute any part of such fences, walls and hedges. No fence, wall or hedge shall exceed a height of six feet above the finished grade. Gate should be same height as the rest of the fence. Gate should open from the inside.

(f) "Private swimming pool" means any pool, ground level or elevated; where swimming is normally permitted, not located within a completely enclosed building, and containing or normally capable of containing water to a depth at any point greater than one and one-half feet and having a surface area of 200 square feet or more. No such swimming pool shall be allowed unless it complies with the following conditions and requirements:

(1) The pool is intended and is to be used solely for the enjoyment of the occupant and guests of the principal use of the property on which it is located.

(2) The pool, accessory buildings, patio or other structures shall not be located in any front yard or within any required side or rear yard setback.

(3) The swimming pool area of ground level pools, an area five feet beyond and surrounding elevated pools, or the entire rear or side property on which the pool is located shall be enclosed within a permanent fence not less than five feet in height. Such a fence shall be erected around a swimming pool before it is filled with water. Gate should be the same height as the rest of the fence. Gate should open from the inside.

(4) No lighting used on or with respect to any swimming pool shall be directed or reflected outside the premises on which the swimming pool is located to such an extent that it interferes materially with the use and enjoyment of any other premises.

(5) The area of the pool, elevated decks and accessory buildings will be included as part of the total lot coverage permitted in the Zoning District where the pool is located.

(g) Accessory to each multi-family dwelling shall be a building for the collection and storage of garbage which conforms to the following regulations:

(1) Such a building shall be located a minimum of ten feet from any dwelling.

(2) Such a building shall include an entrance way which is a minimum of seven feet in height and three feet in width.

(3) The upper two feet of at least two of the walls of such a building shall be fully screened. (Ord. 4-87. Passed 3-23-87.)

1171.10 HOUSE TRAILERS IN LOCATIONS OTHER THAN HOUSE TRAILER PARKS.

House trailers shall not be permitted as dwellings in the City except when located in a House Trailer Park Zone. (Ord. 4-87. Passed 3-23-87.)

CHAPTER 1173
Penalties

1173.99 Penalties.

CROSS REFERENCES
Violation of rules and regulations - see Ohio R. C. 711.102
Unlawful transfer of lots - see Ohio R. C. 711.13, 711.15
Appeals - see P. & Z. 1145.01 et seq.
Amendment procedure - see P. & Z. 1151.01 et seq.

1173.99 PENALTIES.

(a) Whoever violates any provision of Section 1141.02, 1141.04 and 1153.01 shall be fined not more than fifty dollars ($50.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) Whoever violates any provision of this Zoning Code 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.
(Ord. 4-87. Passed 3-23-87.)

CHAPTER 1175
Condominiums

1175.02 Compliance required.
1175.02 Code requirements.
1175.03 Requirements for application for permit.
1175.04 Filing of application and declaration.
1175.05 Conveyance.
1175.06 Preparation of drawings; certification.
1175.07 Unit owners association; bylaws.
1175.08 Rubbish and garbage disposal.
1175.09 Fees.

1175.01 COMPLIANCE REQUIRED.

Condominium ownership is permitted in any multifamily use district as defined in this Zoning Code, provided the requirements of this chapter are met.
(Ord. 99-98. Passed 1-11-99.)

1175.02 CODE REQUIREMENTS.

Each condominium must meet all of the requirements of any building and housing code and all planning and zoning code requirements set out in the particular use, district, classification in which the condominium is contemplated. (Ord. 99-98. Passed 1-11-99.)

1175.03 REQUIREMENTS FOR APPLICATION FOR PERMIT.

Each application for a permit for a condominium use must contain the following:

(a) A declaration submitting the property to the provisions of Ohio R.C. Chapter 5311, signed by the owner, acknowledged in the provisions of Ohio R.C. Chapter 5311, signed by the owner, acknowledged in the presence of two witnesses and notarized;

(b) A legal description of the land;

(c) The name by which the condominium property shall be known, which shall include the word "condominium;"

(d) The purpose or purposes of the condominium property and the units and commercial facilities situated therein and the restrictions, if any, upon the use or uses thereof;

(e) The unit designation of each unit and a statement of its location, approximate area, number of rooms and the immediate common area or limited common area to which it has access, and any other data necessary for its proper identification;

(f) A general description of the building or buildings, stating the principal material of which it is or they are constructed and the number of stories, basements and units therein.

(g) A description of the common area and facilities and limited common area and facilities and percentage or percentages of interest therein appertaining to each unit, which percentages shall be in accordance with Ohio R.C. 5311.04;

(h) A statement that each unit owner shall be a member of a unit owners association which shall be established for the administration of the condominium property;

(i) The name of a person to receive service of process for the unit owners association, together with the residence or place of business of such person, which residence or place of business shall be in a county in which all or a part of the condominium property is situated;

(j) The method by which the declaration may be amended, which shall require the affirmative vote of those unit owners exercising not less than seventy-five percent of the voting power;

(k) Any further provisions deemed desirable. (Ord. 99-98. Passed 1-11-99.)

1175.04 FILING OF APPLICATION AND DECLARATION.

All applications and declarations submitting property to the provisions of Ohio R.C. Chapter 5311, which property lies wholly or in part within the City, shall be filed with the Service Director. All original drawings shall, when filed, have attached thereto a set of drawings of the condominium property, as provided in Section 1175.06, and a true copy of the by laws of the unit owners association, provided for in Section 1175.07. Any amendment to the declaration by which changes are effected in the bylaws or drawings shall, when filed, have attached thereto a true copy of the change in the bylaws or drawings.
(Ord. 99-98. Passed 1-11-99.)

1175.05 CONVEYANCE.

No interest in a unit shall be conveyed until the declaration, bylaws and drawings have been filed for record with the Service Director and a permit issued by the Service Director. Errors or omissions in the declaration, bylaws or drawings or failure to file the same for record shall not, however, affect the title of a grantee of a unit.
(Ord. 99-98. Passed 1-11-99.)

1175.06 PREPARATION OF DRAWINGS; CERTIFICATION.

A set of drawings shall be prepared for every condominium property which show graphically all the particulars of the building or buildings, including but not limited to, the layout, location and dimensions of the common areas and facilities and the limited common areas and facilities insofar as is graphically possible. Such drawings shall bear the certified statement of a registered surveyor and licensed professional engineer that the drawings accurately show the building or buildings as constructed. Such drawings shall also be approved by the City Engineer before filing with the Service Director. (Ord. 99-98. Passed 1-11-99.)

1175.07 UNIT OWNERS ASSOCIATION; BYLAWS.

(a) Every condominium property shall be administered by a unit owners association, which shall be govemed by bylaws. No modification of or amendment to bylaws is valid unless the same is set forth in an amendment to the declaration and such amendment is filed for record.

(b) The bylaws shall provide for the following:

(1) Election from among the unit owners of a board or managers of the unit owners association which shall exercise all power and authority of the unit owners association; the number of persons constituting the same and that the terms of not less than one-third of the members thereof expire annually; the powers and duties of the board; the compensation of its members and the method of their removal from office; and whether or not the services of a manager or managing agent may be engaged;

(2) The time and place for holding meetings; the manner of and authority for calling, giving notice of and conducting meetings; and the requirement, in terms of percentage of interest in the common areas and facilities, of a quorum;

(3) The election by the board of managers of a president, one or more vice presidents, a secretary, a treasurer and such other officers as the board of managers may desire;

(4) By whom and the procedure by which maintenance, repair and replacement of the common areas and facilities may be authorized;

(5) The common expenses for which assessments may be made and the manner of collecting from the unit owners their respective shares of common expenses;

(6) The method of distributing the common profits;

(7) By whom and the procedure by which administrative rules and regulations governing the operation and use of the condominium property or any portion thereof may be adopted and amended;

(8) The maintenance in a safe and orderly condition of all buildings, yards and other common areas and facilities;

(9) The regular collection and disposal of garbage and rubbish.

(Ord. 99-98. Passed 1-11-99.)

1175.08 RUBBISH AND GARBAGE DISPOSAL.

Before a permit is issued as provided in Section 1175.05, the permit holder shall endorse on the permit that the City will be saved and held harmless for the responsibility of any rubbish or garbage disposal from any units in the proposed condominium and that the permit seeker will accept sole responsibility for the provision of such rubbish and garbage collection and placement at public street location as determined by the Service Director. (Ord. 99-98. Passed 1-11-99.)

1175.09 FEES.

A fee of fifty dollars ($50.00) per unit shall be paid upon application for the permit and filing of the declaration as set forth herein. (Ord. 99-98. Passed 1-11-99.)

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART THIRTEEN - BUILDING CODE

Chap. 1307. Ohio Basic Building Code. (Repealed)

Chap. 1309. Building Permit Fees.

Chap. 1311. Moving of Buildings.

Chap. 1313. Licensing Plumbers.

Chap. 1321. Unsafe Structures.

Chap. 1329. Flood Damage Reduction.

Chap. 1333. Downtown Design Standards.

Chap. 1335. Housing Code.

Chap. 1337. Rodent and Insect Control.

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART THIRTEEN - BUILDING CODE

CHAPTER 1307
Ohio Basic Building Code (Repealed)

EDITOR'S NOTE: Former Chapter 1307 was repealed by Ordinance 15-2007, passed May 31, 2007.

CHAPTER 1309
Building Permit Fees

1309.01 Permit fees.
1309.99 Penalty.

CROSS REFERENCES

Fees for plan approval - see Ohio R.C. 3791.07
Permits and licenses required for trees and shrubs - see BUS. REG. Ch. 777; S.U. & P.S. Ch. 905
Building permits and certificates of occupancy - see P. & Z. 1135.01, 1135.02

1309.01 PERMIT FEES.

(a) The following fee schedule shall be used to determine the amount that shall accompany each application, and such moneys shall be deposited to the credit of the Department of Public Service to off-set material, filing office, surveying and inspection costs.

Use		Fee
(1)	Single-family dwelling	$40.00
(2)	Two-family dwelling	90.00
(3)	Three or more family units	120.00
(4)	Additions, Garages	30.00
(5)	Siding, Sheds, Decks, Porches	20.00
(6)	Commercial, industrial, and institutional buildings-	
	additions	100.00
	New Construction	175.00
(7)	For erection of a fence	20.00
(8)	For erection of a sign per face	20.00
(9)	For Certificate of Zoning Compliance	20.00
(10)	Demolition permit	20.00
(11)	In-ground swimming pool, tennis court, or other	
	outdoor recreational facility	25.00
(12)	Curbing, sidewalks, driveways, patios,	
	slabs, curb cuts	20.00
(13)	Lot split	30.00

(b) Every building permit shall state that the building or the proposed use of a building or land complies with all provisions of law.
(Ord. 25-2006. Passed 5-22-06.)

1309.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars ($50.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 6-77. Passed 2-14-77.)

CHAPTER 1311
Moving of Buildings

1311.01 Permit required.
1311.02 Bond or insurance.
1311.03 Supervision.
1311.04 Utility wires and obstructions.
1311.99 Penalty.

CROSS REFERENCES
Power to license house movers - see Ohio R. C. 715.27
Lights on slow-moving vehicles - see TRAF. 337.10

1311.01 PERMIT REQUIRED.

A permit shall be obtained from the Mayor before any house, structure or other type of building is moved over or upon any street, alley, lane or thoroughfare within the corporate limits of the City. (Ord. 2382. Passed 10-25-49.)

1311.02 BOND OR INSURANCE.

Prior to the issuance of the permit required under Section 1311.01 a good and sufficient bond must be given with two sureties or liability insurance from a reputable insurance company authorized to do business in Ohio, for five thousand dollars ($5,000) for property damage and ten thousand dollars ($10,000) for personal injury or death liability before any house, structure or other type of building shall be moved over any of the streets, alleys, lanes or thoroughfares within the City. The insurance or bond shall be acceptable to and approved by the Mayor. The insurance or bond shall be conditioned as follows:

(a) In the event any person is injured or damaged in person or property as a result of carelessness or negligence in such moving of any structure as aforesaid, the person so injured or damaged in person or property shall have the right of action thereon directly against the insured or sureties upon such bond.

(b) The insurer, or the sureties in such bond shall pay all valid claims and judgments against the insured or the principle on the bond as the case may be, to the amount of such policy or bond accruing to any person by reason of damage to persons or property, arising from neglect or carelessness while engaged in such moving of any building as aforesaid. Such bond or insurance shall be in full force and effect for the full period of such moving.
(Ord. 2382. Passed 10-25-49.)

1311.03 SUPERVISION.

The supervision of the moving of any building over any of the streets, alleys, lanes or thoroughfares of the City shall be under the jurisdiction and direction of the Director of Public Service and the Police Department.
(Ord. 2382. Passed 10-25-49.)

1311.04 UTILITY WIRES AND OBSTRUCTIONS.

Prior to moving a building, permission must be obtained from the owner or his agent

of any telephone, telegraph, electric wires or any other wires or obstructions if the same need to be moved, cut or removed and the same shall be moved, cut or removed in accordance with the owner's wishes and replaced or repaired according to the owner's instructions, at the mover's expense.
(Ord. 2382. Passed 10-25-49.)

1311.99 PENALTY.

Whoever violates any provision of this chapter, shall be fined for the first offense not more than fifty dollars ($50.00), and for the second or subsequent offense 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.
(Ord. 2838. Passed 12-28-59.)

CHAPTER 1313
Licensing Plumbers

1313.01 License required.
1313.02 Application.
1313.03 Fee and bond; exceptions.
1313.04 Revocation of license; additional bond may be required.
1313.05 Supervision of work.
1313.06 Sewer seals.
1313.99 Penalty.

CROSS REFERENCES

Power to license plumbers and sewer tappers - see Ohio R.C. 715.27(C)
Regulations to control house sewers and connections to sewerage system - see Ohio R.C. 729.51
Sewer regulations - see S.U. & P.S. Ch. 931
Water regulations - see S.U. & P.S. Ch. 935

1313.01 LICENSE REQUIRED.

No person shall engage in the work or business of plumbing and pipe fitting in connection with the waterworks or sewer system of the City, either as a master or employing plumber, or journeyman plumber, without first obtaining a license.
(Ord. 1993. Passed 1-17-38.)

1313.02 APPLICATION.

The Director of Public Service shall adopt such rules and regulations as he deems necessary and expedient to ascertain the fitness and qualifications of a person desiring a license for plumbing and pipe fitting. Any person desiring a license shall make written application to the Director and shall submit to such an examination as to fitness and qualifications as the Director requires. (Ord. 1993. Passed 1-17-38.)

1313.03 FEE AND BOND; EXCEPTIONS.

For each individual the Director of Public Services finds to be qualified and fit for such business under this chapter, the Director of Public Service shall issue a license for a period of one year expiring December 31 of each year as follows:

Type I - Water and Sewer License in the amount of $50.00;
Type II - Water License in the amount of $35.00;
Type III - Sewer License in the amount of $35.00;

And, upon applicant entering into a bond payable to the City of New Philadelphia of one thousand dollars ($1,000.00) which sureties are to be approved by the Director of Public Service. Such bonds shall contain a condition that the applicant will indemnify and save the City harmless from all loss and damages that may be occasioned in anyway by the negligence of the applicant or his employees in the prosecuting of such work or business.
(Ord. 54-2003. Passed 12-22-03.)

1313.04 REVOCATION OF LICENSE; ADDITIONAL BOND MAY BE REQUIRED.

The holder of a license for plumbing and pipe fitting shall at all times observe and comply with the rules and regulations of the Department of Public Service and the ordinances of the City in the prosecution of his work or business, and upon failure to do so shall forfeit his license, and thereupon the Director of Public Service is authorized to revoke the license. The Director is also authorized to revoke any license issued hereunder when it is found that a licensee is no longer fit or qualified to carry on such work or business and the Director is authorized to require additional security upon any such bonds whenever he deems it necessary for the proper protection of the City.
(Ord. 1993. Passed 1-17-38.)

1313.05 SUPERVISION OF WORK.

No connection, extension, alteration or repair shall be made to or in any of the water mains or service pipes of the waterworks or in any main or branch sewer by any person except a licensed plumber, under the supervision of the Department of Public Service, and in accordance with the ordinances of the City pertaining thereto. Exceptions from this provision are work being done by the City and work being done by a contractor who gave bond for the faithful performance of his duties under such contract, and persons who may desire to make repairs, changes, alterations or additions within their own premises, in which case such owner must do the work to the satisfaction of the Director.
(Ord. 1993. Passed 1-17-38.)

1313.06 SEWER SEALS.

All sewers shall be laid with slip-seal or some similar material approved by the Public Service Director.
(Ord. 1993. Passed 1-17-38.)

1313.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars ($100.00).
(Ord. 2838. Passed 12-28-59.)

CHAPTER 1321
Unsafe Structures

1321.01	Definition.	1321.06	Right of City to demolish, repair or secure.
1321.02	Inspection; notice to owner.	1321.07	Unsafe conditions; reports.
1321.03	Service of notice.	1321.08	Conflict of laws.
1321.04	Posting of notices.	1321.99	Penalty.
1321.05	Permits.		

CROSS REFERENCE
Removal of unsafe structures - see Ohio R.C. 715.26(b), 715.261

1321.01 DEFINITION.

(a) "Nuisance". All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life or which in relation to existing use constitute a hazard to health by reason of inadequate maintenance, dilapidation or obsolescence, are for the purpose of this chapter, "unsafe buildings." All such unsafe buildings are declared to be public nuisances and shall be abated by repair and rehabilitation or by demolition in accordance with the procedure of this chapter.

(b) "Building Inspector" means the Service Director of the City and/or his designees who shall serve as Building Inspector for the purposes of this chapter.
(Ord. 62-79. Passed 10-8-79.)

1321.02 INSPECTION; NOTICE TO OWNER.

The Building Inspector shall examine or cause to be examined every building or structure or portion thereof reported as an unsafe building as defined in Section 1321.01. He shall give written notice to the owner or owners of record, including any purchasers under a recorded land contract and to the persons occupying the building if they are not the owners thereof. The written notice shall specifically state the defects that cause the building to be unsafe and shall state that work shall commence within thirty days and continue work, either to complete the specified repairs or improvements, or to demolish and remove the building or structure, or portion thereof, leaving the premises in a clean, safe and sanitary condition, such condition being subject to the approval of the Building Inspector; excepting in cases of emergency, making immediate repairs necessary, the Building Inspector may order the changes or demolition to be made within a shorter period. The notice shall also require the building or portion thereof to be vacated forthwith by the occupants thereof.
(Ord. 62-79. Passed 10-8-79.)

1321.03 SERVICE OF NOTICE.

Proper service of such notice shall be by personal service, residence service, or by certified mail, return receipt requested; provided, however, that such notice shall be deemed to be properly served, if a copy thereof is sent by certified mail, return receipt requested, to the tax mailing address, as shown for that parcel on the current tax duplicate at the office of the Auditor of Tuscarawas County, Ohio. If any of the parties cannot be located, nor can his address be ascertained, this notice shall be deemed to be properly served if a copy thereof is placed in a conspicuous place in or about the building or structure affected by this notice. If such notice is by certified mail, return receipt requested, the thirty-day period within which such owner is required to comply with the order of the Building Inspector shall begin as of the date he received such notice.
(Ord. 62-79. Passed 10-8-79.)

1321.04 POSTING OF NOTICES.

The Building Inspector shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER, UNSAFE TO OCCUPY, BUILDING INSPECTOR, CITY OF NEW PHILADELPHIA, OHIO." Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person to remove such notice without permission of the Building Inspector or for any person to enter the building, except for the purpose of making the required repairs or of demolishing same.
(Ord. 62-79. Passed 10-8-79.)

1321.05 PERMITS.

In all cases of construction or repair pursuant to orders of the Building Inspector, permits covering such work shall be obtained as required by other sections of the Codified Ordinances of the City.
(Ord. 62-79. Passed 10-8-79.)

1321.06 RIGHT OF CITY TO DEMOLISH, REPAIR OR SECURE.

(a) In case the owner of record, or the purchaser under a land contract, if that be the case, shall fail, neglect or refuse to comply with the notice to repair, rehabilitate or demolish and remove such building or structure or portion thereof, such party, either the owner of record or the purchaser under a land contract shall be subject to the penal provisions of this chapter and the Building Inspector, after first giving notice as provided in Ohio R.C. 715.26, shall proceed to have the building or structure or portion thereof demolished and removed from the premises, or repaired or secured, leaving the premises in a clean, safe, and sanitary condition and the cost of such work shall be paid by the City. If the City is not immediately reimbursed for their total cost, the City may collect the total cost incurred herein by any of the following methods:

(1) The Clerk of Council may certify the total costs, together with a proper description of the lands to the County Auditor who shall place the costs upon the tax duplicate. The costs are a lien upon such lands from and after the date of entry. The costs shall be collected as other taxes and returned to the City.

(2) The City may commence a civil action to recover the total costs from the owner.

(b) Section 1321.06 applies to any action taken by the City pursuant to Ohio R.C. 715.26 or pursuant to Section 3 of Article 18, the Ohio Constitution.
(Ord. 62-79. Passed 10-8-79.)

1321.07 UNSAFE CONDITIONS; REPORTS.

Any owner, manager, lessee, occupant of a building or any other person who discovers or who has reason to believe that there exists, on the premises, a condition which may endanger other property or the life or limb of any person shall, within twenty-four hours after such discovery, report the existence of such dangerous condition to the Building Inspector, who shall forthwith take such steps as may be necessary to protect the public safety and welfare. If the Building Inspector cannot be located, such report shall be made to the office of the Director of Public Service. Weekends and holidays shall not be counted in determining above described twenty-four hour period.
(Ord. 62-79. Passed 10-8-79.)

1321.08 CONFLICT OF LAWS.

In the event of any conflict between the provisions of the National Building Code as adopted in Chapter 1307 and the provisions of this chapter, the provisions of this chapter shall apply. (Ord. 62-79. Passed 10-8-79.)

1321.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars ($500.00).
(Ord. 62-79. Passed 10-8-79.)

CHAPTER 1329
Flood Damage Reduction

1329.01 General provisions.
1329.02 Definitions.
1329.03 Administration.
1329.04 Use and development standards for flood hazard reduction.
1329.05 Appeals and variances.
1329.06 Enforcement.

CROSS REFERENCES

Flood control bonds; public capital improvement - see Ohio Const. Art. VIII, Sec. 21; Ohio R.C. 129.70 et seq.
Basis of zoning districts - see Ohio R.C. 713.10
Levees - See Ohio R.C. 717.01
Marking flood areas - see Ohio R.C. 1521.14
Conservancy districts; purpose - see Ohio R.C. 6101.04

1329.01 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 City Council of New Philadelphia, State of Ohio, does ordain as follows:

(b) Findings of Fact. The City 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 as identified in Section 1329.01(f), including any additional areas of special flood hazard annexed by City.

(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 Tuscarawas County, Ohio and Incorporated Areas and Flood Insurance Rate Map Tuscarawas County, Ohio and Incorporated Areas both effective July 22, 2010.
(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.
(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 as required by Section 1329.04(c) Subdivisions and Large 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 City Hall at 150 East High Avenue New Philadelphia, Ohio.

(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, 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. 10-2010. Passed 6-14-10.)

1329.02 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.

(1) **Accessory Structure.** A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
(2) **Appeal.** A request for review of the Floodplain Administrator's interpretation of any provision of these regulations or a request for a variance.
(3) **Base Flood.** The flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the one percent (1%) chance annual flood or one hundred (100) year flood.

(4) **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).

(5) **Basement.** Any area of the building having its floor subgrade (below ground level) on all sides.

(6) **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.

(7) **Enclosure Below the Lowest Floor**. See "Lowest Floor."

(8) **Executive Order 11988 (Floodplain Management).** Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

(9) **Federal Emergency Management Agency (FEMA).** The agency with the overall responsibility for administering the National Flood Insurance Program.

(10) **Fill.** A deposit of earth material placed by artificial means.

(11) **Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland or tidal waters, and/or

B. The unusual and rapid accumulation or runoff of surface waters from any source.

(12) **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.

(13) **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.

(14) **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:

A. Zone A:
Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.

B. Zones A1-30 and Zone AE:
Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.

C. Zone AO:
Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

D. Zone AH:
Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

E. Zone A99:
Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

F. Zone B and Zone X (shaded):
Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

G. Zone C and Zone X (unshaded):
Areas determined to be outside the 500-year floodplain.

(15) **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.

(16) **Flood Protection Elevation.** The Flood Protection Elevation, or FPE, is the base flood elevation plus two feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Floodplain Administrator.

(17) **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.

(18) **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.

(19) **Historic structure.** Any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

C. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.

D. Individually listed on the inventory of historic places maintained by City of New Philadelphia's historic preservation program, which program is certified by the Ohio Historic Preservation Office.

(20) **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.

(21) **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:

A. 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.

B. 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.

C. 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.

(22) **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.

(23) **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.

(24) **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.

(25) **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.

(26) **New construction.** Structures for which the "start of construction" commenced on or after the initial effective date of the City of New Philadelphia Flood Insurance Rate Map, January 2, 1987, and includes any subsequent improvements to such structures.

(27) **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 R.C. 111.15 as any governmental entity of the State and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the General Assembly, the Controlling Board, the Adjutant General's Department, or any court.

(28) **Recreational vehicle**. A vehicle which is:

A. Built on a single chassis,

B. 400 square feet or less when measured at the largest horizontal projection,

C. Designed to be self- propelled or permanently towable by a light duty truck, and

D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(29) **Registered Professional Architect.** A person registered to engage in the practice of architecture under the provisions of Ohio R.C. 4703.01 to 4703.19.

(30) **Registered Professional Engineer.** A person registered as a professional engineer under Chapter 4733 of the Ohio Revised Code.

(31) **Registered Professional Surveyor**. A person registered as a professional surveyor under Chapter 4733 of the Ohio Revised Code.

(32) **Special Flood Hazard Area.** Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent (1%) 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.

(33) **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.

(34) **Structure.** A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

(35) **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 fifty percent (50%) of the market value of the structure before the damage occurred.

(36) **Substantial Improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

A. Any improvement to a structure that is considered "new construction,"

B. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

C. Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure".

(37) **Variance.** A grant of relief from the standards of these regulations consistent with the variance conditions herein.

(38) **Violation.** The failure of a structure or other development to be fully compliant with these regulations.

(Ord. 10-2010. Passed 6-14-10.)

1329.03 ADMINISTRATION.

(a) Designation of the Floodplain Administrator. The Director of Public Service 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 1329.01(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.

(d) Application Required. An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

(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 1329.04(e).

B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1329.04(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 1329.04(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 1329.04(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 1329.04(i)(1).

F. Generation of base flood elevation(s) for subdivision and large-scale developments as required by Section 1329.04(c).

(6) A floodplain development permit application fee set by the schedule of fees adopted by City.

(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 1329.03(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 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 year. A floodplain development permit shall expire one 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 1329.03(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 1329.05.

(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 five thousand dollars ($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 Chapter 4906 of the Ohio Revised Code.

(4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Chapter 3734 of the Ohio Revised Code.

(5) Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 - Floodplain Management.

Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.

(j) Map Maintenance Activities. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that City flood maps, studies and other data identified in Section 1329.01(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 1329.04(c).

B. It is the responsibility of the applicant to have technical data, required in accordance with Section 1329.03(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 1329.03(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, 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 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 Flood Insurance Rate Map accurately represent the City boundaries, include within such notification a copy of a map of the City suitable for reproduction, clearly showing the new corporate limits or the new area for which the City 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 1329.05, 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. 10-2010. Passed 6-14-10.)

1329.04 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 1329.01(f) or 1329.03(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 City are allowed provided they meet the provisions of these regulations.

(2) Prohibited uses.

A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Chapter 3701 of the Ohio Revised Code.

B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Chapter 3734 of the Ohio Revised Code.

(b) 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 fifty lots or five acres, whichever is less.

(5) The applicant shall meet the requirement to submit technical data to FEMA in Section 1329.03(j)(1)A.4. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1329.04(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 (1329.04(d)(1)) and construction materials resistant to flood damage (1329.04(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. Where flood protection elevation data are not available, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

(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 1329.04(d).

(8) In AO Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(e) Nonresidential Structures.

(1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 1329.04(d)(1) - (3) and (5) - (8).

(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 1329.04(e)(2)A. and B.

(3) Where flood protection elevation data are not available, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

(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 1329.04(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 1329.04(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 1329.03(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 City of New Philadelphia 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 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 1329.04(i)(1)B., items 1. and 3. - 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 City of New Philadelphia 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 1329.03(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. 10-2010. Passed 6-14-10.)

1329.05 APPEALS AND VARIANCES.

(a) Appeals Board Established.

(1) The New Philadelphia Board of Zoning Appeals is hereby appointed to serve as the Appeals Board for these regulations as established by City Code.

(2) Records of the Appeals Board shall be kept and filed in City Hall at 150 East High Avenue, New Philadelphia, Ohio.

(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 1329.05(d).

(c) Appeals. 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 fourteen 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.

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.

(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 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; location 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 in the schedule of fees adopted by the City.

(2) 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.

(3) 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 1329.05(d)(2)A. to 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 Tuscarawas County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.
(Ord. 10-2010. Passed 6-14-10.)

1329.06 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 1329.03(i).

(2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1329.06(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 1329.06(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 fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. The City shall prosecute any violation of these regulations in accordance with the penalties stated herein.
(Ord. 10-2010. Passed 6-14-10.)

CHAPTER 1333
Downtown Design Standards

1333.01 Purposes.
1333.02 Definitions.
1333.03 Establishment of the Board.
1333.04 Board membership.
1333.05 Meetings and rules.
1333.06 Actions requiring Board review.
1333.07 Guidelines.
1333.08 Certificate of Appropriateness.
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1333.99 Penalty; equitable remedy.

CROSS REFERENCES
Office District - see P. & Z. Ch. 1163
Central Business District - see P. & Z. Ch. 1165
Industrial District - see P. & Z. Ch. 1169

1333.01 PURPOSES.

(a) The Downtown New Philadelphia Design Review Board hereinafter created shall serve to protect and preserve the value and appearance of property on which buildings are constructed or altered, to maintain a high character of community development, to protect the public health, safety, convenience and welfare and to protect real estate within the geographic area identified as "Downtown New Philadelphia" (established by Resolution #14-86 establishing a community reinvestment area) from impairment or destruction of value. Such purposes shall be accomplished by the Board by recommending, according to accepted and recognized architectural principles, the design, use of materials, color scheme, finished grade lines, dimensions, orientation and location of all main and accessory buildings to be created, moved, altered, remodeled or repaired, subject to the provisions of the Zoning and Building Codes and other applicable ordinances of the Municipality and State. In reviewing and making recommendations on proposed building plans and alterations, the Board shall consider and take cognizance of the development of adjacent, contiguous and neighboring buildings and properties for the purpose of achieving safe, harmonious and integrated development of related properties.

(1) The purpose of such recommendation shall be to help increase property values and commerce in general.

(2) The Board shall act in an advisory capacity to any officer, board or commission of the Municipality.

(3) In order to review and make recommendations on any proposed exterior alterations to real estate within "Downtown New Philadelphia", the Board may require drawings, plans, specifications or studies to be submitted according to the provisions of this chapter for its evaluation.

(b) Council hereby finds and determines that the establishment of guidelines for the construction, erection, alteration, removal, moving or demolition of buildings and structures in "Downtown New Philadelphia" is vital to the preservation of the educational, cultural, economic and general welfare of "Downtown New Philadelphia" and of the residents of the Municipality. Council further finds that the following purposes will be served by the establishment of such guidelines by this chapter:

(1) Promotion of the preservation of buildings, structures and sites which reflect the cultural, social, economic, political or architectural heritage of "Downtown New Philadelphia" for the education and general welfare of the residents of the Municipality;

(2) Protection and enhancement of the attractiveness of "Downtown New Philadelphia" as it relates to residents, tourists and visitors, serving as a support and stimulant to business and thereby strengthening the economy of the Municipality and its residents;

(3) Stabilization and increase of property values within "Downtown New Philadelphia";

(4) Compatibility of any and all construction of new improvements and buildings and modifications of existing structures with the architectural character of "Downtown New Philadelphia";

(5) Enhancement of the visual and aesthetic character, diversity and interests of "Downtown New Philadelphia";

(6) Preservation and further enhancement of civic pride of the residents of the Municipality in the beauty of "Downtown New Philadelphia"; and

(7) Protection of the property rights of owners whose property lies within areas of "Downtown New Philadelphia".

(Ord. 36-89. Passed 7-24-89.)

1333.02 DEFINITIONS.

As used in this chapter, unless the context clearly requires otherwise:

(a) "Alteration" means change to the external architectural features of any structure or building, visible from a public way or from adjoining property.

(b) "Applicant" means any person, association, partnership, or corporation or other similar entity who intends to undertake any external construction, painting, erection, alteration or removal, moving or demolition of real estate within "Downtown New Philadelphia".

(c) "Board" means the City of New Philadelphia Downtown Design Review Board established under the provisions of this chapter.

(d) "Certificate of Appropriateness" means the official document issued by the Downtown New Philadelphia Design Review Board regarding proposed construction and exterior alteration, exterior painting and the removal, relocation or demolition of any structure or building in "Downtown New Philadelphia".

(e) "Council" means the Council of the City of New Philadelphia.

(f) "Exterior architectural feature" means the architectural style and general arrangement of the exterior of a structure, including the type and texture of building materials, the color scheme, all windows, doors, lights and signs and other fixtures appurtenant thereto.

(g) "Historic and/or architectural significance" means that which has a special historic or aesthetic interest or value as part of the development, heritage or cultural character of the Municipality, region, State or Nation.

(h) "Municipality" means the City of New Philadelphia as now or hereafter constituted.

(i) "Owner" means the owner of record, and the term includes the plural as well as the singular.

(j) "Change" means any alteration, demolition, removal or construction involving any property subject to the provisions of this chapter including signs, landscaping and tree removal. "Change" shall include any new construction. "Change" shall not relate to ordinary maintenance or repair of any property, provided such work involves no change in material, design, texture, color or outer appearance. (Ord. 36-89. Passed 7-24-89.)

1333.03 ESTABLISHMENT OF THE BOARD.

There is hereby established a Design Review Board, hereinafter and hereinbefore referred to as the Board, with the powers and duties as hereinafter set forth.
(Ord. 36-89. Passed 7-24-89.)

1333.04 BOARD MEMBERSHIP.

(a) The Board shall consist of five members appointed by the Mayor with the approval of Council. Members shall be residents or business property owners of the Municipality, unless otherwise specified below. At least one member shall be the owner of property in "Downtown New Philadelphia", one a downtown business person who shall act as a representative of the New Philadelphia Business and Professional organization and/or Downtown Improvement Corporation, two at-large members drawn from the general citizenry of the Municipality, and one member shall act as the Board's professional design "Consultant". The "Consultant" Board member need not be a resident of New Philadelphia or a registered architect, but must have design experience. Such members shall hold no other Municipal public office. Members shall be appointed for three-year terms to serve without compensation. Members may succeed themselves. The Service Director shall be Secretary to the Board.

(b) In the initial appointment of Board members, one shall be appointed for a one-year term, two for a two-year term, and two for a three-year term. Thereafter, members shall be appointed for three-year terms.
(Ord. 36-89. Passed 7-24-89.)

1333.05 MEETINGS AND RULES.

(a) The Downtown New Philadelphia Design Review Board shall meet within the first fifteen days of January of each year and shall elect one of its members as Chairman, and a second member as Vice Chairman. The Board shall meet bi-monthly and more frequently at the call of the Chairman. A scheduled meeting may be canceled, by action of the Chairman, if it can be determined that there are no applications or issues for the Board to address.

(b) The elected Chairman, who shall serve until a successor is elected, shall be responsible for the proper administration of the Board's work. In the absence of the Chairman, that responsibility shall fall to the Vice Chairman. The Service Director shall keep, or cause to be kept, in the Municipal Offices, a complete and accurate record of all meetings and proceedings of the Board.

(c) All meetings of the Board shall be open to the public and three members thereof shall constitute a quorum. A vote of three members shall be required to take any action. In order to better carry out the provisions of this chapter, the Board by formal motion may adopt rules for the conduct of its business.
(Ord. 36-89. Passed 7-24-89.)

1333.06 ACTIONS REQUIRING BOARD REVIEW.

(a) All proposed actions within "Downtown New Philadelphia" that fall under the purview of the Board as defined below must be reviewed by the Board prior to their enactment. Such action includes the construction, erection, alteration, removal, moving or demolition of buildings and structures in "Downtown New Philadelphia".

(b) The Design Board shall file with the City a certificate of its approval, modification or rejection of all applications and plans submitted to it for review. Work shall not be commenced on any such project until such a certificate of approval has been filed. The owner, lessee or tenant of property and premises shall not commence the proposed work or change until and unless he or it has received the building permit. The Board of Review shall respond in writing to an application within thirty days from the date the application was filed.

(c) When the Service Director receives documents submitted for a building permit within "Downtown New Philadelphia", the applicant shall satisfy the Service Director that the Downtown New Philadelphia Design Review Board has reviewed the proposal, if it falls under the purview of the Board as herein defined, and has made its recommendation concerning the proposal's conformance to the guidelines as contained herein. Such official recommendation shall be in the written form of the "Certificate of Appropriateness". The Service Director shall reject any application which involves public funding that does not comply with the recommendation of the Board. Recommendation shall not be binding upon those applications which do not include funding through the RLF.
(Ord. 36-89. Passed 7-24-89.)

1333.07 GUIDELINES.

The Board shall follow the guidelines established by Secretary of Interior Standards for Rehabilitation (as outlined below) in reviewing plans for changes or alterations to historic structures and for sites in the project area. The Board shall be lenient in its judgment of plans for structures of little value or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding structures of the surrounding area.

(a) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure or site and its environment, or to use a property for its originally intended purpose.

(b) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(c) 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 shall be discouraged.

(d) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.

(f) Deteriorated architectural features 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 missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(g) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that damage the historic building materials shall not be undertaken.

(h) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any project.

(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) Whenever 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 structure would be unimpaired. (Ord. 36-89. Passed 7-24-89.)

1333.08 CERTIFICATE OF APPROPRIATENESS.

(a) The Downtown New Philadelphia Design Review Board shall issue a written recommendation in the form of a "Certificate of Appropriateness" for all projects it reviews. Issuance of such a recommendation shall be by affirmative vote of three members of the Board present and voting. The certificate will be issued and filed with the Service Director by the Board.

(b) In making its recommendation and issuing a "Certificate of Appropriateness", the Board shall consider whether the proposed change will affect adversely or destroy any significant historic or architectural feature of the structure, whether it is inappropriate or inconsistent with the spirit and purpose of this chapter and whether it will affect adversely or destroy the general historic and architectural significance of the district. With respect to proposed demolition, the Board shall determine whether or not preservation or rehabilitation is economically feasible, or shall make its recommendation in consideration of practical difficulties or unnecessary hardship that would deprive the applicant of the reasonable use of the land or building involved. The Board's recommendation may advise the applicant of any changes necessary, in its opinion, to comply with the Guidelines.

(c) When the Board has issued its "Certificate of Appropriateness", the applicant may proceed to implement its action as presented to the Board, or subsequently modified during Board review. Such action must be in conformance with the Board's recommendation, or the applicant will be in violation of City law and subject to penalty as set forth below. Such decision shall not be binding except upon those applicants seeking or using public funding. (Ord. 36-89. Passed 7-24-89.)

1333.09 APPEAL PROCESS.

Any person or persons, firm or corporation aggrieved by a decision of the Board of Review has a right to appeal to the Board of Zoning Appeals within thirty days of the decision date. (Ord. 36-89. Passed 7-24-89.)

1333.10 EXCEPTIONS.

(a) The provisions of this chapter shall not apply to one-family residential dwellings located within "Downtown New Philadelphia" as defined in Resolution #14-86. In the event of removal or demolition of such dwellings, however, plans for any new building or structure erected shall be reviewed by the Downtown New Philadelphia Design Review Board to make recommendations concerning appropriateness and compatibility of that new construction with the character of the district.

(b) Ordinary maintenance will not be affected; nor will completion of work under prior permit. Nothing in this section shall be taken or construed to prevent work or repairs on any structure coming under the heading of ordinary maintenance. Nothing in this section affects the right to complete any work authorization issued prior to the creating of the Board. (Ord. 36-89. Passed 7-24-89.)

1333.11 APPLICATION FOR REPAIR, ALTERATION, ETC., OF STRUCTURE OF UNUSUAL IMPORTANCE.

(a) If an application is submitted for repairs or alterations affecting the exterior appearance of a structure or for the moving or demolition of a structure, the preservation of which the Commission deems of unusual importance to the City of New Philadelphia, the County, the State, or the Nation, the Board shall attempt with the owner of the structure to formulate an economically feasible plan for the preservation of the structure.

(b) In the case of a structure deemed to be valuable for the period of architecture it represents and important to the neighborhood within which it exists, the Commission may approve the proposed repair or alteration despite the fact the changes come within the above provisions if:

(1) The structure is deterrent to a major improvement program which will be of substantial benefit to the City of New Philadelphia;

(2) Retention of the structure would cause undue financial hardship to the owner;

(3) The retention of the structure would not be to the best interest of a majority of persons in the community.

(Ord. 36-89. Passed 7-24-89.)

1333.99 PENALTY; EQUITABLE REMEDY.

Whoever violates or fails to comply with any of the provisions of this chapter shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. Notwithstanding the foregoing penalty provision, the Director of Public Service shall have the authority to institute appropriate proceedings to prevent the continued violation of this chapter. (Ord. 36-89. Passed 7-24-89.)

CHAPTER 1335
Housing Code

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CROSS REFERENCES
Ohio Basic Building Code - see BLDG. Ch. 1307
Extermination responsibility - see BLDG. 1337.01

1335.01 TITLE.
The provisions embraced within this chapter shall constitute and be known as and may be cited as "The Housing Code", hereinafter referred to as "this Code". (Ord. 30-01. Passed 7-23-01.)

1335.02 CODE REMEDIAL.
This Code is declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof, which are public safety, health and general welfare, thorough structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses and rooming houses, or buildings, structures or premises used as such. (Ord. 30-01. Passed 7-23-01.)

1335.03 SCOPE.
(a) The provisions of this Code shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

(b) No provision of this Code shall be held to deprive any Federal or State agency, or municipal authority having jurisdiction, of any power or authority which it had on the effective date of this Code or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law. (Ord. 30-01. Passed 7-23-01.)

1335.04 EXISTING BUILDINGS.
The provisions of this Code shall apply to any dwelling, apartment, apartment houses, rooming houses or buildings, irrespective of when such building was constructed, altered or repaired. (Ord. 30-01. Passed 7-23-01.)

1335.05 MAINTENANCE.
All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this Code in a building when erected, altered or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings, structures and premises to the extent set out in this Code. The tenant shall be responsible for the maintenance of buildings, structures and premises to the extent set out in the applicable sections of this Code. (Ord. 30-01. Passed 7-23-01.)

1335.06 DEFINITIONS GENERALLY.
For the purpose of this Code, certain abbreviations, terms, phrases, words and their derivatives shall be construed as set forth in this chapter. (Ord. 30-01. Passed 7-23-01.)

1335.07 DEFINITIONS.

(a) Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter genders include the masculine. The singular number includes the plural, and the plural number includes the singular.

(1) Alter or Alterations means any charge or modification in construction or occupancy.

(2) Apartment means a room or a suite of rooms occupied, or which is intended or designed to be occupied, as the home or residence of one individual, family or household, for housekeeping purposes.

(3) Apartment House means any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of more than two families living independently of each other and doing their own cooking in such building, and shall include flats and apartments.

(4) Approved means approved by the Building Official.

(5) Area as applied to the dimensions of a building, means the maximum horizontal projected area of the building.

(6) Area, Floor (See Floor Area).

(7) Attic Story means any story situated wholly or partly in the roof, so designated, arranged or built as to be used for business, storage or habitation.

(8) Basement means that portion of a building between floor and ceiling whose ceiling is above grade.

(9) Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The term "building" shall be construed as if followed by the words "or part thereof".

(10) Existing Building means a building erected prior to the adoption of this Code, or one for which a legal building permit has been issued.

(11) Building Inspector means the officer, or other person, charged with the administrations and enforcement of this Code or his duly authorized representative, and includes Housing Inspector.

(12) Cellar means that portion of a building, ceiling of which is entirely below grade. (See also Story.)

(13) City means the City of New Philadelphia, Ohio.

(14) Dwelling, when used in this Code without other qualifications, means a structure occupied exclusively for residential purposes by not more than two families.

(15) Dwelling Unit means any room or group of rooms located within a dwelling and/or apartment house and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

(16) Existing Building (See Building; Existing Building).

(17) Exit Corridor means any corridor or passageway used as an integral part of the exit system. That portion of a corridor or passageway which exceeds that allowable distance of travel to an exit becomes an exit corridor or passageway.

(18) Exit Passageway means an enclosed hallway or corridor connecting a required exit to a street.

(19) Extermination means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping, or by any other recognized and legal pest elimination methods approved by the Building Official.

(20) Family means one or more persons living together, whether related to each other or not, and having common housekeeping facilities.

(21) Floor Area means the area included within surrounding walls of a building, excluding of vent shafts and courts.

(22) Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(23) Grade, with reference to a building, means, when the curb level has been established, the mean elevation of the curb level opposite those walls that are located on or parallel with and within fifteen feet of street lines, or when the curb level has not been established, or all the walls of the building are more than fifteen feet from the street lines, "grade" means the average of the finished ground level at the center of all walls of a building.

(24) Habitable Room means a room occupied by one or more persons for living, eating or sleeping purposes. It does not include toilets, laundries, serving and storage pantries, corridors, cellars and spaces that are not used frequently or during extended periods.

(25) Heating. The definitions following under this paragraph shall apply to heating installations:

A. Central Heating Boilers and Furnaces. Heating furnaces and boilers shall include warm air furnaces, floor mounted direct-fired unit heaters, hot water, boilers, and steam boilers operating at not in excess of fifteen pounds of gauge pressure, used for heating of buildings or structures.

B. Chimney. Chimney means a vertical shaft of masonry, reinforced concrete or other approved noncombustible, heat resisting material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid or gas fuel.

C. Flue. Flue means a vertical passageway for products of combustion.

D. Vent Pipe. Vent pipe means, as applied to heating, a pipe for removing products of combustions from gas appliances.

E. Water Heater. Water heater means a device for the heating and storage of water to be used for other than heating or industrial purposes.

(26) Infestation means the presence, within or around a dwelling, of any insects, rodents or other pests.

(27) Inner Court means an open, unoccupied space bounded by the walls of a building, but located within the exterior walls of the building.

(28) Multiple Dwelling has the same meaning as Apartment House.

(29) Occupant means any person, over one year of age, living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

(30) Operator means any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are left.

(31) Ordinary Minimum Winter Conditions means the temperature twenty degrees Fahrenheit above the lowest recorded temperature for the previous fifteen-year period.

(32) Owner includes his duly authorized agent or attorney, a purchaser, devisee, fiduciary and a person having a vested or contingent ownership interest in the property in question.

(33) Person means a natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

(34) Plumbing means the practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and the public or private water supply system, within or adjacent to any building, structure or conveyance; also the practice and material used in the installation, maintenance, extension or alteration of storm water, liquid waste or sewage, and water supply systems of any premise to their connection with any point of public disposal or other acceptable terminal.

(35) Public Place, as used in this Code, means an unoccupied open space adjoining a building and on the same property, that is permanently maintained accessible to the Fire Department and free of all encumbrances that might interfere with its use by the Fire Department.

(36) Repair means the replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the building, or that would affect or change required exit facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installation, or that would be in violation of a provision of law or ordinance. The term "repair" or "repairs" shall not apply to any change of construction.

(37) Required means required by some provision of this Code.

(38) Residential Occupancy means buildings in which families or households live or in which sleeping accommodations are provided, and all dormitories. Such buildings include, among others, the following: dwellings, multiple dwellings and lodging houses.

(39) Rooming Unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(40) Rooming House means any dwelling, or that part of any dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

(41) Rubbish means combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

(42) Supplied means paid for, furnished or provided by or under the control of the owner or operator.

(43) Meaning of Certain Words. Whenever the words "apartment," "apartment house," "dwelling unit", "rooming house", "rooming unit" or "premises" are used in this Code, they shall be construed as though they were followed by the words "or any part thereof."

(44) Stairway means one or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

(45) Story means that portion of a building including between the upper surface and any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

(46) Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof."

(47) Valuation or Value, as applied to a building, means the estimated cost to replace the building in kind.

(48) Walls.

A. Bearing Wall means a wall which supports any vertical load in addition to its own weight.

B. Cavity Wall means a wall built of masonry units or of plain concrete, or a combination of these materials, so arranged as to provide an air space within the wall, and in which the inner and outer parts of the wall are tied together with metal ties.

C. Curtain Wall means a nonbearing wall between columns or piers and which is not supported by girders or beams, but is supported on the ground.

D. Faced Wall means a wall in which the masonry facing and backing are so bonded as to exert common action under load.

E. Exterior Wall means a wall, bearing or nonbearing, which is used as an enclosing wall for a building, but which is not necessarily suitable for use as a party wall or fire wall.

F. Fire Wall means a wall of incombustible construction which subdivides a building or separates buildings to restrict the spread of fire and which starts at the foundation and extends continuously through all stories to and above the roof, except where the roof is of fireproof or fire-resistive construction and the wall is carried up tightly against the underside of the roof slab.

G. Foundation Wall means a wall below the first floor extending below the adjacent ground level and serving as support for a wall, pier, column or other structural part of a building.
H. Hollow Wall of Masonry means a wall built of masonry units so arranged as to provide an air space within the wall, and in which the inner and outer parts of the wall are bonded together with masonry unties or steel.
I. Nonbearing Wall means a wall which supports no load other than its own weight.
J. Panel Wall means a nonbearing wall in skeleton or framed construction, built between columns or piers and wholly supported at each story.
K. Parapet Wall means that part of any wall entirely above roof line.
L. Party Wall means a wall used or adapted for joint Service between two buildings.
M. Retaining Wall means any wall used to resist the lateral displacement of any material.

(49) Writing includes printing and typewriting.
(Ord. 30-01. Passed 7-23-01.)

1335.08 ENFORCEMENT OFFICER.

The provisions of this housing code shall be enforced by all employees of the City of New Philadelphia, Ohio and the Mayor shall designate those employees within the City of New Philadelphia, Ohio to act as building official, building inspector or enforcement officer. The individual or individuals so designated by the Mayor shall have the power and authority of the building inspector, building official or enforcement official as used within this Chapter and such name-labels shall be interchangeable for any individual exercising authority granted by the Mayor as the enforcement officer for this chapter.
(Ord. 15-2004. Passed 5-10-04.)

1335.09 RECORDS.

The Building Inspector of the City, shall keep or cause to be kept, a record of the business of the Housing Code. The records of the Department shall be open to public inspection. (Ord. 30-01. Passed 7-23-01.)

1335.10 RIGHT OF ENTRY.

The Building Inspector shall enforce the provisions of this Housing Code, and he, or his designee, may enter any building covered by this Housing Code, when such entry is to investigate a citizen's written or verbal complaint on unsafe buildings or to inspect an abandoned building. Inspections may be made of any buildings or structures in the City.
(Ord. 30-01. Passed 7-23-01.)

1335.11 UNSAFE BUILDINGS.

All dwellings, apartment houses or rooming houses, or buildings or structures used or intended to be used as such, whether occupied or unoccupied, which are unsafe, unsanitary, unfit for human habitation, or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, are severally in contemplation of this section, unsafe buildings. All such unsafe buildings are declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the following procedure:

(a) Whenever the Building Inspector shall find any building or structure or portion thereof to be unsafe, unsanitary or unfit for human habitation, he shall give written notice to the owner or his agent or the person and/or persons in possession of such building. The notice shall be served personally or by leaving a true copy thereof at the last known address of the owner or his agent or the person and/or persons in possession, or by sending a true copy by certified mail, return receipt requested, to the owner or agent at the address to which real estate tax bills are sent, and by posting a true copy of such notice on the building. In the event of failure of service by any of the above methods, service by publication on the owner may be made by insertion of such notice once weekly for three weeks in a newspaper of general circulation in the City. This notice shall require the owner within not less than thirty days nor more than ninety days to complete specified repairs or improvements or to demolish and remove the building or structure or portion thereof. A lesser time limit may be ordered by the Building Inspector if there are emergency repairs that are necessary for safety reasons. Any notice given under this section shall contain notice of right to hearing as outlined in subsection (d) herein.

(b) Whenever the Building Inspector determines that a building or structure covered by this Housing Code is unsafe or unsanitary and by reason thereof unfit for human habitation, he shall cause to be posted at each entrance of such building or structure a notice: "THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY IS PROHIBITED". Such notice shall be in red and carry the signature of the Building Inspector or his representative. Such notice shall remain posted until the required repairs are made and satisfactory inspection by the Building Inspector is made, or demolition is completed.

(c) No person, or his agent, shall remove such notice without written permission of the Building Inspector or use or occupy such building, except for the purpose of making the required repairs or demolishing the same, from and after the date of posting such notice. When the sign provided in this section is posted, the tenant shall be required to vacate the premises within a thirty day period.

(d) If the owner, lessee, agent, operator or occupant or persons receiving a notice as set out in subsection (a) of his section, that a building or portion thereof is unsafe, unsanitary or unfit for human habitation, is aggrieved by such order and desires a hearing, he may complain or appeal in writing to the Housing Appeals Board as established in Section 1335.62 within ten days from the service of the order. The Housing Appeals Board shall at once investigate such complaint and fix a place and a time, not less than ten days and not more than twenty days, for hearing such complaint. The Housing Appeals Board, upon the presentation of the facts by testimony of the parties, who may be represented by counsel and have a record of the proceedings taken by a reporter, may affirm, modify, revoke or vacate such order given in the notice as set out in subsection (a) of this section. During such determination by the Housing Appeals Board the order given in the notice as provided in this section shall be stayed by the Housing Appeals Board. The decision of the Housing Appeals Board may be appealed to the Court of Common Pleas, to correct any errors of law. Such appeal shall be perfected by filing a petition in the Court of Common Pleas within thirty days of service of the findings of the Board in the same manner as service provided in subsection (a) of this section.

(e) In case the owner, agent or person in control shall fail, neglect or refuse to comply with a notice to repair, rehabilitate or demolish and remove such building or structure or portion thereof within the stated time of the order contained in the notice in subsection (a) herein from which no appeal has been taken, or with the order as finally affirmed or modified by the Housing Appeals Board or by the Court in the event of a further appeal, within the time fixed in such order or order of affirmance or modification thereof, the Building Inspector, after having ascertained the costs, shall cause such building or structure or portion thereof to be demolished, secured, repaired or required to remain vacant.

(f) Costs incurred under subsection (e) hereof shall be charged to the owner of the premises involved and shall be collected in the manner provided by law. (Ord. 30-01. Passed 7-23-01.)

1335.12 LIABILITY.

Any officer or employee, or member of the Board of Appeals, charged with the enforcement of this Code, acting for the City in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of this Code shall be defended by the Law Director until the final determination of the proceedings. (Ord. 30-01. Passed 7-23-01.)

1335.13 REPORTS.

The Building Inspector shall annually submit a report to the Mayor covering the work of the Department during the preceding year. He shall incorporate in such report a summary of the decisions of the Board of Appeals during such year. (Ord. 30-01. Passed 7-23-01.)

1335.14 INSPECTIONS.

(a) The Building Inspector shall, upon a citizen's written or verbal complaint or when a building or structure covered by this Housing Code is abandoned, cause an inspection to be made to determine the fitness of the building or structure for human occupancy. The Building Inspector, of his own volition, may cause an inspection to be made of hotels, motels, apartment houses or rooming houses or any other building in the City to determine their fitness for human occupancy.

(b) The Building Inspector may make, or cause to be made by his assistants the inspections called for by these requirements. (Ord. 30-01. Passed 7-23-01.)

1335.15 PLUMBING REQUIRED.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the requirements of the following subsections. Every dwelling unit shall contain not less than the following:

(a) Each dwelling unit shall be connected to a potable water supply to the public sewer or other approved sewage disposal system.

(b) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet, all in good working condition and installed in accordance with the Plumbing Code.

(c) All plumbing fixtures shall meet the standards of the Plumbing Code and shall be in a state of good repair and in good working order.

(d) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of the same. The water closet, and tub or shower, shall be located in a room or rooms affording privacy to the user.

(e) Every dwelling unit shall have connected to the kitchen sink, lavatory and tub or of heating water to not less than 120 degrees Fahrenheit. All water shall be supplied through an approved pipe distribution system connecting to a potable water supply. (Ord. 30-01. Passed 7-23-01.)

1335.16 WINDOW AREA.

Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent (10%) of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total area. Whenever the only window in a room is a skylight-type window in the top of such room the total window area of such skylight shall equal at least fifteen percent (15%) of the total floor area of such room.
(Ord. 30-01. Passed 7-23-01.)

1335.17 VENTILATION.

Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at last forty-five percent (45%) of the minimum window area size or minimum skylight size as required, or shall have other approved, equivalent ventilation. (Ord. 30-01. Passed 7-23-01.)

1335.18 BATHROOMS AND WATER CLOSET ROOMS.

Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system. (Ord. 30-01. Passed 7-23-01.)

1335.19 ELECTRIC SERVICE.

(a) Every dwelling and/or apartment house shall be wired for electric lights and convenience receptacles. Every habitable room shall contain floor or wall-type electric convenience receptacles. There shall be installed in every bathroom, water closet room, laundry room, kitchen and furnance room at least one supplied ceiling or wall-type electric light fixture.

(b) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
(Ord. 30-01. Passed 7-23-01.)

1335.20 ELECTRIC INSTALLATION AND MAINTENANCE.

All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the Electrical Code.
(Ord. 30-01. Passed 7-23-01.)

1335.21 HEATING REQUIREMENTS.
Every dwelling unit shall have provisions for providing heat in accordance with Sections 1335.22 and 1335.23. (Ord. 30-01. Passed 7-23-01.)

1335.22 CENTRAL AND ELECTRIC HEATING SYSTEMS.
Every central or electric heating system shall be of sufficient capacity so as to heat each dwelling unit to which it is connected with a minimum temperature of seventy degrees Fahrenheit, measured at a point three feet above the floor during ordinary minimum winter conditions. (Ord. 30-01. Passed 7-23-01.)

1335.23 OTHER HEATING FACILITIES.
Where a central or electric heating system is not provided, each dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to furnish minimum temperature of seventy degrees Fahrenheit measured at a point three feet above the floor during ordinary minimum winter conditions. (Ord. 30-01. Passed 7-23-01.)

1335.24 HEATING INSTALLATION AND MAINTENANCE.
Heating appliances and facilities shall be installed in accordance with the Building Code and shall be maintained in a safe and good working condition. (Ord. 30-01. Passed 7-23-01.)

1335.25 FLOOR AREA REQUIRED.
Every dwelling unit shall contain at least 140 square feet of habitable floor area for the first occupant and at least eighty square feet of additional habitable floor area for each additional occupant. (Ord. 30-01. Passed 7-23-01.)

1335.26 ROOMS OCCUPIED FOR SLEEPING PURPOSES.
In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least forty square feet of floor area for each occupant thereof. (Ord. 30-01. Passed 7-23-01.)

1335.27 FLOOR AREA CALCULATION.
Floor area shall be calculated on the basis of habitable room area. However, closet area and hall area within the dwelling unit, where provided, may count for not more than ten percent (10%) of the required habitable floor area. At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet, and the floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area in computing the total floor area of the room to determine maximum permissible occupancy. (Ord. 30-01. Passed 7-23-01.)

1335.28 OCCUPANT.
For the purpose of this section a person under one year of age shall not be counted as an occupant. (Ord. 30-01. Passed 7-23-01.)

1335.29 CELLAR PROHIBITED AS DWELLING UNIT.
No cellar shall be used as a dwelling unit. (Ord. 30-01. Passed 7-23-01.)

1335.30 BASEMENTS AS DWELLING UNITS.
No basement shall be used for a dwelling unit unless:
(a) The floor and walls are substantially watertight;
(b) The total window area, total openable area and ceiling height are equal to those required for habitable rooms;
(c) The required minimum window area of every habitable room is entire above the grade adjoining such window area, not including stairwells or accessways.
(Ord. 30-01. Passed 7-23-01.)

1335.31 EXTERIOR FOUNDATION, WALLS AND ROOFS.
Every foundation wall, exterior wall and exterior roof shall be substantially weather-tight and rodentproof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
(Ord. 30-01. Passed 7-23-01.)

1335.32 INTERIOR FLOOR, WALLS AND CEILINGS.
Every floor, interior wall and ceiling shall be substantially rodentproof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. (Ord. 30-01. Passed 7-23-01.)

1335.33 WINDOWS AND DOORS.
Every window, exterior door and basement or cellar door and hatchway shall be substantially whethertight, watertight, and rodentproof, and shall be kept in sound working condition and in good repair. (Ord. 30-01. Passed 7-23-01.)

1335.34 STAIRS, PORCHES AND APPURTENANCES.
Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and in good repair. (Ord. 30-01. Passed 7-23-01.)

1335.35 SUPPLIED FACILITIES.
Every supplied facility, piece of equipment or utility, which is required under this Code, shall be so constructed and installed that it will function safely and effectively, and shall be maintained in sound working condition. (Ord. 30-01. Passed 7-23-01.)

1335.36 DRAINAGE.
Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water. (Ord. 30-01. Passed 7-23-01.)

1335.37 EGRESS.
Every dwelling unit shall be provided with means of egress as required by the Building Code. (Ord. 30-01. Passed 7-23-01.)

1335.38 SCREENS.
In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device, and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed. All required screening shall be maintained in good condition.
(Ord. 30-01. Passed 7-23-01.)

1335.39 RODENT CONTROL.
Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance. (Ord. 30-01. Passed 7-23-01.)

1335.40 INFESTATION.
(a) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises. Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested.

(b) Notwithstanding the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a ratproof or reasonably insectproof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner. (Ord. 30-01. Passed 7-23-01.)

1335.41 RUBBISH STORAGE, DISPOSAL.
(a) Every dwelling unit shall be supplied with adequate rubbish storage facilities.

(b) Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish storage facilities. In all cases the owner shall be responsible for the availability of rubbish storage facilities. (Ord. 30-01. Passed 7-23-01.)

1335.42 GARBAGE STORAGE, DISPOSAL.
(a) Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, having a capacity of not more than thirty gallon for each container.

(b) Every occupant of a dwelling or dwelling unit shall dispose of all his garbage, and any other organic waste which might provide food for rodents, in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers. In all cases the occupants shall be responsible for the availability of garbage storage containers. (Ord. 30-01. Passed 7-23-01.)

1335.43 PUBLIC AREAS.
Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof. (Ord. 30-01. Passed 7-23-01.)

1334.44 DWELLING UNIT.
Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls. (Ord. 30-01. Passed 7-23-01.)

1334.45 PLUMBING FIXTURES.
Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof. (Ord. 30-01. Passed 7-23-01.)

1334.46 CARE OF FACILITIES, EQUIPMENT, STRUCTURE.

No occupant shall willfully destroy, deface or impair any of the facilities, equipment or any part of the structure of a dwelling unit, dwelling, multiple dwelling or apartment. (Ord. 30-01. Passed 7-23-01.)

1334.47 LICENSE REQUIRED.

No person shall operate a rooming house unless he hold a valid rooming house license issued by the Building Inspector in the name of the operator and for the specific rooming house. The operator shall apply to the Building Inspector for such license which shall be issued by the Building Inspector on the condition that the applicable provisions of this Housing Code and any rules and regulations adopted pursuant thereto are complied with. (Ord. 30-01. Passed 7-23-01.)

1334.48 TRANSFER OF OWNERSHIP; TERM OF LICENSE.

Every person holding a rooming house license shall give notice in writing to the Building Inspector within five days after having sold, transferred, given away or otherwise disposed of ownership or interest in control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership or control of such rooming house. Every rooming house license shall expire at the end of one year following its date of issuance and on subsequent years on the date of expiration unless sooner suspended or revoked as hereinafter provided. (Ord. 30-01. Passed 7-23-01.)

1334.49 LICENSE FEES; DENIAL OF LICENSE.

The fee for a rooming house license shall be fifty dollars ($50.00) plus five dollars ($5.00) per room for all rental rooms in excess of ten rooms to defray the expenses of inspection and necessary administration. If, upon inspection, it is found that the rooming house does not meet the necessary requirements of his Housing Code, the operator shall be informed in writing of the deficiencies and a date set forth compliance and reinspection. If the reinspection reveals that the deficiencies have not been corrected, the license shall be denied and the fee not returned. In such event a new application must be applied for and fee paid for each inspection required before the premises are found to meet all rules and regulations set forth in this Housing Code. (Ord. 30-01. Passed 7-23-01.)

1334.50 ROOMING HOUSE INSPECTIONS.

Whenever, upon inspection of any rooming house, the Building Inspector finds that conditions or practices exist which are in violation of any provision of this Housing Code or of any rule or regulation adopted pursuant thereto, the Building Inspector shall give notice in writing to the operator of such rooming house that unless such conditions or practices are corrected within a reasonable period, to be determined by the Building Inspector, the operator's license will be suspended. At the end of such period, the Building Inspector shall reinspect such rooming house, and if he finds that such conditions or practices have not been corrected, he shall suspend the operator's license and give notice in writing to the operator that such license has been suspended. Operation shall post conspicuously all notices received under this section in a common area for all tenants to view. (Ord. 30-01. Passed 7-23-01.)

1334.51 HEARING ON LICENSE SUSPENSION OR DENIAL; EFFECT OF SUSPENSION.

Any person whose license to operate a rooming house has been suspended, or who has received written notice from the Housing Inspector that his license is to be suspended unless existing conditions or practices at his rooming house are corrected, may request and shall be granted a hearing on the matter before the Housing Appeals Board, under procedure provided for in Chapter 1145. Provided that no petition for such hearing is filed within ten days following the date on which such license was suspended or such notice received or such application denied, such action on such license shall be deemed to have been automatically effected. Upon receipt of notice of suspension, such operator shall immediately cease operation of such rooming house and no person shall occupy for sleeping or living purposes any rooming unit therein. A copy of all notices shall be given to all occupants. (Ord. 30-01. Passed 7-23-01.)

1334.52 BATHROOM FACILITIES.

At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a public potable water and sewer system or to a potable water and sewer system approved by the Health Commissioner and in good working condition, shall be supplied for each eight persons or fraction thereof, residing within a rooming house, including members of the operator's family wherever they share the use of such facilities. In a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half of the required number of water closets. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with 120 degrees Fahrenheit minimum hot and cold water at all times. All plumbing fixtures shall meet the standard of the applicable Plumbing Code and shall be in a state of good repair and in good working order. (Ord. 30-01. Passed 7-23-01.)

1334.53 BEDDINGS AND LINENS.

The operator of every rooming house shall change bed linens and towels, where supplied by the operator, at least once each week prior to the letter of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner. (Ord. 30-01. Passed 7-23-01.)

1334.54 FLOOR SPACE REQUIREMENTS.

Every room occupied for sleeping purposes by one person shall contain at least seventy square feet of floor space and every room occupied for sleeping purposes by more than one person shall contain at least forty square feet in addition to the seventy square feet prescribed above for the initial occupant. (Ord. 30-01. Passed 7-23-01.)

1334.55 FLOOR AREA CALCULATION.

Floor area shall be calculated on the basis of habitable room area. However, closet area and hall area within the dwelling unit, where provided, may count for not more than ten percent of the required habitable floor area. At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet and the floor area of any part of a room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area in computing the total floor area of the room to determine maximum permissible occupancy. (Ord. 30-01. Passed 7-23-01.)

1334.56 SANITARY MAINTENANCE.

The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceiling and for the maintenance of a sanitary condition in every part of a rooming house, and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure of building is leased or occupied by the operator. (Ord. 30-01. Passed 7-23-01.)

1334.57 EGRESS; STAIRWAYS.

(a) In every structure used for rooming house purposes, where more than twelve persons are accommodated on the second floor or more than six persons are accommodated above the second floor, there shall be not less than two stairways for egress from each floor above the first floor. One of such stairways shall be constructed and enclosed with one hour fire resistive material with at least one hand rail, unless such stairway is an outside masonry or concrete stairway with hand rails leading to grade level. Such outside stairway shall be accessible through a door, unlockable from within, located in a hallway or in a room which is not occupied, directly reached from a hall through a door without a locking device or bolt of any kind and shall be located as remotely as possible from the inside stairways.

(b) Such outside stairway shall be constructed to conform to Ohio Building Code specifications. All wells and areaways shall be protected with guard rails. In addition to a required outside concrete stairway or metal fire escape, a metal ladder integral and securely fastened to the structure or building and leading from a proper exitway will be acceptable as a required exit from a second or third floor. (Ord. 30-01. Passed 7-23-01.)

1334.58 HEATING.

Any space heater having an open and exposed flame that can be touched is prohibited. A completely enclosed cabinet or similar completely enclosed type space heater is acceptable. (Ord. 30-01. Passed 7-23-01.)

1334.59 ATTIC, CELLAR UNITS.

The use of attic or cellar rooming unit occupancy is prohibited. (Ord. 30-01. Passed 7-23-01.)

1335.60 EXIT SIGNS.

In rooming houses of over ten people, an illuminated exit sign shall be installed over each door, stairway and emergency means of exit. Such exit signs shall remain burning at all times. The circuit which supplies exit signs shall not supply other lights, receptacles or appliances and shall be so connected that there will be only one set of fuses between same and service fuses. (Ord. 30-01. Passed 7-23-01.)

1335.61 COMPLIANCE REQUIRED.

No person shall operate a rooming house or shall rent to another for occupancy any room unless such rooming house or room shall comply with the provisions of every section of the Housing Code, except the provisions of Sections 1335.27 and 1337.38. (Ord. 30-01. Passed 7-23-01.)

1334.62 HOUSING APPEALS BOARD CREATED; MEMBERS.

There is created a Housing Appeals Board of seven members qualified by experience and training to conduct hearings and exercise the functions authorized by this Housing Code. Membership shall include at least three of the following fields or groups: Real estate, building construction, property management, finance, public health, law, homeowners, Tuscarawas County Landlord Association and tenants. The Building Inspector shall serve as non voting exofficio member of the Housing Appeals Board. (Ord. 30-01. Passed 7-23-01.)

1335.63 APPOINTMENT OF MEMBERS; TERM.

The Housing Appeals board shall be appointed by the Mayor for overlapping terms of three years. Two of the first members shall be appointed for one year, two members for two years and three members for three years, respectively, and they shall serve until a successor is appointed. Thereafter, terms of appointment shall be for three years each. To be eligible for appointment to the Board a person shall be a citizen of the Untied States and a resident of the City. (Ord. 30-01. Passed 7-23-01.)

1335.64 ADOPTION OF RULES; OFFICERS; QUORUM.

No member of the Board shall take part in any hearing or determination in which he has a personal or financial interest. Four members of the Board in attendance at any meeting shall constitute a quorum. (Ord. 30-01. Passed 7-23-01.)

1334.65 POWERS OF INTERPRETATION.

The Housing Appeals Board shall interpret the intent of this Housing Code and any rules or regulations adopted pursuant thereto. (Ord. 30-01. Passed 7-23-01.)

1334.66 VARIANCES.

The Housing Appeals Board may permit a reasonable minimum variance from the applicable section of the Housing Code upon appeal if:

(a) A literal application of the Housing Code section(s) would cause an unnecessary financial hardship; and

(b) The public health, safety, or welfare; the health, safety or welfare of any occupant of the dwelling; or the living environment of the community may not reasonable be expected to be materially threatened by failure to correct the violation(s) being appealed.

All decisions to permit a variance under this section shall require at least the affirmative vote of four members of the Board. (Ord. 30-01. Passed 7-23-01.)

1335.67 DECISIONS.

(a) Every decision of the Housing Appeals Board shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. It shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the Building Inspector and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the parties to the appeal.

(b) The Board of Appeals shall in every case reach a decision without unreasonable or unnecessary delay.

(c) If a decision of the Housing Appeals reverses or modified a refusal, order or disallowance of the Building Inspector, or varies the application of any provision of this Housing Code, the Building Inspector shall immediately take action in accordance with such decision. (Ord. 30-01. Passed 7-23-01.)

1335.68 APPEALS FROM THE HOUSING APPEALS BOARD.

Any person or entity aggrieved by any decision of the Housing Appeals Board may seek review in a court of record in the manner provided by the laws of the State of Ohio. (Ord. 30-01. Passed 7-23-01.)

1335.69 EFFECTIVE DATE.

This chapter shall not be effective until a full time Building Inspector is appointed by the Mayor. (Ord. 30-01. Passed 7-23-01.)

1335.99 PENALTY.

Any person who shall violate any provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor of the fourth degree. Each day a violation continues shall be a separate offense.
(Ord. 30-01. Passed 7-23-01.)

CHAPTER 1337
Rodent and Insect Control

1337.01 Extermination responsibility.

CROSS REFERENCES
Housing Code requirements - see BLDG. 1335.39, 1335.40

1337.01 EXTERMINATION RESPONSIBILITY.

(a) The owner of a property shall be responsible for the immediate extermination by a Pest Control Operator licensed in the State of Ohio of insects and/or rodents on the premises when infestation exists. Such extermination shall take place within fourteen days of the receipt of the notice to exterminate.

(b) The Director of Environmental Health for the New Philadelphia City Health Department shall be responsible for enforcement of this section.

(c) Whoever violates this section is 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. (Ord. 7-97. Passed 3-24-97.)

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART FIFTEEN - FIRE PREVENTION CODE

Chap. 1511. New Philadelphia Fire Code.

Chap. 1515. Open Burning.

Chap. 1519. Fireworks.

CODIFIED ORDINANCES OF NEW PHILADELPHIA

PART FIFTEEN- FIRE PREVENTION CODE

CHAPTER 1511
New Philadelphia Fire Code

1511.01 Code adopted.
1511.02 File and distribution.
1511.03 Definitions.
1511.04 Enforcement inspectors.
1511.05 New materials, processes or occupancies which may require permits.
1511.06 Appeals.
1511.99 Penalties.

CROSS REFERENCES

Power to regulate elevators, stairways and fire escapes - see Ohio R.C. 715.26
Adoption of technical codes - see Ohio R.C. 731.231
Power to regulate against fires - see Ohio R.C. 737.21, 737.37
Investigation of fires - see Ohio R.C. 737.27, 3737.08
Right to examine buildings - see Ohio R.C. 737.34 et seq., 3737.14
Petroleum liquids and gases - see Ohio R.C. 3737.17 et seq.
Dry cleaning and dyeing - see Ohio R.C. Ch. 3739
Gasoline, oils and paints - see Ohio R.C. Ch. 3741
Vehicles transporting explosives - see TRAF. 339.06
Fireworks - see GEN. OFF. 549.11, 549.12
Sale of explosives to minors - see GEN. OFF. 549.09

1511.01 CODE ADOPTED.

There is hereby adopted and incorporated by reference as if set out at length herein, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, explosion, or dangerous conditions in new and existing buildings, structures and premises, that certain code shall be at minimum, the current Ohio Fire Code as duly adopted by the authority of the State Fire Marshal.
(Ord. 16-2007. Passed 6-11-07.)

1511.02 FILE AND DISTRIBUTION.

A complete copy of the Ohio Fire Code adopted herein is on file at the New Philadelphia Fire Department and available on the Ohio Fire Marshal's website.
(Ord. 16-2007. Passed 6-11-07.)

1511.03 DEFINITIONS.

The following terms as used in the Fire Prevention Code adopted herein shall have the meanings respectively ascribed to them:

(a) "Municipality" means the City of New Philadelphia.

(b) "Corporation counsel" means the City Director of Law.

(c) "Bureau of Fire Prevention" means the Fire Department of the City.

(d) "Chief of the Bureau of Fire Prevention" means the Fire Chief of the City.

(e) "AHJ" means authority having jurisdiction.

(Ord. 16-2007. Passed 6-11-07.)

1511.04 ENFORCEMENT INSPECTORS.

(a) The Ohio Fire Code adopted herein shall be enforced by the State Fire Marshal, Fire Chief of the authority of having jurisdiction, or certified Fire Safety Inspectors of the AHJ.

(b) The Fire Chief shall train and oversee certified Fire Safety Inspectors. No new hiring shall be done without the consent of Council.

(Ord. 16-2007. Passed 6-11-07.)

1511.05 NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS.

Copies of applications, drawings and plans shall be submitted to fire code official of AHJ.

(Ord. 16-2007. Passed 6-11-07.)

1511.06 APPEALS.

Any appeal filed herein shall be processed and heard pursuant to Ohio Revised Code Chapter 3737 before the Ohio Board of Building Appeals.

(Ord. 16-2007. Passed 6-11-07.)

1511.99 PENALTIES.

Whoever violates any division of this chapter is guilty of a misdemeanor of the first degree.

(Ord. 16-2007. Passed 6-11-07.)

CHAPTER 1515
Open Burning

1515.01 Definitions.
1515.02 Relations to other prohibitions.
1515.03 Open burning in restricted areas.
1515.04 Permission to individuals and notification to the Ohio EPA.
1515.05 Open burning; recreational fires; portable outdoor fireplaces.
1515.99 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

1515.01 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 (including dismantled/fallen barns); 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 the property of a one-, two- or three-family residence as a result of residential activities, but not including garbage, rubber, grease, asphalt, liquid petroleum products, or plastics.

(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, portable 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)

1515.02 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)

1515.03 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 1515.05 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.

(5) Fires set at the direction of federal, state, and local law enforcement officials for the purpose of destruction of cannabis sativa (marijuana) plant vegetation, processed marijuana material and/or other drugs seized by federal, state or local law enforcement officials.

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 1515.04:

(1) Prevention or control of disease or pests, with written or oral verification to the Ohio EPA from the Ohio Department of Health or local health department, the centers for disease control and prevention, 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, liquid petroleum products, plastics or building materials.

(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 1515.04, 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 fire 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 1515.04 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, if required, 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 (forestry), 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)

1515.04 PERMISSION TO INDIVIDUALS AND NOTIFICATION TO THE OHIO EPA.

(a) Permission.

(1) An application for permission to open burn shall be submitted in writing to Ohio EPA. The applicant shall allow Ohio EPA at least ten working days to review the permit. Applicant may proceed with burn upon receipt of written permission from Ohio EPA. Saturday, Sunday and legal holidays shall not be considered working days. The application 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 quantity or acreage and the nature of the materials 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, when atmospheric conditions are appropriate; 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 working days.

(7) For open burning defined under subsection (d)(2) of Section 1515.03, and paragraph (C)(2) of Rule 3745-19-04 of the Administrative Code, permission to open burn shall not be granted unless the applicant provides proof of written notice of intent to demolish received 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 working days. 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)

1515.05 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.

(b) Prohibited Open Burning. Open burning that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

(c) 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)

1515.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than sixty days, or both.

CHAPTER 1519
Fireworks

1519.01 Definitions.
1519.02 Public exhibition permit required; fee; bond; records.
1519.03 Unlawful conduct by exhibitor.
1519.04 Possession, sale or discharge prohibited; exceptions.
1519.05 Application.
1519.06 Use of fireworks to control nuisance wildlife.
1519.99 Penalty.

CROSS REFERENCES

Manufacturers to comply with building and zoning ordinances - see Ohio R.C. 3743.06(F)
Wholesalers to comply with building and zoning ordinances - see Ohio R.C. 3743.19(G)
Arrests, seizure of fireworks by certified fire safety inspector - see Ohio R.C. 3743.68
Conflict of Fire Marshal's rules with rules of Ohio Board of Building Standards - see Ohio R.C. 3781.11(D)

1519.01 DEFINITIONS.

As used in this chapter:

(a) "Beer" and "intoxicating liquor" have the same meanings as in Ohio R.C. 4301.01.

(b) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition and that is ignited by pulling the ends of the string.

(c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

(d) (1) “1.3 G fireworks” means display fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation “Division 1.3" in Title 49, Code of Federal Regulations.

(2) “1.4 G fireworks” means consumer fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation “Division 1.4" in Title 49, Code of Federal Regulations.

(e) "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.

(f) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in Section 1519.05.

(g) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to Ohio R.C. 3743.50 to 3743.55.

(h) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to Ohio R.C. 3743.02 to 3743.08.

(i) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to Ohio R.C. 3743.15 to 3743.21.

(j) "Novelties and trick noisemakers" include the following items:

(1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers and snappers;

(2) Snakes or glow worms;

(3) Smoke devices;

(4) Trick matches.

(k) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling string protruding from the item, and from which paper streamers are expelled when the item is ignited.

(l) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs and sidings installed and primarily used in serving a mine, quarry or plant.

(m) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(n) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.

(o) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.

(p) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

(q) “Wire sparkler” means a sparkler consisting of a wire or stick coated with a non-explosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture. (ORC 3743.01)

1519.02 PUBLIC EXHIBITION PERMIT REQUIRED; FEE; BOND; RECORDS.

(a) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition within the Municipality shall apply for approval to conduct the exhibition to the Fire Chief and from the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

The required approval shall be evidenced by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer, signing a permit for the exhibition, the form for which shall be prescribed by the State Fire Marshal. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the Fire Marshal or, if it is available, from the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

(b) Before a permit is signed and issued to a licensed exhibitor of fireworks, the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show the applicant's license as an exhibitor of fireworks to the Fire Chief or Fire Prevention Officer.

The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke the permit for noncompliance with the rules.

(c) The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the applicant pays a permit fee of twenty-five dollars ($25.00) plus any necessary costs of investigation of the applicant and of inspecting the premises on which the exhibition will be conducted.

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars ($1,000,000), with surety satisfactory to the Fire Chief or Fire Prevention Officer and to Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars ($1,000,000) for liability arising from injury, death or loss to persons or property emanating from the fireworks exhibition. The Legislative Authority may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this subsection. The Fire Chief or Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this subsection.

(d) (1) Each permit for a fireworks exhibition issued by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall contain a distinct number, designate the Municipality, and identify the certified Fire Safety Inspector, Fire Chief or Fire Prevention Officer who will be present before, during, and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, issuing it to the Fire Marshal, who shall keep a record of the permits received. A permit is not transferable or assignable.

(2) The Fire Chief, Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition and the number of the permit issued to the exhibitor for the exhibition.

(e) The governing authority having jurisdiction in the location where an exhibition is to take place shall require that a certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer be present before, during, and after the exhibition, and shall require the certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter and Ohio R.C. Chapter 3743. (ORC 3743.54)

1519.03 UNLAWFUL CONDUCT BY EXHIBITOR.

(a) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) or to comply with Divisions (C) and (D) of that section.

(b) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Section 1519.02 or if a permit so secured is revoked by the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement official or a designee of such Police Chief or other similar law enforcement official pursuant to that section.

(c) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55.

(d) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer or controlled substance while on the premises on which the exhibition is being conducted.

(e) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the Fire Marshal under Ohio R.C. 3743.56. (ORC 3743.64)

1519.04 POSSESSION, SALE OR DISCHARGE PROHIBITED; EXCEPTIONS.

(a) No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 to 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, an out-of-state resident as authorized by Ohio R.C. 3743.44, a resident of this State as authorized by Ohio R.C. 3743.45, or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 to 3743.55 and Section 1519.02 and except as provided in Section 1519.05.

(b) Except as provided in Section 1519.05 and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 to 3743.55 and Section 1519.02, no person shall discharge, ignite or explode any fireworks in this Municipality.

(c) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(d) No person shall sell fireworks of any kind to a person under eighteen years of age. No person under eighteen years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under eighteen years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.

(e) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3 G fireworks.
(ORC 3743.65)

1519.05 APPLICATION.

This chapter does not prohibit or apply to the following:

(a) The manufacture, sale, possession, transportation, storage or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation or highway use;

(b) The manufacture, sale, possession, transportation, storage or use of fusees, torpedoes or other signals necessary for the safe operation of railroads;

(c) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;

(d) The manufacture for, the transportation, storage, possession or use by, or sale to the Armed Forces of the United States and the militia of this State of pyrotechnic devices;

(e) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps;

(f) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms or model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models;

(g) The manufacture, sale, possession, transportation, storage or use of wire sparklers.

(h) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges, provided that the exhibition complies with all of following:

(1) No explosive aerial display is conducted in the exhibition;
(2) The exhibition is separated from spectators by not less than two hundred feet;
(3) The person conducting the exhibition complies with regulations of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition.
(ORC 3743.80)

1519.06 USE OF FIREWORKS TO CONTROL NUISANCE WILDLIFE.

This chapter does not prohibit the use of fireworks to control nuisance wildlife under the following conditions:

(a) A permit must be obtained pursuant to Chapter 1519 before using such fireworks;
(b) Fireworks to control nuisance wildlife shall only be used on property which exceeds 158 acres within the City of New Philadelphia;
(c) Any use of fireworks must first be determined acceptable and proper by the State of Ohio, Department of Natural Resources, Division of Wildlife;
(d) All sections of the Ohio Revised Code must be followed and complied with.
(Ord. 47-2008. Passed 11-24-08.)

1519.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for a first offense and shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than six months or both. (ORC 3743.99(C))