

CHAPTER 1: GENERAL PROVISIONS

Section

- 1.01 Application of Chapter I
- 1.02 Definitions
- 1.03 Classification of offenses
- 1.04 Common law offenses abrogated
- 1.05 Rules of construction
- 1.06 Limitation of criminal prosecutions
- 1.07 Requirements for criminal liability; voluntary intoxication
- 1.08 Culpable mental states
- 1.09 Organizational criminal liability
- 1.10 Personal accountability for organizational conduct
- 1.11 Attempt
- 1.12 Complicity
- 1.13 Presumption of innocence; proof of offense; affirmative defense
- 1.14 Battered woman syndrome
- 1.15 Delinquency adjudications deemed convictions
- 1.16 Criminal law jurisdiction
- 1.17 Disposition of unclaimed or forfeited property held by Police Department
- 1.18 Imposing sentence for misdemeanor
- 1.19 Multiple sentences
- 1.20 Self defense: limitations on duty to retreat prior to using force
- 1.99 Penalty for Chapter I

§ 1.01 APPLICATION OF CHAPTER I.

(A) Chapter I of this code of ordinances embodies and prescribes penalties for offenses against the municipality not classifiable elsewhere. The word “misdemeanors”, as used in this title, is not exhaustive and does not imply that offenses found elsewhere in this code of ordinances are not also misdemeanors and punishable as such.

(B) Each act or omission for which a fine is provided under this Chapter or elsewhere in this code, or each act or omission which is declared a violation of this code, is unlawful and is hereby made a misdemeanor. Upon conviction, the penalty or penalties so provided shall be imposed by the court.

§ 1.02 DEFINITIONS.

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

CONTRABAND. 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. The term includes but is not limited to all of the following:

- (1) Any controlled substance, as defined in R.C. § 3719.01, or any device or paraphernalia related thereto;
- (2) Any dangerous ordnance or obscene material.

DANGEROUS OFFENDER. A person who has committed an offense, whose history, character and condition reveal a substantial risk that he or she will be a danger to others, and whose conduct has been characterized by a pattern of repetitive, compulsive or aggressive behavior with heedless indifference to the consequences.

DEADLY FORCE. Any force that carries a substantial risk that it will proximately result in the death of any person.

FORCE. Any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.

LAW ENFORCEMENT OFFICER. 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 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, 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 such statutory duty and authority.

(3) The Mayor, in a capacity as chief conservator of the peace within the municipality.

(4) A member of an auxiliary police force organized by the county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission.

(5) A person lawfully called pursuant to 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 R.C. § 737.01 as a special patrolling officer during a 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, 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 R.C. § 5907.02.

(10) A member of a police force employed by a regional transit authority under R.C. § 306.35(Y).

NOT GUILTY BY REASON OF INSANITY. 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 R.C. § 2901.05, that at the time of the commission of the offense, he or she did not know, as a result of a severe mental disease or defect, the wrongfulness of his or her acts.

OFFENSE OF VIOLENCE.

(1) A violation of 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, or 2923.161, division (A)(1), (A)(2) or (A)(3) of R.C. § 2911.12, or of division (B)(1), (B)(2), (B)(3) or (B)(4) of R.C. § 2919.22, or felonious sexual penetration in violation of former R.C. § 2907.12;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States, substantially equivalent to any section, division or offense listed in division (1) of this definition;

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or of 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 division (1), (2), or (3) of this definition.

PERSON.

(1) (a) Subject to division (2) of this definition, as used in any section contained in Chapter I of this code that sets forth a criminal offense, the term includes all of the following:

1. An individual, corporation, business trust, estate, trust, partnership and association.

(b) As used in any section contained in Chapter I of this code that does not set forth a criminal offense, the term includes an individual, corporation, business trust, estate, partnership and association.

PHYSICAL HARM TO PERSONS. Any injury, illness, or other physiological impairment, regardless of its gravity or duration.

PHYSICAL HARM TO PROPERTY. Any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. The term does not include wear and tear occasioned by normal use.

PRIVILEGE. 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.

PROPERTY.

(1) Any property, real or personal, tangible or intangible, and any interest or license in that property. The term 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 definition, "trade secret" has the same meaning as in R.C. § 1333.61, and "telecommunications service" and "information service" have the same meanings as in R.C. § 2913.01.

(3) As used in this definition and in the definition of "contraband" in this section, "cable television service," "computer," "computer network," "computer software," "computer system," "data," and "telecommunications device" have the same meanings as in R.C. § 2913.01.

REPEAT OFFENDER. A person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that he or she will commit another offense. It is prima facie evidence that a person is a repeat offender if any of the following applies:

(1) Having been convicted of one or more offenses of violence, as defined in R.C. § 2901.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent offense of violence;

(2) Having been convicted of one or more sexually oriented offenses, as defined in R.C. § 2950.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent sexually oriented offense;

(3) Having been convicted of one or more theft offenses, as defined in R.C. § 2913.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent theft offense;

(4) Having been convicted of one or more felony drug abuse offenses, as defined in R.C. § 2925.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent felony drug abuse offense;

(5) Having been convicted of two or more felonies, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense;

(6) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense.

RISK. A significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

SCHOOL. Has the same meaning as in R.C. § 2925.01.

SCHOOL ACTIVITY. 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 R.C. Chapter 3314; a governing board of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07.

SCHOOL BUILDING. Has the same meaning as in R.C. § 2925.01.

SCHOOL BUS. Has the same meaning as in R.C. § 4511.01.

SCHOOL PREMISES. Has the same meaning as in R.C. § 2925.01.

SCHOOL SAFETY ZONE. Consists of a school, school building, school premises, school activity, and school bus.

SERIOUS PHYSICAL HARM TO PERSONS. 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.

SERIOUS PHYSICAL HARM TO PROPERTY. 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 or enjoyment for an extended period of time.

SUBSTANTIAL RISK. A strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

§ 1.03 CLASSIFICATION OF OFFENSES.

As used in this Title:

(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 minor misdemeanor if the only penalty that may be imposed is one of the following:

- (1) For an offense committed on or after January 1, 2004, a fine not exceeding \$150, community service under R.C. § 2929.27(D), or a financial sanction other than a fine under R.C. § 2929.28.

§ 1.04 COMMON LAW OFFENSES ABROGATED.

(A) No conduct constitutes a criminal offense against the municipality unless it is defined as an offense in this code.

(B) An offense is defined when one or more sections of this code 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.

§ 1.05 RULES OF CONSTRUCTION.

(A) Except as otherwise provided in division (C) or (D) of this section, sections of this code 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 this 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 this code that refers to a previous conviction of or plea of guilty to a violation of a section of this code, the Ohio Revised Code or a division of a section of this code or the 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 municipality, state, another state, or the United States or under an existing or former municipal ordinance.

(D) Any provision of this code that refers to a section, or to a division of a section, of this code 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.

§ 1.06 LIMITATION OF CRIMINAL PROSECUTIONS.

(A) A prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

- (a) For a misdemeanor other than a minor misdemeanor, two years;
- (b) For a minor misdemeanor, six months.

(B) 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.

(C) A prosecution is commenced on the date an information is 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 a 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.

(D) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.

(E) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused departed this municipality or conceals the accused's identity or whereabouts is prima facie evidence of the accused's purpose to avoid prosecution.

(F) 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 information, or process that commenced the prosecution is quashed or the proceedings on the information, or process are set aside or reversed on appeal.

(G) As used in this section, **PEACE OFFICER** has the same meaning as in R.C. § 2935.01.

§ 1.07 REQUIREMENTS FOR CRIMINAL LIABILITY; VOLUNTARY INTOXICATION.

(A) Except as provided in division (B) of this section, 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 division of a section plainly indicates a purpose to impose strict liability for an offense defined in that division does not by itself plainly indicate a purpose to impose strict criminal liability for an offense defined in other divisions 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) Division (C)(1) of this section does not apply to offenses defined in R.C. Title XLV.

(3) Division (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:

CULPABILITY. Means purpose, knowledge, recklessness, or negligence, as defined in R.C. § 2901.22.

INTOXICATION. Includes but is not limited to intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.

INVOLUNTARY ACTS. Means 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.

POSSESSION. Means 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.

§ 1.08 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 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 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.

§ 1.09 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. The term does not include an entity organized as or by a governmental agency for the execution of a governmental program.

§ 1.10 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

(A) An officer, agent, or employee of an organization, as defined in R.C. § 2901.23, may be prosecuted for an offense committed by such organization, if he or she 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 or she 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 or she has direct responsibility;

(2) He or she 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 or she is subject to the same penalty as if he or she had acted in his or her own behalf.

§ 1.11 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, of complicity in the commission of an offense, or of conspiracy to commit 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 his or her effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of

his or her 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 offense is an offense of the next lesser degree than the offense attempted. In the case of an attempt to commit an offense other than a violation of R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor fourth degree if the offense attempted is a misdemeanor. An attempt to commit a minor misdemeanor, or to engage in conspiracy, is not an offense under this section.

(F) As used in this section:

DRUG ABUSE OFFENSE. Has the same meaning as in R.C. § 2925.01.

§ 1.12 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) Conspire with another to commit the offense in violation of R.C. § 2923.01;
- (4) 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 R.C. § 2923.02 or a substantially equivalent municipal ordinance.

(D) 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 or her complicity, under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.

(E) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he or she were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.

§ 1.13 PRESUMPTION OF INNOCENCE; PROOF OF OFFENSE; AFFIRMATIVE DEFENSE.

(A) Every person accused of an offense is presumed innocent until proven guilty beyond a reasonable doubt, and the burden of proof for all elements of the offense is upon the prosecution. The burden of going forward with the evidence of an affirmative defense, and the burden of proof by a preponderance of the evidence, for an affirmative defense, is upon the accused.

(B) (1) Subject to division (B)(2) of this section, a person is presumed to have acted in self defense or defense of another when using defensive force that is intended or likely to cause death or great bodily harm to another if the person against whom the defensive force is used is in the process of unlawfully and without privilege to do so entering, or has unlawfully and without privilege to do so entered, the residence or vehicle occupied by the person using the defensive force.

(2) (a) The presumption set forth in division (B)(1) of this section does not apply if the person against whom the defensive force is used has a right to be in, or is a lawful resident of, the residence or vehicle.

(b) The presumption set forth in division (B)(1) of this section does not apply if the person who uses the defensive force uses it while in a residence or vehicle and the person is unlawfully, and without privilege to be, in that

residence or vehicle.

(3) The presumption set forth in division (B)(1) of this section is a rebuttable presumption and may be rebutted by a preponderance of the evidence.

(C) As used in this section:

AFFIRMATIVE DEFENSE. An affirmative defense is either of the following:

(a) A defense expressly designated as affirmative;

(b) A defense involving an excuse or justification peculiarly within the knowledge of the accused, on which the accused can fairly be required to adduce supporting evidence.

DWELLING. Means a building or conveyance of any kind that has a roof over it and that is designed to be occupied by people lodging in the building or conveyance at night, regardless of whether the building or conveyance is temporary or permanent or is mobile or immobile. As used in this division, a building or conveyance includes but is not limited to an attached porch, and a building or conveyance with a roof over it includes but is not limited to a tent.

PROOF BEYOND A REASONABLE DOUBT. Proof of such character that an ordinary person would be willing to rely and act upon it in the most important of the person's own affairs.

REASONABLE DOUBT. Reasonable doubt is present when the jurors, after they have carefully considered and compared all the evidence, cannot say they are firmly convinced of the truth of the charge. It is a doubt based on reasonable and common sense. The term is not mere possible doubt, because everything relating to human affairs or depending on moral evidence is open to some possible or imaginary doubt.

RESIDENCE. Means a dwelling in which a person resides either temporarily or permanently or is visiting as a guest.

VEHICLE. Means a conveyance of any kind, whether or not motorized, that is designed to transport people or property.

§ 1.14 BATTERED WOMAN SYNDROME.

(A) The municipality hereby declares that it recognizes both of the following, in relation to the "battered woman syndrome": that the syndrome currently is a matter of commonly accepted scientific knowledge, and that the subject matter and details of the syndrome are not within the general understanding or experience of a person who is a member of the general populace and are not within the field of common knowledge.

(B) If a person is charged with an offense involving the use of force against another and the person, as a defense to the offense charged, raises the affirmative defense of self defense, the person may introduce expert testimony of the "battered woman syndrome" and expert testimony that the person suffered from that syndrome as evidence to establish the requisite belief of an imminent danger of death or great bodily harm that is necessary, as an element of the affirmative defense, to justify the person's use of force in question. The introduction of any expert testimony under this division shall be in accordance with the Ohio Rules of Evidence.

§ 1.15 DELINQUENCY ADJUDICATIONS DEEMED CONVICTIONS.

(A) If a person is alleged to have committed an offense and if the person previously has been adjudicated a delinquent child or juvenile traffic offender for a violation of a law or ordinance, except as provided in division (B) of this section, the adjudication as a delinquent child or as a juvenile traffic offender is a conviction for a violation of the law for purposes of determining the offense with which the person should be charged and, if the person is convicted of or pleads guilty to an offense, the sentence to be imposed upon the person relative to the conviction or guilty plea.

(B) A previous adjudication of a person as a delinquent child or juvenile traffic offender for a violation of a law or ordinance is not a conviction for a violation of the law or ordinance for purposes of determining whether the person is a repeat violent offender, as defined in R.C. § 2929.01, or whether the person should be sentenced as a repeat violent offender under R.C. § 2929.14(B)(2) and R.C. § 2941.149.

§ 1.16 CRIMINAL LAW JURISDICTION.

(A) A person is subject to criminal 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 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 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 division, 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 person 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 state or municipality.

(B) This municipality includes the land and water within its boundaries and the air space above that land and water, 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 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 division (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 meanings as in R.C. § 2913.01.

§ 1.17 DISPOSITION OF UNCLAIMED OR FORFEITED PROPERTY HELD BY POLICE DEPARTMENT.

(A) Safekeeping of property in custody.

(1) (a) Any property that has been lost, abandoned, stolen, seized pursuant to a search warrant, or otherwise lawfully seized or forfeited and that is in the custody of the Police Department shall be kept safely by the Police Department, pending the time it no longer is needed as evidence or for another lawful purpose, and shall be disposed of pursuant to this section or R.C. §§ 2981.12 and 2981.13.

(b) This section does not apply to the custody and disposal of any of the following:

1. Vehicles subject to forfeiture under R.C. Title 45, except as provided in division (B)(1)(f) of this section;
2. Abandoned junk motor vehicles or other property of negligible value;
3. Property held by a department of rehabilitation and correction institution that is unclaimed, that does not have an identified owner, that the owner agrees to dispose of, or that is identified by the department as having little value;
4. Animals taken, and devices used in unlawfully taking animals, under R.C. § 1531.20;
5. Controlled substances sold by a peace officer in the performance of the officer's official duties under R.C. § 3719.141;
6. Property recovered by a township law enforcement agency under R.C. §§ 505.105 to 505.109;
7. Property held and disposed of under an ordinance of the municipality or under R.C. §§ 737.29 to 737.33, except that if the municipality has received notice of a citizens' reward program as provided in division (B)(5) of this section and disposes of property under an ordinance shall pay 25% of any moneys acquired from any sale or auction to the citizens' reward program.

(2) (a) The Police Department shall adopt and comply with a written internal control policy that does all of the following:

1. Provides for keeping detailed records as to the amount of property acquired by the Police Department and the date property was acquired;
2. Provides for keeping detailed records of the disposition of the property, which shall include but not be limited to both of the following:
 - a. The manner in which it was disposed, the date of disposition, detailed financial records concerning any property sold, and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of property.
 - b. The general types of expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the specific amount expended on each general type of expenditure, except that the policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.
3. Complies with R.C. § 2981.13 if the Police Department has a Law Enforcement Trust Fund or similar fund created under that section.

(b) The records kept under the internal control policy shall be open to public inspection during the Police Department's regular business hours. The policy adopted under this section is a public record open for inspection under R.C. § 149.43.

(3) The Police Department, with custody of property to be disposed of under this section or R.C. §§ 2981.12 or 2981.13, shall make a reasonable effort to locate persons entitled to possession of the property, to notify them of when and where it may be claimed, and to return the property to them at the earliest possible time. In the absence of evidence identifying persons entitled to possession, it is sufficient notice to advertise in a newspaper of general circulation in the

county and to briefly describe the nature of the property in custody and inviting persons to view and establish their right to it.

(4) As used in this section:

CITIZENS' REWARD PROGRAM. Has the same meaning as in R.C. § 9.92.

LAW ENFORCEMENT AGENCY. Includes correctional institutions.

TOWNSHIP LAW ENFORCEMENT AGENCY. Means an organized police department of a township, a township police district, a joint police district, or the office of a township constable.

(B) *Disposition of unclaimed or forfeited property.*

(1) Unclaimed or forfeited property in the custody of the Police Department, other than property described in division (A)(1)(b) of this section, shall be disposed of by order of any court of record that has territorial jurisdiction over the municipality, as follows:

(a) Drugs shall be disposed of pursuant to R.C. § 3719.11 or placed in the custody of the Secretary of the Treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.

(b) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public auction pursuant to division (B)(2) of this section. The Police Department may sell other firearms and dangerous ordnance to a federally licensed firearms dealer in a manner that the court considers proper. The Police Department shall destroy any firearms or dangerous ordnance not given to a law enforcement agency or sold or shall send them to the Bureau of Criminal Identification and Investigation for destruction by the Bureau.

(c) Obscene materials shall be destroyed.

(d) Beer, intoxicating liquor, or alcohol seized from a person who does not hold a permit issued under R.C. Chapters 4301 and 4303 or otherwise forfeited to the state for an offense under R.C. § 4301.45 or R.C. § 4301.53 shall be sold by the Division of Liquor Control if the Division determines that it is fit for sale or shall be placed in the custody of the Investigations Unit in the Ohio Department of Public Safety and be used for training relating to law enforcement activities. The Ohio Department of Public Safety, with the assistance of the Division of Liquor Control, shall adopt rules in accordance with R.C. Chapter 119 to provide for the distribution to state or local law enforcement agencies upon their request. If any tax imposed under R.C. Title 43 has not been paid in relation to the beer, intoxicating liquor, or alcohol, any moneys acquired from the sale shall first be used to pay the tax. All other money collected under this division (B)(1)(d) shall be paid into the State Treasury. Any beer, intoxicating liquor, or alcohol that the Division determines to be unfit for sale shall be destroyed.

(e) 1. Any mobile instrumentality forfeited under R.C. Chapter 2981 may be given to the law enforcement agency that initially seized the mobile instrumentality for use in performing its duties, if the agency wants the mobile instrumentality. The agency shall take the mobile instrumentality subject to any security interest or lien on the mobile instrumentality.

2. Vehicles and vehicle parts forfeited under R.C. §§ 4549.61 to 4549.63 may be given to a law enforcement agency for use in performing its duties. Those parts may be incorporated into any other official vehicle. Parts that do not bear vehicle identification numbers or derivatives of them may be sold or disposed of as provided by rules of the Director of Public Safety. Parts from which a vehicle identification number or derivative of it has been removed, defaced, covered, altered, or destroyed and that are not suitable for police work or incorporation into an official vehicle shall be destroyed and sold as junk or scrap.

(f) Computers, computer networks, computer systems, and computer software suitable for police work may be given to a law enforcement agency for that purpose or disposed of under division (B)(2) of this section.

(g) Money seized in connection with a violation of R.C. § 2905.32, 2907.21, or 2907.22 shall be deposited in the Victims of Human Trafficking Fund created by R.C. § 5101.87.

(2) Unclaimed or forfeited property that is not described in division (B)(1) of this section or division (A)(1)(b) of this section, with court approval, may be used by the law enforcement agency in possession of it. If it is not used by the agency, it may be sold without appraisal at a public auction to the highest bidder for cash or disposed of in another manner

that the court considers proper.

(3) Except as provided in divisions (B)(1) and (B)(5) of this section and after compliance with division (B)(4) of this section when applicable, any moneys acquired from the sale of property disposed of pursuant to this section shall be placed in the General Revenue Fund of the state, or the General Fund of the municipality.

(4) If the property was in the possession of the Police Department in relation to a delinquent child proceeding in a juvenile court, 10% of any moneys acquired from the sale of property disposed of under this section shall be applied to one or more community addiction services providers, as defined in R.C. § 5119.01. A juvenile court shall not specify a services provider, except as provided in this division, unless the services provider is in the same county as the court or in a contiguous county. If no services provider is located in any of those counties, the juvenile court may specify a services provider anywhere in Ohio. The remaining 90% of the proceeds or cash shall be applied as provided in division (B)(3) of this section.

(5) (a) If the Board of County Commissioners recognizes a citizens' reward program under R.C. § 9.92, the Board shall notify the Police Department of the recognition by filing a copy of its resolution conferring that recognition with the Police Department. When the Board recognizes a citizens' reward program and the county includes a part, but not all, of the territory of the municipality, the Board shall so notify the Police Department of the recognition of the citizens' reward program only if the county contains the highest percentage of the municipality's population.

(b) Upon being so notified, the Police Department shall pay 25% of any forfeited proceeds or cash derived from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively to pay rewards. No part of the funds may be used to pay expenses associated with the program. If a citizens'

reward program that operates in more than one county or in another state in addition to this state receives funds under this section, the funds shall be used to pay rewards only for tips and information to law enforcement agencies concerning offenses committed in the county from which the funds were received.

(6) Any property forfeited under R.C. Chapter 2981 not be used to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying criminal offense or a different offense arising out of the same facts and circumstances.

(7) Any moneys acquired from the sale of personal effects, tools, or other property seized because the personal effects, tools, or other property were used in the commission of a violation of R.C. § 2905.32, 2907.21, or 2907.22 or derived from the proceeds of the commission of a violation of R.C. § 2905.32, 2907.21, or 2907.22 and disposed of pursuant to this division (B) shall be placed in the Victims of Human Trafficking Fund created by R.C. § 5101.87.
(R.C. § 2981.12) (Rev. 2016)

(C) *Disposition of contraband, proceeds, or instrumentalities.* Except as otherwise provided in R.C. § 2981.13, property ordered forfeited as contraband, proceeds, or an instrumentality pursuant to R.C. Chapter 2981 shall be disposed of, used, or sold pursuant to division (B) of this section or R.C. § 2981.12. If the property is to be sold under division (B) of this section or R.C. § 2981.12, the prosecutor shall cause notice of the proposed sale to be given in accordance with law.

§ 1.18 IMPOSING SENTENCE FOR MISDEMEANOR.

(A) (1) A court that imposes a sentence under this chapter upon an offender for a misdemeanor or minor misdemeanor has discretion to determine the most effective way to achieve the purposes and principles of sentencing set forth in § 1.99(B).

(2) Unless a specific sanction is required to be imposed or is precluded from being imposed by the section setting forth an offense or the penalty for an offense or by any provision of § 1.99 of this code or R.C. §§ 2929.23 through 2929.28, a court that imposes a sentence upon an offender for a misdemeanor may impose on the offender any sanction or combination of sanctions under § 1.99(C) through (G). The court shall not impose a sentence that imposes an unnecessary burden on local government resources.

(B) (1) In determining the appropriate sentence for a misdemeanor, the court shall consider all of the following factors:

(a) The nature and circumstances of the offense or offenses;

(b) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk

that the offender will commit another offense;

(c) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character, and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences;

(d) Whether the victim's youth, age, disability, or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious;

(e) Whether the offender is likely to commit future crimes in general, in addition to the circumstances described in divisions (B)(1)(b) and (B)(1)(c) of this section;

(f) Whether the offender has an emotional, mental, or physical condition that is traceable to the offender's service in the armed forces of the United States and that was a contributing factor in the offender's commission of the offense or offenses;

(g) The offender's military service record.

(2) In determining the appropriate sentence for a misdemeanor, in addition to complying with division (B)(1) of this section, the court may consider any other factors that are relevant to achieving the purposes and principles of sentencing set forth in § 1.99(B).

(C) Before imposing a jail term as a sentence for a misdemeanor, a court shall consider the appropriateness of imposing a community control sanction or a combination of community control sanctions under § 1.99(D), (E), (F), and (G). A court may impose the longest jail term authorized under § 1.99(C) only upon offenders who commit the worst forms of the offense or upon offenders whose conduct and response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future crime.

(D) (1) A sentencing court shall consider any relevant oral or written statement made by the victim, the defendant, the defense attorney, or the prosecuting authority regarding sentencing for a misdemeanor. This division does not create any rights to notice other than those rights authorized by R.C. Chapter 2930.

(2) At the time of sentencing for a misdemeanor or as soon as possible after sentencing, the court shall notify the victim of the offense of the victim's right to file an application for an award of reparations pursuant to R.C. §§ 2743.51 through 2743.72.

§ 1.19 MULTIPLE SENTENCES.

(A) A prison term, jail term, or sentence of imprisonment shall be served concurrently with any other prison term, jail term, or sentence of imprisonment imposed by a court of this municipality, this state, another state, or the United States.

§ 1.20 SELF DEFENSE: LIMITATIONS ON DUTY TO RETREAT PRIOR TO USING FORCE.

(A) As used in this section, **RESIDENCE** and **VEHICLE** have the same meanings as in R.C. § 2901.05.

(B) For purposes of any section of this code that sets forth a criminal offense, a person who lawfully is in that person's residence has no duty to retreat before using force in self defense, defense of another, or defense of that person's residence, and a person who lawfully is an occupant of that person's vehicle or who lawfully is an occupant in a vehicle owned by an immediate family member of the person has no duty to retreat before using force in self defense or defense of another.

§ 1.99 PENALTY FOR CHAPTER I.

(A) *Generally.* Except where otherwise specifically classified within the body of the section of a chapter, a violation of such section shall be deemed a misdemeanor punishable upon conviction by a fine of not more than \$500.

(B) *Considerations in misdemeanor sentencing.*

(1) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Ohio Revised Code, or of any municipal ordinance that is substantially equivalent to a misdemeanor or minor

misdemeanor violation of a provision of the Ohio Revised Code, shall be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.

(2) A sentence imposed for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (B)(1) of this section shall be reasonably calculated to achieve the two overriding purposes of misdemeanor sentencing set forth in division (B)(1) of this section, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar offenses committed by similar offenders.

(3) A court that imposes a sentence upon an offender for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (B)(1) of this section shall not base the sentence upon the race, ethnic background, gender, or religion of the offender.

(4) Divisions (B)(1) and (B)(2) of this section shall not apply to any offense that is disposed of by a traffic violations bureau of any court pursuant to Traffic Rule 13 and shall not apply to any violation of any provision of the Ohio Revised Code that is a minor misdemeanor and that is disposed of without a court appearance. Divisions (B)(1) through (B)(3) of this section do not affect any penalties established by the municipality for a violation of its ordinances that are not substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code.

(C) Nonresidential sanction where jail term is not mandatory.

(1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any nonresidential sanction or combination of nonresidential sanctions authorized under this division. Nonresidential sanctions include but are not limited to the following:

(a) A term of day reporting;

(b) A term of house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest without electronic monitoring or continuous alcohol monitoring;

(c) A term of community service of up to 500 hours for misdemeanor of the first degree or 200 hours for a misdemeanor of the second, third, or fourth degree;

(d) A term in a drug treatment program with a level of security for the offender as determined necessary by the court;

(e) A term of intensive probation supervision;

(f) A term of basic probation supervision;

(g) A term of monitored time;

(h) A term of drug and alcohol use monitoring, including random drug testing;

(i) A curfew term;

(j) A requirement that the offender obtain employment;

(k) A requirement that the offender obtain education or training;

(l) Provided the court obtains the prior approval of the victim, a requirement that the offender participate in victim-offender mediation;

(m) If authorized by law, suspension of the offender's privilege to operate a motor vehicle, immobilization or forfeiture of the offender's motor vehicle, a requirement that the offender obtain a valid motor vehicle operator's license, or any other related sanction;

(2) If the court imposes a term of community service pursuant to division (F)(1)(c) of this section, the offender may request that the court modify the sentence to authorize the offender to make a reasonable contribution, as determined by the court, to the general fund of the county, municipality, or other local entity that provides funding to the court. The court may grant the request if the offender demonstrates a change in circumstances from the date the court imposes the sentence or that the modification would otherwise be in the interests of justice. If the court grants the request, the offender shall make a reasonable contribution to the court, and the clerk of the court shall deposit that contribution into the general fund of the county, municipality, or other local entity that provides funding to the court. If more than one entity provides funding to the court, the clerk shall deposit a percentage of the reasonable contribution equal to the percentage of funding the entity provides to the court in that entity's general fund.

(3) In addition to the sanctions authorized under division (F)(1) of this section, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, upon an offender who is not required to serve a mandatory jail term may impose any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the overriding purposes and principles of misdemeanor sentencing.

(4) The court imposing a sentence for a minor misdemeanor may impose a term of community service in lieu of all or part of a fine. The term of community service imposed for a minor misdemeanor shall not exceed 30 hours. After imposing a term of community service, the court may modify the sentence to authorize a reasonable contribution, as determined by the court, to the appropriate general fund as provided in division (F)(2) of this section.
(R.C. § 2929.27) (Rev. 2012)

(D) Financial sanctions.

(1) In addition to imposing court costs pursuant to R.C. § 2947.23, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division. 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:

(a) Restitution.

1. 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 upon the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division 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.

2. If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court 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.

3. 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 R.C. § 3937.18.

4. If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than 5% of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

5. The victim or survivor of the victim 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.

(b) *Fines.* A fine of the type described in divisions (G)(1)(b)1. and (G)(1)(b)2. of this section payable to the appropriate entity as required by law:

1. A fine in the following amount:
 - a. For a misdemeanor of the first degree, not more than \$1,000;
 - b. For a misdemeanor of the second degree, not more than \$750;
 - c. For a misdemeanor of the third degree, not more than \$500;
 - d. For a misdemeanor of the fourth degree, not more than \$250;
 - e. For a minor misdemeanor, not more than \$150.
2. A state fine or cost as defined in R.C. § 2949.111.

(c) *Reimbursement.*

1. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including but not limited to the following:

a. All or part of the costs of implementing any community control sanction, including a supervision fee under R.C. § 2951.021;

b. 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;

c. All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under R.C. § 4510.13.

2. The amount of reimbursement under division (D)(1)(c)1. 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 division. If the court does not order reimbursement under that division, confinement costs may be assessed pursuant to a repayment policy adopted under R.C. § 2929.37. In addition, the offender may be required to pay the fees specified in R.C. § 2929.38 in accordance with that section.

(2) (a) If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this division (D) or court costs or is likely in the future to be able to pay the sanction or costs.

(b) If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (C)(1) of this section in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (C)(1) of this section in lieu of or in addition to imposing a financial sanction under this division (D) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (C)(4) of this section in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. If a person fails to pay a financial sanction or court costs, the court may order community service in lieu of the financial sanction or court costs.

(3) (a) The offender shall pay reimbursements imposed upon the offender pursuant to division (D)(1)(c) of this section to pay the costs incurred by a county pursuant to any sanction imposed under division (C), or (D) of this section to the county treasurer. The county treasurer shall deposit the reimbursements in the county's General Fund. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under division (C), or (D) of this section.

(b) The offender shall pay reimbursements imposed upon the offender pursuant to division (D)(1)(c) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under division (C), or (D) of this section to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in the municipal corporation's General Fund. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under division (C), or (D) of this section.

(c) The offender shall pay reimbursements imposed pursuant to division (D)(1)(c) of this section for the costs incurred by a private provider pursuant to a sanction imposed under division (C), or (D) of this section to the provider.

(4) (a) Except as otherwise provided in this division (D)(4), a financial sanction imposed under division (D)(1) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (D)(1)(c)1.a. of this section upon an offender is a judgment in favor of the entity administering the community control sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (D)(1)(c)1.b. of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail or other residential facility, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (D)(1)(a) of this section is an order in favor of the victim of the offender's criminal act that can be collected through a certificate of judgment as described in division (D)(4)(b)1. of this section, through execution as described in division (D)(4)(b)2. of this section or through an order as described in division (D)(4)(b)3. of this section and the offender shall be considered for purposes of the collection as a judgment debtor.

(b) Once a financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may do any of the following:

1. Obtain from the clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;
2. Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in R.C. § 2929.18(D)(1) and (D)(2) or a substantially equivalent municipal ordinance.
3. Obtain an order for the assignment of wages of the judgment debtor under R.C. § 1321.33 or a substantially equivalent municipal ordinance.

(5) The civil remedies authorized under division (D)(4) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.

(6) Each court imposing a financial sanction upon an offender under this division (D) may designate the clerk of the court or another person to collect the financial sanction. The clerk, or another person authorized by law or the court to collect the financial sanction may do the following:

(a) Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this division (D), a court shall comply with R.C. §§ 307.86 through 307.92.

(b) Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, or by any other reasonable method, in any time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a county court or a municipal court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the board of county commissioners of the county pursuant to R.C. § 301.28. If the court is a municipal court not operated by a county, the clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.

(c) To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.

(7) No financial sanction imposed under this division (D) shall preclude a victim from bringing a civil action against the offender.

(E) Organizational penalties.

(1) Regardless of the other penalties provided in this section, an organization convicted of an offense pursuant to § 1.09 shall be fined by the court as follows:

- (a) For a misdemeanor of the first degree, not more than \$5,000;
- (b) For a misdemeanor of the second degree, not more than \$4,000;

- (c) For a misdemeanor of the third degree, not more than \$3,000;
- (d) For a misdemeanor of the fourth degree, not more than \$2,000;
- (e) For a minor misdemeanor, not more than \$1,000;
- (f) For a misdemeanor not specifically classified, not more than \$2,000;
- (g) For a minor misdemeanor not specifically classified, not more than \$1,000.

(2) When an organization is convicted of an offense 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 such penalty shall be imposed in lieu of the penalty provided in this section.

(3) When an organization is convicted of an offense not specifically classified, and the penalty provided includes a higher fine than that provided in this section, then the penalty imposed shall be pursuant to the penalty provided for violation of the section defining the offense.

(4) This section does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to § 1.09, either in addition to or in lieu of a fine imposed pursuant to this section.

CHAPTER 1.3: OFFENSES AGAINST PROPERTY

Section

- 1.31 Definitions
- 1.32 Criminal damaging or endangering; vehicular vandalism
- 1.33 Criminal mischief
- 1.34 Criminal trespass; aggravated trespass
- 1.35 Tampering with coin machines
- 1.36 Theft
- 1.37 Unauthorized use of a vehicle
- 1.38 Passing bad checks
- 1.39 Receiving stolen property

§ 1.31 DEFINITIONS.

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

ACTIVE DUTY SERVICE MEMBER. Any member of the armed forces of the United States performing active duty under Title 10 of the United States Code.

ANHYDROUS AMMONIA. A compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described below. 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 82% nitrogen to 18% hydrogen.

ASSISTANCE DOG. Has the same meaning as in R.C. § 955.011.

CABLE TELEVISION SERVICE. 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.

COIN MACHINE. Any mechanical or electronic device designed to do both of the following:

- (1) Receive a coin or 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.

COMPUTER. An electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses. The term 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.

COMPUTER CONTAMINANT. Means a computer program that is designed to modify, damage, destroy, disable, deny or degrade access to, allow unauthorized access to, functionally impair, record, or transmit information within a computer, computer system, or computer network without the express or implied consent of the owner or other person authorized to give consent and that is of a type or kind described in divisions (1) through (4) of this definition or of a type or kind similar to a type or kind described in divisions (1) through (4) of this definition:

- (1) A group of computer programs commonly known as “viruses” and “worms” that are self-replicating or self-propagating and that are designed to contaminate other computer programs, compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;
- (2) A group of computer programs commonly known as “Trojans” or “Trojan horses” that are not self-replicating or self-propagating and that are designed to compromise computer security, consume computer resources,

modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;

(3) A group of computer programs commonly known as “zombies” that are designed to use a computer without the knowledge and consent of the owner, or other person authorized to give consent, and that are designed to send large quantities of data to a targeted computer network for the purpose of degrading the targeted computer’s or network’s performance, or denying access through the network to the targeted computer or network, resulting in what is commonly known as “denial of service” or “distributed denial of service” attacks;

(4) A group of computer programs commonly known as “trap doors”, “back doors”, or “root kits” that are designed to bypass standard authentication software and that are designed to allow access or use of a computer without the knowledge or consent of the owner, or other person authorized to give consent.

COMPUTER HACKING.

(1) The term means any of the following:

(a) Gaining access or attempting to gain access to all or part of a computer, computer system, or a computer network without express or implied authorization with the intent to defraud or with intent to commit a crime;

(b) Misusing computer or network services including but not limited to mail transfer programs, file transfer programs, proxy servers, and web servers by performing functions not authorized by the owner of the computer, computer system, or computer network or other person authorized to give consent. As used in this division, “misuse of computer and network services” includes but is not limited to the unauthorized use of any of the following:

1. Mail transfer programs to send mail to persons other than the authorized users of that computer or computer network;

2. File transfer program services or proxy servers to access other computers, computer systems, or computer networks;

3. Web servers to redirect users to other web pages or web servers.

(c) 1. Subject to division (1)(c)2. of this definition, using a group of computer programs commonly known as “port scanners” or “probes” to intentionally access any computer, computer system, or computer network without the permission of the owner of the computer, computer system, or computer network or other person authorized to give consent. The group of computer programs referred to in this division includes but is not limited to those computer programs that use a computer network to access a computer, computer system, or another computer network to determine any of the following: the presence or types of computers or computer systems on a network; the computer network’s facilities and capabilities; the availability of computer or network services; the presence or versions of computer software including but not limited to operating systems, computer services, or computer contaminants; the presence of a known computer software deficiency that can be used to gain unauthorized access to a computer, computer system, or computer network; or any other information about a computer, computer system, or computer network not necessary for the normal and lawful operation of the computer initiating the access.

2. The group of computer programs referred to in division (1)(c)1. of this definition does not include standard computer software used for the normal operation, administration, management, and test of a computer, computer system, or computer network including but not limited to domain name services, mail transfer services, and other operating system services, computer programs commonly called “ping”, “tcpdump”, and “traceroute” and other network monitoring and management computer software, and computer programs commonly known as “nslookup” and “whois” and other systems administration computer software.

(d) The intentional use of a computer, computer system, or a computer network in a manner that exceeds any right or permission granted by the owner of the computer, computer system, or computer network or other person authorized to give consent.

(2) The term does not include the introduction of a computer contaminant, as defined in this section, into a computer, computer system, computer program, or computer network.

COMPUTER NETWORK. 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.

COMPUTER PROGRAM. An ordered set of data representing coded instructions or statements that, when executed by a computer, causes the computer to process data.

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.

COMPUTER SOFTWARE. Computer programs, procedures, and other documentation associated with the operation of a computer system.

COMPUTER SYSTEM. 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.

COUNTERFEIT TELECOMMUNICATIONS DE-VICE. 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. The phrase 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.

CREATE A SUBSTANTIAL RISK OF SERIOUS PHYSICAL HARM TO ANY PERSON. Includes the creation of a substantial risk of serious physical harm to any emergency personnel.

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. It also includes a county procurement card issued under R.C. § 301.29.

DANGEROUS DRUG. Has the same meaning as in R.C. § 4729.01.

DANGEROUS ORDNANCE. Has the same meaning as in R.C. § 2923.11.

DATA. 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.

DECEPTION. To knowingly deceive another or cause 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.

DEFRAUD. To knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

DEPRIVE. To do any of the following:

- (1) To withhold property of another permanently, or for a 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) To dispose of property so as to make it unlikely that the owner will recover it;
- (3) To 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.

DISABLED ADULT. A person who is 18 years of age or older and has some impairment of body or mind that makes the person unable 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 12 months without any present indication of recovery from the impairment, or who is 18 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.

DRUG ABUSE OFFENSE. Has the same meaning as in R.C. § 2925.01.

ELDERLY PERSON. A person who is 65 years of age or older.

ELECTRONIC FUND TRANSFER. Has the same meaning as in 92 Stat. 3728, 15 U.S.C. § 1693a, as amended.

EMERGENCY PERSONNEL. Means any of the following persons:

- (1) A peace officer, as defined in R.C. § 2935.01;
- (2) A member of a fire department or other firefighting agency of a municipal corporation, township, township fire district, joint fire district, other political subdivision, or combination of political subdivisions;
- (3) A member of a private fire company, as defined in R.C. § 9.60, or a volunteer firefighter;
- (4) A member of a joint ambulance district or joint emergency medical services district;
- (5) An emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance operator, or other member of an emergency medical service that is owned or operated by a political subdivision or a private entity;
- (6) The State Fire Marshal, the Chief Deputy State Fire Marshal, or an assistant state fire marshal;
- (7) A fire prevention officer of a political subdivision or an arson, fire, or similar investigator of a political subdivision.

FEDERALLY-LICENSED FIREARMS DEALER. Has the same meaning as in R.C. § 5502.63.

FIREARM. Has the same meaning as in R.C. § 2923.11.

FORGE. 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.

GAIN ACCESS. 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, or any cable service or cable system both as defined in R.C. § 2913.04.

INFORMATION SERVICE.

- (1) Subject to division (2) of this definition, 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) The term does not include any use of a capability of a type described in division (1) of this definition for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

INTERNET. Has the same meaning as in R.C. § 341.42.

MOTOR VEHICLE. Has the same meaning as in R.C. § 4501.01.

OCCUPIED STRUCTURE. Means any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent, or other structure, vehicle, or shelter, or any portion thereof, to which any of the following applies:

(1) It is maintained as a permanent or temporary dwelling, even though it is temporarily unoccupied and whether or not any person is actually present;

(2) At the time, it is occupied as the permanent or temporary habitation of any person, whether or not any person is actually present;

(3) At the time, it is specially adapted for the overnight accommodation of any person, whether or not any person is actually present;

(4) At the time, any person is present or likely to be present in it.

OWNER. 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.

POLICE DOG OR HORSE. Has the same meaning as in R.C. § 2921.321.

POLITICAL SUBDIVISION. Has the same meaning as in R.C. § 2744.01.

SERVICES. Includes labor, personal services, professional services, rental services, public utility services including wireless service as defined in R.C. § 128.01(F)(1), common carrier services, and food, drink, transportation, entertainment, and cable television services and, for purposes of R.C. § 2913.04 or any substantially equivalent municipal ordinance, includes cable services as defined in that section.

SLUG. 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.

STATE. Has the same meaning as in R.C. § 2744.01.

TELECOMMUNICATION. The origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence or intelligence of any nature over any communications system by any method, including but not limited to a fiber optic, electronic, magnetic, optical, digital or analog method.

TELECOMMUNICATIONS DEVICE. 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.

TELECOMMUNICATIONS SERVICE. The providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.

THEFT OFFENSE. Any of the following:

(1) A violation of 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, 2913.43, 2913.44, 2913.45, 2913.47, 2913.48, former R.C. § 2913.47 or 2913.48, or R.C. § 2913.51, 2915.05, or 2921.41;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any section listed in division (1) of this definition, or a violation of 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 to commit, attempt to commit, or complicity in committing any offense under division (1), (2), or (3) of this definition.

UTTER. To issue, publish, transfer, use, put or send into circulation, deliver, or display.

WRITING. Any computer software, document, letter, memorandum, note, paper, plate, data, film, or other thing having in or upon it any written, type-written, or printed matter, and any token, stamp, seal, credit card, badge, trademark, label, or other symbol of value, right, privilege, license, or identification.
(R.C. §§ 2909.01, 2913.01) (Rev. 2015)

§ 1.32 CRIMINAL DAMAGING OR ENDANGERING; VEHICULAR VANDALISM.

(A) *Criminal damaging or endangering.*

(1) No person shall cause or create a substantial risk of physical harm to any property of another without the other person's consent:

(a) Knowingly, by any means; or

(b) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.

(2) Whoever violates this division (A) is guilty of criminal damaging or endangering, a misdemeanor of the second degree. If violation of this division (A) creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree.

(B) *Vehicular vandalism.*

(1) As used in this division (B):

ALLEY. Has the same meaning as in R.C. § 4511.01.

HIGHWAY. Means any highway as defined in R.C. § 4511.01 or any lane, road, street, alley, bridge, or overpass.

STREET. Has the same meaning as in R.C. § 4511.01.

VEHICLE. Has the same meaning as in R.C. § 4511.01.

VESSEL. Has the same meaning as in R.C. § 1547.01.

WATERS IN THIS STATE. Has the same meaning as in R.C. § 1547.01.

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

(a) Any vehicle on a highway;

(b) Any boat or vessel on any of the waters in this state.

(3) Whoever violates this division (B) is guilty of vehicular vandalism. Except as otherwise provided in this

division (B)(3), vehicular vandalism is a misdemeanor of the first degree.

§ 1.33 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, 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) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in division (C)(1) or (C)(2) of this section.

(1) Except as otherwise provided in this division, criminal mischief committed in violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is a misdemeanor of the first degree.

(2) If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section or the loss to the victim resulting from the violation is \$1,000 or less, the criminal mischief committed is a misdemeanor of the first degree.

§ 1.34 CRIMINAL TRESPASS; AGGRAVATED 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 the authorization was secured by deception.

(D) (1) Whoever violates division (A) of this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

(2) Notwithstanding R.C. § 2929.28, 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, R.C. § 2911.21 or a substantially equivalent municipal ordinance, 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 60 days. In such a case, R.C. § 4519.47 applies.

(E) Notwithstanding any provision of the Ohio Revised Code, if the offender, in committing the violation of this section, used an all-purpose vehicle, the Clerk of the Court shall pay the fine imposed pursuant to this section to the State Recreational Vehicle Fund created by R.C. § 4519.11.

(F) As used in this section:

(1) ***ALL-PURPOSE VEHICLE***, ***OFF-HIGHWAY MOTORCYCLE***, and ***SNOWMOBILE*** have the same meanings as in R.C. § 4519.01.

(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.
(R.C. § 2911.21) (Rev. 2010)

(G) Aggravated trespass.

(1) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to him or her.

(2) Whoever violates this division (G) is guilty of aggravated trespass, a misdemeanor of the first degree.
(R.C. § 2911.211)

(H) Criminal trespass on a place of public amusement.

(1) As used in this division (H), ***PLACE OF PUBLIC AMUSEMENT*** means a stadium, theater, or other facility, whether licensed or not, at which a live performance, sporting event, or other activity takes place for entertainment

of the public and to which access is made available to the public, regardless of whether admission is charged.

(2) No person, without privilege to do so, shall knowingly enter or remain on any restricted portion of a place of public amusement and, as a result of that conduct, interrupt or cause the delay of the live performance, sporting event, or other activity taking place at the place of public amusement after a printed written notice has been given as provided in division (H)(4)(a) of this section that the general public is restricted from access to that restricted portion of the place of public amusement. A restricted portion of a place of public amusement may include but is not limited to a playing field, an athletic surface, or a stage located at the place of public amusement.

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

(4) (a) Notice has been given that the general public is restricted from access to a portion of a place of public amusement if a printed written notice of the restricted access has been conspicuously posted or exhibited at the entrance to that portion of the place of public amusement. If a printed written notice is posted or exhibited as described in this division regarding a portion of a place of public amusement, in addition to that posting or exhibition, notice that the general public is restricted from access to that portion of the place of public amusement also may be given, but is not required to be given, by either of the following means:

1. By notifying the person personally, either orally or in writing, that access to that portion of the place of public amusement is restricted;

2. By broadcasting over the public address system of the place of public amusement an oral warning that access to that portion of the place of public amusement is restricted.

(b) If notice that the general public is restricted from access to a portion of a place of public amusement is provided by the posting or exhibition of a printed written notice as described in division (H)(4)(a) of

this section, the municipality, in a criminal prosecution for a violation of division (H)(2) of this section, is not required to prove that the defendant received actual notice that the general public is restricted from access to a portion of a place of public amusement.

(5) (a) Whoever violates division (H)(2) of this section is guilty of criminal trespass on a place of public amusement, a misdemeanor of the first degree.

(b) In addition to any jail term, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to division (H)(5)(a) of this section, a court may require an offender who violates this section to perform not less than 30 and not more than 120 hours of supervised community service work.

§ 1.35 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 previously has been convicted of a violation of this section or of any theft offense as defined in R.C. § 2913.01, tampering with coin machines is a felony to be prosecuted under appropriate state law.

§ 1.36 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 theft. Except as otherwise provided in this division, a violation of this section is petty theft, a misdemeanor of the first degree. If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:

- (1) If the value of the property or services is \$1,000 or more;
- (2) If the property stolen is any of the property listed in R.C. § 2913.71;
- (3) If the victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member;
- (4) If the property stolen is a firearm or dangerous ordnance;
- (5) If the property stolen is a motor vehicle;
- (6) If the property stolen is any dangerous drug, or if the offender previously has been convicted of a felony drug abuse offense;
- (7) If 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;
- (8) If the property stolen is anhydrous ammonia; or
- (9) If the property stolen is a special purchase article as defined in R.C. § 4737.04 or is a bulk merchandise container as defined in R.C. § 4737.012.

(C) In addition to the penalties described in division (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 division (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 division (C)(1) of this section, or any other substantially equivalent state or local law, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in R.C. § 4510.02(A)(7), provided that the suspension shall be 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 division (C)(1) or (C)(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 division (B) of this section, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to R.C. § 2929.18

or R.C. § 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 R.C. § 2913.72.

(E) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under division (C) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with R.C. Chapter 4510.

§ 1.37 UNAUTHORIZED USE OF A VEHICLE.

(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) No person shall knowingly use or operate an aircraft, motor vehicle, motorboat, or other motor-propelled vehicle without the consent of the owner or person authorized to give consent, and either remove it from this state, or keep possession of it for more than 48 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 he or she 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) Whoever violates this section is guilty of unauthorized use of a vehicle.

(1) Except as otherwise provided in this division (D)(1), a violation of division (A) of this section is 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 division (A) of this section is a felony to be prosecuted under appropriate state law.

(2) A violation of division (B) of this section is a felony to be prosecuted under appropriate state law.

§ 1.38 PASSING BAD CHECKS.

(A) As used in this section:

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 non-negotiable 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.

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 has 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 30 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 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 he or she has not been issued a valid driver's or commercial driver's license or identification card issued under R.C. § 4507.50;

(2) Furnishing the 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 division (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 division (B) of this section within a period of 180 consecutive days.

(F) Whoever violates this section is guilty of passing bad checks. 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 \$1,000 or less, 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 \$1,500 or less, then passing bad checks is a misdemeanor of the first degree.

§ 1.39 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. Except as otherwise provided in this division, receiving stolen property is a misdemeanor of the first degree. If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:

(1) The value of the property involved is \$1,000 or more;

(2) The property involved is any of the property listed in R.C. § 2913.71;

(3) The property involved is a firearm or dangerous ordnance, as defined in R.C. § 2923.11;

(4) The property involved is a motor vehicle as defined in R.C. § 4501.01;

(5) The property involved is any dangerous drug, as defined in R.C. § 4729.01; or

(6) The property involved in violation of this section is a special purchase article as defined in R.C. § 4737.04 or a bulk merchandise container as defined in R.C. § 4737.012.

(D) Regardless of the value of the property involved, and regardless of whether the offender previously has been convicted of a theft offense, a violation of § 131.08 or § 131.18 is a felony to be prosecuted under appropriate state law if the property involved is any of the following:

- (1) A credit card;
- (2) 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;
- (3) A motor vehicle identification license plate as prescribed by R.C. § 4503.22, a temporary license placard or windshield sticker as prescribed by 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;
- (4) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by R.C. § 4505.07;
- (5) A blank form for any license listed in R.C. § 4507.01.

CHAPTER 1.4: OFFENSES AGAINST PUBLIC PEACE

Section

- 1.41 Disorderly conduct
- 1.42 Disturbing a lawful meeting
- 1.43 Making false alarms
- 1.44 Inciting to violence

§ 1.41 DISORDERLY CONDUCT.

(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 an offensively coarse utterance, gesture, or display, or communicating unwarranted and grossly abusive language to any person;
- (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.

(B) No person while voluntarily intoxicated shall do either of the following:

- (1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance, or alarm to persons of ordinary sensibilities, which conduct the offender, if he or she were not intoxicated, should know is likely to have such effect on others;
- (2) Engage in conduct or create a condition that presents a risk of physical harm to himself, herself 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 division (B) of this section.

(D) If a person appears to an ordinary observer to be intoxicated, it is probable cause to believe that the person is voluntarily intoxicated for purposes of division (B) of this section.

(E) Whoever violates this section is guilty of disorderly conduct.

- (1) Except as otherwise provided in division (E)(2) of this section, disorderly conduct is a minor misdemeanor.
- (2) 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:

COMMITTED IN THE VICINITY OF A SCHOOL. Has the same meaning as in R.C. § 2925.01.

EMERGENCY FACILITY. Has the same meaning as in R.C. § 2909.04.

EMERGENCY FACILITY PERSON. Is the singular of "emergency facility personnel" as defined in R.C. § 2909.04.

EMERGENCY MEDICAL SERVICES PERSON. Is the singular of "emergency medical services personnel" as defined in R.C. § 2133.21.

§ 1.42 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 the 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.

§ 1.43 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 the 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. Except as otherwise provided in this division, making false alarms is a misdemeanor of the first degree. If a violation of this section results in economic harm of \$1,000 or more, making false alarms is a felony to be prosecuted under appropriate state law. 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 to be prosecuted under appropriate state law.

(D) (1) It is not a defense to a charge under this section that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.

(2) Any act that is a violation of this section and any other section of the Ohio Revised Code or this code 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

meaning as in R.C. § 2917.31.

§ 1.44 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. If the offense of violence that the other person is being urged or incited to commit is a felony, inciting to violence is a felony to be prosecuted under appropriate state law.

CHAPTER 1.5: SEX OFFENSES

Section

- 1.51 Definitions
- 1.52 Public indecency
- 1.53 Voyeurism
- 1.54 Procuring
- 1.55 Prostitution
- 1.56 Displaying matter harmful to juveniles
- 1.57 Rules of evidence
- 1.58 Sentencing for sexually oriented offenses; sexual predators; registration

§ 1.51 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

HARMFUL TO JUVENILES. 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.

JUVENILE. Any unmarried person under 18 years of age.

MATERIAL. Any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, video cassette, laser disc, phonograph record, cassette tape, compact disc, 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 disc, magnetic tape, or similar data storage device.

MENTAL HEALTH CLIENT OR PATIENT. Has the same meaning as in R.C. § 2305.51.

MENTAL HEALTH PROFESSIONAL. Has the same meaning as in R.C. § 2305.115.

MINOR. A person under the age of 18.

NUDITY. 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.

OBSCENE. 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 that 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 that 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 that 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 an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

PERFORMANCE. Any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.

PROSTITUTE. 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.

SADO-MASOCHISTIC ABUSE. Flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.

SEXUAL ACTIVITY. Sexual conduct or sexual contact, or both.

SEXUAL CONDUCT. 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.

SEXUAL CONTACT. Any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

SEXUAL EXCITEMENT. The condition of human male or female genitals when in a state of sexual stimulation or arousal.

SPOUSE. 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 pursuant to R.C. § 3103.06.

(2) When an action is pending 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. (R.C. § 2907.01) (Rev. 2008)

§ 1.52 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 persons'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 divisions (C)(2), (C)(3), (C)(4), and (C)(5) of this section.

(2) Except as otherwise provided in this division (C)(2), a violation of division (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 or a substantially equivalent state law or municipal ordinance, a violation of division (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 or a substantially equivalent state law or municipal ordinance, a violation of division (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 or a substantially equivalent state law or municipal ordinance, a violation of division (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 to be prosecuted under appropriate state law.

(3) Except as otherwise provided in this division (C)(3), a violation of division (A)(2) or (A)(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 or a substantially equivalent state law or municipal ordinance, a violation of division (A)(2) or (A)(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 or a substantially equivalent state law or municipal ordinance, a violation of division (A)(2) or (A)(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 to be prosecuted under appropriate state law.

(4) Except as otherwise provided in this division (C)(4), a violation of division (B)(1), (B)(2), or (B)(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 or a substantially equivalent state law or municipal ordinance, a violation of division (B)(1), (B)(2), or (B)(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 or a substantially equivalent state law or municipal ordinance, a violation of division (B)(1), (B)(2), or (B)(3) of this section is a felony to be prosecuted under appropriate state law.

(5) Except as otherwise provided in this division (C)(5), a violation of division (B)(4) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to any violation of this section or a substantially equivalent state law or municipal ordinance, a violation of division (B)(4) of this section is a felony to be prosecuted under appropriate state law.

(D) A mother is entitled to breast-feed her baby in any location of a place of public accommodation, as defined in R.C. § 4112.01, wherein the mother otherwise is permitted.

§ 1.53 VOYEURISM.

(A) No person, for the purpose of sexually arousing or gratifying himself or herself, 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 himself or herself, 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, for the purpose of sexually arousing or gratifying himself or herself, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, otherwise record, or spy or eavesdrop upon the other person in a state of nudity if the other person is a minor.

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

(E) Whoever violates this section is guilty of voyeurism.

(1) A violation of division (A) of this section is a misdemeanor of the third degree.

(2) A violation of division (B) of this section is a misdemeanor of the second degree.

(3) A violation of division (D) of this section is a misdemeanor of the first degree.

(4) A violation of division (C) of this section is a felony to be prosecuted under appropriate state law.

§ 1.54 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 the other's 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 the 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 division, procuring is a misdemeanor of the first degree. If the prostitute who is procured, patronized, or otherwise involved in a violation of division (A)(2) of this section is under 18 years of age at the time of the violation, regardless of whether the offender who violates division (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 division (B) of this section is under 18 years of age at the time of the violation, regardless of whether the offender who violates division (B) of this section knows the prostitute's age, procuring is a felony to be prosecuted under appropriate state law.

§ 1.55 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.

§ 1.56 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 division (A) of this section 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.

§ 1.57 RULES OF EVIDENCE.

(A) In any case in which it is necessary to prove that a place is a brothel, evidence as to the reputation of such place and as to the reputation of the persons who inhabit or frequent it is admissible on the question of whether such place is or is not a brothel.

(B) In any case in which it is necessary to prove that a person is a prostitute, evidence as to the reputation of such person is admissible on the question of whether such person is or is not a prostitute.

(C) In any prosecution for a violation of §§ 133.07 through 133.09, proof of a prior conviction of the accused of any such offense or substantially equivalent offense is admissible in support of the charge.

(D) The prohibition contained in R.C. § 2317.02(D) against testimony by a husband or wife concerning communications between them does not apply, and the accused's spouse may testify concerning any such communication in any of the following cases:

(1) When the husband or wife is charged with a violation of § 133.07 and the spouse testifying was the prostitute involved in the offense or the person who used the offender's premises to engage in sexual activity for hire;

(2) When the husband or wife is charged with a violation of § 133.08(A) or § 133.09.

§ 1.58 SENTENCING FOR SEXUALLY ORIENTED OFFENSES; SEXUAL PREDATORS; REGISTRATION.

(A) If an offender is being sentenced for a sexually oriented offense or child-victim oriented offense that is a misdemeanor committed on or after January 1, 1997, and the offender is a tier III sex offender/child-victim offender relative to the offense or the offense is any offense listed in R.C. § 2901.07(D)(1) to (D)(3), the judge shall include in the offender's sentence a statement that the offender is a tier III sex offender/child-victim offender, shall comply with the requirements of R.C. § 2950.03, and shall require the offender to submit to a DNA specimen collection procedure pursuant to R.C. § 2901.07.

(B) If an offender is being sentenced for a sexually oriented offense or a child-victim oriented offense that is a misdemeanor committed on or after January 1, 1997, the judge shall include in the sentence a summary of the offender's duties imposed under R.C. §§ 2950.04, 2950.041, 2950.05, and 2950.06, and the duration of the duties. The judge shall inform the offender, at the time of sentencing, of those duties and of their duration. If required under R.C. § 2950.03(A)(2), the judge shall perform the duties specified in that section or, if required under R.C. § 2950.03(A)(6), the judge shall perform the duties specified in that division.

CHAPTER 1.6: OFFENSES AGAINST PERSONS

Section

- 1.61 Assault; negligent assault
- 1.62 Menacing; aggravated menacing; menacing by stalking
- 1.63 Unlawful restraint
- 1.64 Coercion
- 1.65 Interference with custody; interference with support orders
- 1.66 Nonsmoking areas in places of public assembly

§ 1.61 ASSAULT; NEGLIGENT ASSAULT.

(A) *Assault.*

- (1) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.
- (2) No person shall recklessly cause serious physical harm to another or to another's unborn.
- (3) Whoever violates division (A)(1) or (A)(2) of this section is guilty of assault. Except as provided in R.C. § 2903.13(C), assault is a misdemeanor of the first degree.
- (4) 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 R.C. § 2941.1423 (victim of the offense was a woman whom the defendant knew was pregnant at the time of the offense) 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 R.C. § 2929.24(G).

(B) *Negligent assault.*

- (1) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in R.C. § 2923.11, cause physical harm to another or to another's unborn.
- (2) Whoever violates division (B)(1) of this section is guilty of negligent assault, a misdemeanor of the third degree.

§ 1.62 MENACING; AGGRAVATED MENACING; MENACING BY STALKING.

(A) *Menacing.*

- (1) 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 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.
- (2) Whoever violates division (A)(1) of this section is guilty of menacing. Except as otherwise provided in this division (A)(2), 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, menacing is a misdemeanor of the first degree 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, a felony to be prosecuted under appropriate state law.
- (3) As used in this division (A), **ORGANIZATION** includes an entity that is a governmental employer.

(B) Aggravated menacing.

(1) 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, such other person's unborn, or a member of such 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.

(2) Whoever violates division (B)(1) of this section is guilty of aggravated menacing. Except as otherwise provided in this division (B)(2), 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, aggravated menacing is a felony to be prosecuted under appropriate state law 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, a felony to be prosecuted under appropriate state law.

(3) As used in this division (B), **ORGANIZATION** includes an entity that is a governmental employer.

(C) Menacing by stalking.

(1) (a) 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.

(b) 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 division (C)(1)(a) of this section.

(c) No person, with a sexual motivation, shall violate division (C)(1)(a) or (C)(1)(b) of this section.

(2) Whoever violates division (C)(1) of this section is guilty of menacing by stalking.

(a) Except as otherwise provided in division (C)(2)(b) of this section, menacing by stalking is a misdemeanor of the first degree.

(b) Menacing by stalking is a felony, to be prosecuted under appropriate state law, if any of the following applies:

1. The offender previously has been convicted of or pleaded guilty to a violation of R.C. § 2903.211 or a violation of R.C. § 2911.211, or a substantially equivalent municipal ordinance to either of these offenses.

2. In committing the offense under division (C)(1)(a), (C)(1)(b) or (C)(1)(c) 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 division (C)(1)(b) or (C)(1)(c) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.

3. In committing the offense under division (C)(1)(a), (C)(1)(b) or (C)(1)(c) 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 division (C)(1)(b) or (C)(1)(c) 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.

4. The victim of the offense is a minor.

5. The offender has a history of violence towards the victim or any other person or a history of other violent acts towards the victim or any other person.

6. While committing the offense under division (C)(1)(a) of this section or a violation of division (C)(1)(c) of this section based on conduct in violation of division (C)(1)(a) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Division (C)(2)(b)6. of this section does not apply in determining the penalty for a violation of division (C)(1)(b) of this section or a violation of division (C)(1)(c) of this section based on conduct in violation of division (C)(1)(b) of this section.

7. At the time of the commission of the offense, the offender was the subject of a protection order issued under R.C. § 2903.213 or R.C. § 2903.214, regardless of whether or not the person to be protected under the order is the victim of the offense or another person.

8. In committing the offense under division (C)(1)(a), (C)(1)(b) or (C)(1)(c) 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 division (C)(1)(b) of this section or an offense committed under division (C)(1)(c) of this section based on a violation of division (C)(1)(b) 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.

9. 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 harm, or other evidence of then-present dangerousness.

10. 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.

11. 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.

(3) R.C. § 2919.271 applies in relation to a defendant charged with a violation of this section.

(4) As used in division (C) of this section:

COMPUTER. Has the same meaning as in R.C. § 2913.01.

COMPUTER NETWORK. Has the same meaning as in R.C. § 2913.01.

COMPUTER PROGRAM. Has the same meaning as in R.C. § 2913.01.

COMPUTER SYSTEM. Has the same meaning as in R.C. § 2913.01.

EMERGENCY FACILITY PERSON. Is the singular of "emergency facility personnel" as defined in R.C. § 2909.04.

EMERGENCY MEDICAL SERVICES PERSON. Is the singular of "emergency medical services personnel" as defined in R.C. § 2133.21.

MENTAL DISTRESS. Means any of the following:

1. Any mental illness or condition that involves some temporary substantial incapacity;
2. 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.

ORGANIZATION. Includes an entity that is a governmental employer.

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 receipt 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."

POST A MESSAGE. Means transferring, sending, posting, publishing, disseminating, or otherwise communicating, or attempting to transfer, send, post, publish, disseminate, or otherwise communicate, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.

PUBLIC OFFICIAL. Has the same meaning as in R.C. § 2921.01.

SEXUAL MOTIVATION. Has the same meaning as in R.C. § 2971.01.

TELECOMMUNICATIONS DEVICE. Has the same meaning as in R.C. § 2913.01.

THIRD PERSON. Means, in relation to conduct as described in division (C)(1)(b) of this section, an individual who is neither the offender nor the victim of the conduct.

(5) The prosecution does not need to prove in a prosecution under division (C) of 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 division (2) of the definition for "mental distress" in this section.

(6) (a) Division (C) of 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 division (C) of this section.

(b) Division (C)(6)(a) 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 division (C) of this section except as otherwise provided by law.

(c) Division (C)(6)(a) 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 division (C) of this section or who knowingly advertises the availability of material of that nature.

§ 1.63 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 R.C. § 2971.01.

§ 1.64 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 slander against any person.

(3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt, or ridicule, or 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) Divisions (A)(4) and (A)(5) of this section shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interests of justice:

(1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to 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 a 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 division (A)(3), (A)(4), or (A)(5) of this section that the actor's conduct was a reasonable response to the circumstances which 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 which 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:

COMMUNITY CONTROL SANCTION has the same meaning as in R.C. § 2929.01.

THREAT includes a direct threat and a threat by innuendo.

§ 1.65 INTERFERENCE WITH CUSTODY; INTERFERENCE WITH SUPPORT ORDERS.

(A) Interference with custody.

(1) No person, knowing that he or she is without privilege to do so or being reckless in that regard, shall entice, take, keep, or harbor a person identified in division (A)(1)(a), (A)(1)(b) or (A)(1)(c) of this section from the parent, guardian, or custodian of the person identified in division (A)(1)(a), (A)(1)(b) or (A)(1)(c) of this section:

(a) A child under the age of 18, or a mentally or physically disabled child under the age of 21;

(b) A person committed by law to an institution for delinquent, unruly, neglected, abused, or dependent children;

(c) A person committed by law to an institution for the mentally ill or mentally disabled.

(2) No person shall aid, abet, induce, cause, or encourage a child or a ward of the juvenile court who has been committed to the custody of any person, department, or public or private institution to leave the custody of that person, department, or institution without legal consent.

(3) It is an affirmative defense to a charge of enticing or taking under division (A)(1)(a) of this section that the actor reasonably believed that his or her conduct was necessary to preserve the child's health or safety. It is an affirmative defense to a charge of keeping or harboring under division (A)(1) of this section that the actor in good faith gave notice to law enforcement or judicial authorities within a reasonable time after the child or committed person came under his or her shelter, protection, or influence.

(4) Whoever violates this section is guilty of interference with custody.

(a) Except as otherwise provided in this subdivision, a violation of division (A)(1)(a) above is a misdemeanor of the first degree. If the child who is the subject of a violation of division (A)(1)(a) is removed from the state or if the offender previously has been convicted of an offense under this section or a substantially equivalent state law or municipal ordinance, a violation of division (A)(1)(a) of this section is a felony to be prosecuted under appropriate state law. If the child who is the subject of a violation of division (A)(1)(a) suffers physical harm as a result of the violation, a violation of division (A)(1)(a) of this section is a felony to be prosecuted under appropriate state law.

(b) A violation of division (A)(1)(b) or (A)(1)(c) of this section is a misdemeanor of the third degree.

(c) A violation of division (A)(2) of this section is a misdemeanor of the first degree. Each day of a violation of division (A)(2) is a separate offense.

(B) Interference with support orders.

(1) No person, by using physical harassment or threats of violence against another person, shall interfere with the other person's initiation or continuance of, or attempt to prevent the other person from initiating or continuing, an action to issue or modify a support order under R.C. Chapter 3115, or under R.C. § 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.361, 2151.49, 3105.18, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, 3113.07, or 3113.31.

(2) Whoever violates this division (B) is guilty of interfering with an action to issue or modify a support order, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of this division (B) or a substantially equivalent state law or municipal ordinance, or R.C. § 3111.19, interfering with an action to issue or modify a support order is a felony to be prosecuted under appropriate state law.

(R.C. § 2919.231) (Rev. 2002)

§ 1.66 NONSMOKING AREAS IN PLACES OF PUBLIC ASSEMBLY.

(A) As used in this section, **PLACE OF PUBLIC ASSEMBLY** means:

(1) Enclosed theaters, except the lobby; opera houses; auditoriums; classrooms; elevators; rooms in which persons are confined as a matter of health care, including but not limited to a hospital room and a room in a residential care facility serving as the residence of a person living in such residential care facility.

(2) All buildings and other enclosed structures owned by the state, its agencies, or political subdivisions, including but not limited to hospitals and state institutions for the mentally disabled and the mentally ill; university and college buildings, except rooms within those buildings used primarily as the residences of students or other persons affiliated with the university or college; office buildings; libraries; museums; and vehicles used in public transportation. That portion of a building or other enclosed structure that is owned by the state, a state agency, or a political subdivision, and that is used primarily as a food service establishment, is not a place of public assembly.

(3) Each portion of a building or enclosed structure that is not included in division (A)(1) or (A)(2) of this section is a place of public assembly if it has a seating capacity of 50 or more persons and is available to the public. Restaurants, food service establishments, dining rooms, cafes, cafeterias, or other rooms used primarily for the service of food, as well as bowling alleys and places licensed by the Ohio Division of Liquor Control to sell intoxicating beverages for consumption on the premises, are not places of public assembly.

(B) For the purpose of separating persons who smoke from persons who do not smoke for the comfort and health of persons not smoking, in every place of public assembly there shall be an area where smoking is not permitted, which shall be designated a no smoking area, provided that not more than one-half of the rooms in any health care facility in which persons are confined as a matter of health care may be designated as smoking areas in their entirety. The designation shall be made before the place of public assembly is made available to the public. In places included in division (A)(1) of this section, the local fire authority having jurisdiction shall designate the no smoking area. In places included in division (A)(2) of this section that are owned by the state or its agencies, the Ohio Director of Administrative Services shall designate the area, and if the place is owned by a political subdivision, its Legislative Authority shall designate an officer who shall designate the area. In places included in division (A)(3) of this section, the person having control of the operations of the place of public assembly shall designate the no smoking area. In places included in division (A)(2) of this section which are also included in division (A)(1) of this section, the officer who has authority to designate the area in places in division (A)(2) of this section shall designate the no smoking area. A no smoking area may include the entire place of public assembly. Designations shall be made by the placement of signs that are clearly visible and that state "no smoking." No person shall remove signs from areas designated as no smoking areas.

(C) This section does not affect or modify the prohibition contained in R.C. § 3313.751(B).

(D) No person shall smoke in any area designated as a no smoking area in accordance with division (B) of this section.

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

CHAPTER 1.7: OFFENSES AGAINST JUSTICE AND ADMINISTRATION

Section

- 1.71 Falsification
- 1.72 Failure to aid a law enforcement officer
- 1.73 Obstructing official business
- 1.74 Obstructing justice
- 1.75 Resisting arrest
- 1.76 False report of child abuse or neglect
- 1.77 Intimidation of crime victim or witness
- 1.78 Making false allegation of peace officer misconduct
- 1.79 Failure to disclose personal information

§ 1.71 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 his or her official function.
- (4) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
- (5) The statement is in writing on or in connection with a report or return that is required or authorized by law.
- (6) The statement is made with purpose to commit or facilitate the commission of a theft offense.

(B) 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.

(C) (1) Whoever violates this section is guilty of falsification a misdemeanor of the first degree.

(2) Whoever violates division (A)(6) of this section is guilty of falsification in a theft offense. If the value of the property or services stolen is \$1,000 or less, falsification in a theft offense is a misdemeanor of the first degree.

(D) (1) No person who has knowingly failed to maintain proof of financial responsibility in accordance with 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 R.C. § 4509.101(D)(2).

(2) Whoever violates this division (G) is guilty of falsification, a misdemeanor of the first degree.

§ 1.72 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 the 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.

§ 1.73 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 division, 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 to be prosecuted under appropriate state law.

§ 1.74 OBSTRUCTING JUSTICE.

(A) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for crime, or to assist another to benefit from the commission of a crime, 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 crime or to assist a child to benefit from the commission of an act that if committed by an adult would be a crime, 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 crime or act, or induce any person to withhold testimony or information or to elude legal process summoning him or her 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 division (A) of this section 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 division (C) of this section in determining the penalty for violation of division (A) of this section, 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) Whoever violates this section is guilty of obstructing justice.

(1) 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 crime 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.

(2) If the crime committed by the person aided is a felony or if the act committed by the child aided would be a felony if committed by an adult, obstructing justice is a felony to be prosecuted under appropriate state law.

(D) As used in this section:

ADULT. Has the same meaning as in R.C. § 2151.011.

CHILD. Has the same meaning as in R.C. § 2151.011.

DELINQUENT CHILD. Has the same meaning as in R.C. § 2152.02.

§ 1.75 RESISTING ARREST.

(A) No person, recklessly or by force, shall resist or interfere with a lawful arrest of himself, herself 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) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person if either of the following applies:

(1) The offender, during the course of or as a result of the resistance or interference, recklessly causes physical harm to a law enforcement officer by means of a deadly weapon; or

(2) The offender, during the course of the resistance or interference, brandishes a deadly weapon.

(D) Whoever violates this section is guilty of resisting arrest. A violation of division (A) of this section is a misdemeanor of the second degree. A violation of division (B) of this section is a misdemeanor of the first degree. A violation of division (C) of this section is a felony to be prosecuted under appropriate state law.

(E) As used in this section, **DEADLY WEAPON** has the same meaning as in R.C. § 2923.11.

§ 1.76 FALSE REPORT OF CHILD ABUSE OR NEGLECT.

(A) No person shall knowingly make or cause another person to make a false report under R.C. § 2151.421(B) alleging that any person has committed an act or omission that resulted in a child being an abused child as defined in

R.C. § 2151.031 or a neglected child as defined in R.C. § 2151.03.

(B) Whoever violates this section is guilty of making or causing a false report of child abuse or child neglect, a misdemeanor of the first degree.

§ 1.77 INTIMIDATION OF CRIME VICTIM OR WITNESS.

(A) No person shall knowingly attempt to intimidate or hinder the victim of a crime or delinquent act in the filing or prosecution of criminal charges or a delinquent child action or proceeding, and no person shall knowingly attempt to intimidate a witness to a criminal or delinquent act by reason of the person being a witness to that act.

(B) No person, knowingly and by force or by unlawful threat of harm to any person or property or by unlawful threat to commit any offense or calumny against any person, shall attempt to influence, intimidate, or hinder any of the following persons:

(1) The victim of a crime or delinquent act in the filing or prosecution of criminal charges or a delinquent child action or proceeding;

(2) A witness to a criminal or delinquent act by reason of the person being a witness to that act;

(3) An attorney by reason of the attorney's involvement in any criminal or delinquent child action or proceeding.

(C) Division (A) of this section does not apply to any person who is attempting to resolve a dispute pertaining to the alleged commission of a criminal offense, either prior to or subsequent to the filing of a complaint, indictment, or information by participating in the arbitration, mediation, compromise, settlement or conciliation of that dispute pursuant to an authorization for arbitration, mediation, compromise, settlement, or conciliation of a dispute of that nature that is conferred by any of the following:

(1) A section of the Ohio Revised Code.

(2) The Rules of Criminal Procedure, the Rules of Superintendence for Municipal Courts and County Courts,

the Rules of Superintendence for Courts of Common Pleas, or another rule adopted by the Ohio Supreme Court in accordance with Ohio Constitution, Article IV, Section 5.

(3) A local rule of court, including but not limited to a local rule of court that relates to alternative dispute resolution or other case management programs and

that authorizes the referral of disputes pertaining to the alleged commission of certain types of criminal offenses to appropriate and available arbitration, mediation, compromise, settlement or other conciliation programs.

(4) The order of a judge of a municipal court, county court, or court of common pleas.

(D) Whoever violates this section is guilty of intimidation of an attorney, victim or witness in a criminal case. A violation of division (A) of this section is a misdemeanor of the first degree. A violation of division (B) of this section is a felony to be prosecuted under appropriate state law.

(E) As used in this section, **WITNESS** means any person who has or claims to have knowledge concerning a fact or facts concerning a criminal or delinquent act, whether or not criminal or delinquent child charges are actually filed.

§ 1.78 MAKING FALSE ALLEGATION OF PEACE OFFICER MISCONDUCT.

(A) As used in this section, **PEACE OFFICER** has the same meaning as in 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 division (B) of this section is guilty of making a false allegation of peace officer misconduct, a misdemeanor of the first degree.

§ 1.79 FAILURE TO DISCLOSE PERSONAL INFORMATION.

(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 property;

(c) Any attempt or conspiracy to commit, or complicity in committing, any offenses identified in division (A)(2)(a) or (A)(2)(b) of this section;

(d) Any conduct reasonably indicating that any offense identified in division (A)(2)(a) or (A)(2)(b) of this section or any attempt, conspiracy, or complicity described in division (A)(2)(c) of this section has been, is being, or is about to be committed.

(B) Whoever violates division (A) of this section is guilty of failure to disclose one's personal information, a misdemeanor of the fourth degree.

(C) Nothing in division (A) of this section requires a person to answer any questions beyond that person's name, address, or date of birth. Nothing in division (A) of this section authorizes a law enforcement officer to arrest a person for not providing any information beyond the person's name, address, or date of birth or for refusing to describe the offense observed.

(D) It is not a violation of division (A) 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.
(R.C. § 2921.29) (Rev. 2007)

(E) No person entering an airport, train station, port, or other similar critical transportation infrastructure site shall refuse to show identification when requested by a law enforcement officer when there is a threat to security and the law enforcement officer is requiring identification of all persons entering the site.

(F) A law enforcement officer may prevent any person who refuses to show identification when asked under the circumstances described in division (E) of this section from entering the critical transportation infrastructure site.

CHAPTER 1.8: WEAPONS CONTROL

Section

- 1.81 Definitions
- 1.82 Using weapons while intoxicated
- 1.83 Possessing criminal tools
- 1.84 Failure to secure dangerous ordnance
- 1.85 Pointing and discharging firearms and other weapons
- 1.86 Defaced firearms

§ 1.81 DEFINITIONS.

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

ALIEN REGISTRATION NUMBER. 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".

AUTOMATIC FIREARM. Any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.

BALLISTIC KNIFE. A knife with a detachable blade that is propelled by a spring-operated mechanism.

CONCEALED HANDGUN LICENSE or LICENSE TO CARRY A CONCEALED HANDGUN.

(1) Means, subject to division (2) of this definition, a license or temporary emergency license to carry a concealed handgun issued under R.C. § 2923.125 or R.C. § 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 R.C. § 109.69.

(2) A reference in any provision of this Code to a concealed handgun license issued under R.C. § 2923.125 or a license to carry a concealed handgun issued under R.C. § 2923.125 means only a license of the type that is specified in that section. A reference in any provision of this Code to a concealed handgun license issued under R.C. § 2923.1213, a license to carry a concealed handgun issued under 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 R.C. § 2923.1213. A reference in any provision of this 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 R.C. § 109.69.

DANGEROUS ORDNANCE.

(1) Any of the following, except as provided in division (2) of this definition:

(a) Any automatic or sawed-off firearm, zip-gun, or ballistic knife.

(b) Any explosive device or incendiary device.

(c) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclitol, 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.

(d) 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.

(e) Any firearm muffler or suppressor.

(f) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

(2) The term does not include any of the following:

(a) 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.

(b) 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.

(c) 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.

(d) Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in division (2)(c) of this definition 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.

(e) 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.

(f) Any device that is expressly excepted from the definition of a destructive device pursuant to the Gun Control Act of 1968, 18 U.S.C. § 921(a)(4), as amended, and regulations issued under that act.

DEADLY WEAPON. 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.

EXPLOSIVE. Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term 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. The term does not include “fireworks,” as defined in 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 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 R.C. § 3743.80 and the rules of the Fire Marshal adopted pursuant to R.C. § 3737.82.

EXPLOSIVE DEVICE. 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. The term 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.

FIREARM.

(1) Any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. The term 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.

HANDGUN. 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 division (1) of this definition can be assembled.

INCENDIARY DEVICE. 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 agent and a means to ignite it.

MISDEMEANOR PUNISHABLE BY IMPRISON-MENT FOR A TERM EXCEEDING ONE YEAR. The phrase 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.

SAWED-OFF FIREARM. A shotgun with a barrel less than 18 inches long, or a rifle with a barrel less than 16 inches long, or a shotgun or rifle less than 26 inches long overall.

SEMI-AUTOMATIC FIREARM. 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.

VALID CONCEALED HANDGUN LICENSE or VALID LICENSE TO CARRY A CONCEALED HAND-GUN. A concealed handgun license that is currently valid, that is not under a suspension under R.C. § 2923.128(A)(1), under 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 R.C. § 2923.128(B)(1), under R.C. § 2923.1213, or under a revocation provision of the state other than this state in which the license was issued.

ZIP-GUN. Any of the following:

- (1) Any firearm of crude and extemporized manufacture.
- (2) Any device, including without limitation a starter's pistol, not designed as a firearm, but that is specially adapted for use as a firearm.
- (3) Any industrial tool, signaling device, or safety device, not designed as a firearm, but that as designed is capable of use as such, when possessed, carried, or used as a firearm.

§ 1.82 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.

§ 1.83 POSSESSING CRIMINAL TOOLS.

(A) No person shall possess or have under his or her 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 a dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials or parts are intended for a 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. Except as otherwise provided in this division, possessing criminal tools is 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 to be prosecuted under appropriate state law.

§ 1.84 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.

§ 1.85 POINTING AND DISCHARGING FIREARMS AND OTHER WEAPONS.

(A) *Discharge of firearms on or near prohibited premises.* No person shall do any of the following:

(1) Without permission from the proper officials and subject to division (B)(1) of this section, discharge a firearm upon or over a cemetery or within 100 yards of a cemetery;

(2) Subject to division (B)(2) of this section, discharge of a firearm on a lawn, park, pleasure ground, orchard, or other ground appurtenant to a schoolhouse, church, or inhabited dwelling, the property of another, or a charitable institution;

(3) Discharge a firearm upon or over a public road or highway.

(B) *Application of division (A).*

(1) Division (A)(1) of this section does not apply to a person who while on the person's own land, discharges a firearm.

(2) Division (A)(2) of this section does not apply to a person who owns any type of property described in that division and who, while on the person's own enclosure, discharges a firearm.

(C) *Penalty for violation of division (A).* Whoever violates division (A) of this section is guilty of discharge of a firearm on or near prohibited premises. A violation of division (A)(1) or (A)(2) of this section is a misdemeanor of the fourth degree. A violation of division (A)(3) shall be punished as follows:

(1) Except as otherwise provided in division (C)(2) of this section, a violation of division (A)(3) of this section is a misdemeanor of the first degree.

(2) If the violation created a substantial risk of physical harm to any person, caused serious physical harm to property, caused physical harm to any person, or caused serious physical harm to any person, a violation of division (A)(3) is a felony to be prosecuted under appropriate state law.

(D) Hunting near township park.

(1) No person shall hunt, shoot, or kill game within one-half mile of a township park unless the Board of Township Park Commissioners has granted permission to kill game not desired within the limits prohibited by this division. (R.C. § 3773.06)

(2) Whoever violates division (D)(1) of this section is guilty of a misdemeanor of the fourth degree. (R.C. § 3773.99(A))

(E) Unlawful discharge. No person shall discharge any BB gun, air gun, or firearm, or make use of any sling, bow and arrow, or crossbow, within the corporate limits of the municipality.

(F) Unlawful pointing or aiming. No person shall, intentionally and without malice, point or aim any BB gun, air gun, or firearm, or any sling, bow and arrow, or crossbow at or toward another.

(G) Penalty for violations of division (E) or (F). Whoever violates division (E) or (F) of this section is guilty of a misdemeanor of the fourth degree.

(H) Exceptions. This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials or other government officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a BB gun, airgun, or firearm, or to use a sling, bow and arrow, or crossbow in a manner contrary to the provisions of this section. Division (E) of this section does not extend to cases in which BB guns, air guns, or firearms, or slings, bows and arrows, or crossbows are used in the confines of structures or used within the confines of a person's own property, provided such use is under adult supervision and is approved by the municipality.

§ 1.86 DEFACED FIREARMS.

(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 of 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 division (A)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this division, 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 division (A)(1) of this section, defacing identification marks of a firearm is a felony to be prosecuted under appropriate state law.

(2) Whoever violates division (A)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this division, 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 division (A)(2) of this section, possessing a defaced firearm is a felony to be prosecuted under appropriate state law.

(C) Division (A) of this section does not apply to any firearm on which no manufacturer's serial number was inscribed at the time of its manufacture.

CHAPTER 1.9: DRUG OFFENSES

Section

- 1.91 Definitions
- 1.92 Possessing marihuana; gifting of marihuana offenses
- 1.93 Possessing drug abuse instruments
- 1.94 Illegal cultivation of marihuana
- 1.95 Counterfeit controlled substances
- 1.96 Use, possession, or sale of drug paraphernalia
- 1.97 Controlled substance or prescription labels
- 1.98 Possession, sale and disposal of hypodermics

§ 1.91 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words, terms and phrases and their derivatives used in this chapter which are not defined in this section shall have the meanings given to them in the Ohio Revised Code.

ADMINISTER. The direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person or an animal.

ADULTERATE. To cause a drug to be adulterated as described in R.C. § 3715.63.

COMMITTED IN THE VICINITY OF A JUVENILE. An offense is “committed in the vicinity of a juvenile” if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

COMMITTED IN THE VICINITY OF A SCHOOL. An offense is “committed in the vicinity of a school” if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.

CONTROLLED SUBSTANCE. A drug, compound, mixture, preparation, or substance included in Schedule I, II, III, IV, or V of R.C. § 3719.41.

CONTROLLED SUBSTANCE ANALOG.

(1) The phrase means, except as provided in division (2) of this definition, a substance to which both of the following apply:

(a) The chemical structure of the substance is substantially similar to the structure of a controlled substance in Schedule I or II.

(b) One of the following applies regarding the substance:

1. The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

2. With respect to a particular person, that person represents or intends the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(2) The phrase does not include any of the following:

(a) A controlled substance;

(b) Any substance for which there is an approved new drug application;

(c) With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent that conduct with respect to that substance is pursuant to that exemption;

(d) Any substance to the extent it is not intended for human consumption before the exemption described in division (2)(c) of this definition takes effect with respect to that substance.

(3) Except as otherwise provided in R.C. § 2925.03 or R.C. § 2925.11, a controlled substance analog, to the extent intended for human consumption, shall be treated for purposes of any provision of this Code or the Ohio Revised Code as a controlled substance in Schedule I.

COUNTERFEIT CONTROLLED SUBSTANCE. Any of the following:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name, or other identifying mark used without authorization of the owner of rights to the trademark, trade name, or identifying mark.

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed, or distributed by a person other than the person that manufactured, processed, packed, or distributed it.

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.

CULTIVATE. Includes planting, watering, fertilizing or tilling.

DANGEROUS DRUG. Any of the following:

(1) Any drug to which either of the following applies:

(a) Under the Federal Food, Drug, and Cosmetic Act, is required to bear a label containing the legend “Caution: Federal law prohibits dispensing without a 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 may be dispensed only upon a prescription.

(b) Under R.C. Chapter 3715 or 3719, may be dispensed only upon a prescription.

(2) Any drug that contains a Schedule V controlled substance and that is exempt from 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.

DECEPTION. Has the same meaning as in R.C. § 2913.01.

DISPENSE. Means to sell, leave with, give away, dispose of, or deliver.

DISTRIBUTE. Means to deal in, ship, transport or deliver, but does not include administering or dispensing a drug.

DRUG. Any of the following:

(1) Any article recognized in the official United States pharmacopeia, national formulary, or any supplement intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(3) Any article, other than food, intended to affect the structure or any function of the body of humans or other animals.

(4) Any article intended for use as a component of any article specified in division (1), (2), or (3) above; but does not include devices or their components, parts, or accessories.

DRUG ABUSE OFFENSE. Any of the following:

(1) A violation of R.C. § 2913.02(A) that constitutes theft of drugs, or any violation of R.C. § 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 2925.37.

(2) A violation of an existing or former law of a municipality, state or any other state or of the United States, that is substantially equivalent to any section listed in division (1) of this definition.

(3) An offense under an existing or former law of a municipality, state 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 to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under division (1), (2), or (3) of this definition.

DRUG DEPENDENT PERSON. Any person who, by reason of the use of any drug of abuse, is physically and/or psychologically dependent upon the use of such drug to the detriment of the person's health or welfare.

DRUG OF ABUSE. Any controlled substance, any harmful intoxicant, and any dangerous drug, as defined in this section.

EMERGENCY FACILITY. A hospital emergency department or any other facility that provides emergency care.

HASHISH. The resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

HYPODERMIC. A hypodermic syringe or needle, or other instrument or device for the injection of medication.

JUVENILE. A person under 18 years of age.

LAWFUL PRESCRIPTION. 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.

LICENSED HEALTH PROFESSIONAL AUTHORIZED TO PRESCRIBE DRUGS or PRESCRIBER. An individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice, including only the following:

(1) A dentist licensed under R.C. Chapter 4715.

(2) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under R.C. § 4723.48.

(3) An optometrist licensed under R.C. Chapter 4725 to practice optometry under a therapeutic pharmaceutical agent's certificate.

(4) A physician authorized under R.C. Chapter 4731 to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(5) A physician assistant who holds a license to practice as a physician assistant issued under R.C. Chapter 4730, holds a valid prescriber number issued by the Ohio Medical Board, and has been granted physician-delegated prescriptive authority.

(6) A veterinarian licensed under R.C. Chapter 4741.

MANUFACTURE. To plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.

MANUFACTURER. A person who manufactures a controlled substance, as "manufacture" is defined by this section.

MARIHUANA. 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. The term 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. The term does not include hashish.

MINOR DRUG POSSESSION OFFENSE. Either of the following:

(1) A violation of R.C. § 2925.11 as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.

(2) A violation of R.C. § 2925.11 as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.

OFFICIAL WRITTEN ORDER. 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.

PERSON. Means any individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association or other legal entity.

PHARMACIST. A person licensed under R.C. Chapter 4729 to engage in the practice of pharmacy.

PHARMACY. Except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing, where the practice of pharmacy is conducted.

POSSESS or POSSESSION. Having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

PRESCRIPTION. Means both of the following:

(1) A written, electronic or oral order for drugs or combination or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.

(2) For purposes of R.C. § 2925.61, 4723.488, 4729.44, 4730.431, and 4731.94, a written, electronic, or oral order for naloxone issued to and in the name of a family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.

PUBLIC PREMISES. Any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

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.

SCHOOL. Any school operated by a board of education, any community school established under R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under 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.

SCHOOL BUILDING. Any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

SCHOOL PREMISES. Either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.

(2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under 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.

THEFT OFFENSE. Has the same meaning as in R.C. § 2913.01.

§ 1.92 POSSESSING MARIHUANA; GIFTING MARIHUANA OFFENSES.

(A) No person shall knowingly obtain, possess, or use marihuana or a compound, mixture, preparation or substance containing marihuana other than hashish.

(B) Whoever violates division (A) of this section is guilty of possession of marihuana. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in the following divisions, 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.

(c) If the amount of the drug involved equals or exceeds 200 grams, possession of marihuana is a felony to be prosecuted under appropriate state law.

(4) If the drug involved in the violation is hashish or a compound, mixture, preparation or substance containing hashish, whoever violates division (A) of this section is guilty of possession of hashish. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in the following divisions, 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.

(c) If the amount of the drug involved equals or exceeds ten grams of hashish in a solid form or equals or exceeds two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony to be prosecuted under appropriate state law.

(C) If the offense involves a gift of 20 grams or less of marihuana, gifting of marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense. If the offense involves a gift of 20 grams or less of marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, gifting in marihuana is a misdemeanor of the third degree.

(D) 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.

(E) Notwithstanding any contrary provision of R.C. § 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to R.C. § 2929.18(A) in accordance with and subject to the requirements of R.C. § 2925.03(F). The agency that receives the fine shall use the fine as specified in R.C. § 2925.03(F).

§ 1.93 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 R.C. Chapters 3719, 4715, 4723, 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.

§ 1.94 ILLEGAL CULTIVATION OF MARIHUANA.

(A) No person shall knowingly cultivate marihuana.

(B) This section does not apply to any person listed in R.C. § 2925.03(B)(1), (B)(2) or (B)(3), or a substantially equivalent municipal ordinance, to the extent and under the circumstances described in that division.

(C) Whoever commits a violation of division (A) of this section is guilty of illegal cultivation of marihuana.

(1) Except as otherwise provided in the following divisions, 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.

(3) If the amount of marihuana involved equals or exceeds 200 grams, illegal cultivation of marihuana is a felony to be prosecuted under appropriate state law.

(D) 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.

§ 1.95 COUNTERFEIT CONTROLLED SUBSTANCES.

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

(B) Whoever violates division (A) of this section shall be guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree.

(C) Notwithstanding any contrary provision of R.C. § 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to R.C. § 2929.18(A) in accordance with and subject to the requirements of R.C. § 2925.03(F). The agency that receives the fine shall use the fine as specified in R.C. § 2925.03(F).

§ 1.96 USE, POSSESSION, OR SALE OF 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. The term 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 designed 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 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 he or she knows intends to use the equipment, product, or material to facilitate a violation of any provision of this chapter or 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 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 division (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 he or she 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 he or she knows that the purpose of the advertisement is to promote the illegal sale in this municipality or in this 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 R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by R.C. § 3719.172.

(2) Division (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 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 R.C. § 2981.12(B).

(F) (1) Whoever violates division (C)(1) of this section is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.

(2) Except as provided in division (F)(3) of this section, whoever violates division (C)(2) of this section is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.

(3) Whoever violates division (C)(2) of this section by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.

(4) Whoever violates division (C)(3) of this section 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 shall suspend for not less than six months nor 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 R.C. § 2925.38.

(R.C. § 2925.14) (Rev. 2013)

(H) Illegal use or possession of marihuana drug paraphernalia.

(1) As used in this division (H), **DRUG PARAPHERNALIA** has the same meaning as in division (A) of this section.

(2) 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 division (B) of this section.

(3) 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.

(4) This division (H) does not apply to any person identified in division (D)(1) of this section, and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by R.C. § 3719.172.

(5) Division (E) of this section applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(6) Whoever violates division (H)(3) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.

§ 1.97 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

(A) Whenever a manufacturer sells a controlled substance, and whenever a wholesaler sells a controlled substance in a package the wholesaler has prepared, the manufacturer or wholesaler shall securely affix to each package in which the controlled substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of controlled substance contained therein. No person, except a pharmacist for the purpose of dispensing a controlled substance upon a prescription, shall alter, deface or remove any label so affixed.

(B) No person shall alter, deface or remove any label affixed pursuant to R.C. § 3719.08 as long as any of the original contents remain.

(C) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, or R.C. § 3719.07 or 3719.08, or a drug abuse offense, a violation of this section is a felony to be prosecuted under appropriate state law. If the violation involves the sale, offer to sell, or possession of a Schedule I or II controlled substance, with the exception of marihuana, and if the offender, as a result of the violation, is a major drug offender, then R.C. § 3719.99(D) applies.

§ 1.98 POSSESSION, SALE AND DISPOSAL OF HYPODERMICS.

(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) A 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 in his possession 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.

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

§ 1.99 PENALTY FOR CHAPTER I.

(A) *Generally.* Except where otherwise specifically classified within the body of the section of a chapter, a violation of such section shall be deemed a misdemeanor punishable upon conviction by a fine of not more than \$500.

(B) *Considerations in misdemeanor sentencing.*

(1) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Ohio Revised Code, or of any municipal ordinance that is substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code, shall be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.

(2) A sentence imposed for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (B)(1) of this section shall be reasonably calculated to achieve the two overriding purposes of misdemeanor sentencing set forth in division (B)(1) of this section, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar offenses committed by similar offenders.

(3) A court that imposes a sentence upon an offender for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (B)(1) of this section shall not base the sentence upon the race, ethnic background, gender, or religion of the offender.

(4) Divisions (B)(1) and (B)(2) of this section shall not apply to any offense that is disposed of by a traffic violations bureau of any court pursuant to Traffic Rule 13 and shall not apply to any violation of any provision of the Ohio Revised Code that is a minor misdemeanor and that is disposed of without a court appearance. Divisions (B)(1) through (B)(3) of this section do not affect any penalties established by the municipality for a violation of its ordinances that are not substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code.

(C) *Nonresidential sanction where jail term is not mandatory.*

(1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any nonresidential sanction or combination of nonresidential sanctions authorized under this division. Nonresidential sanctions include but are not limited to the following:

(a) A term of day reporting;

(b) A term of house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest without electronic monitoring or continuous alcohol monitoring;

(c) A term of community service of up to 500 hours for misdemeanor of the first degree or 200 hours for a misdemeanor of the second, third, or fourth degree;

(d) A term in a drug treatment program with a level of security for the offender as determined necessary by the court;

(e) A term of intensive probation supervision;

(f) A term of basic probation supervision;

(g) A term of monitored time;

(h) A term of drug and alcohol use monitoring, including random drug testing;

(i) A curfew term;

(j) A requirement that the offender obtain employment;

(k) A requirement that the offender obtain education or training;

(l) Provided the court obtains the prior approval of the victim, a requirement that the offender participate in victim-offender mediation;

(m) If authorized by law, suspension of the offender's privilege to operate a motor vehicle, immobilization or forfeiture of the offender's motor vehicle, a requirement that the offender obtain a valid motor vehicle operator's license, or any other related sanction;

(2) If the court imposes a term of community service pursuant to division (F)(1)(c) of this section, the offender may request that the court modify the sentence to authorize the offender to make a reasonable contribution, as determined by the court, to the general fund of the county, municipality, or other local entity that provides funding to the court. The court may grant the request if the offender demonstrates a change in circumstances from the date the court imposes the sentence or that the modification would otherwise be in the interests of justice. If the court grants the request, the offender shall make a reasonable contribution to the court, and the clerk of the court shall deposit that contribution into the general fund of the county, municipality, or other local entity that provides funding to the court. If more than one entity provides funding to the court, the clerk shall deposit a percentage of the reasonable contribution equal to the percentage of funding the entity provides to the court in that entity's general fund.

(3) In addition to the sanctions authorized under division (F)(1) of this section, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, upon an offender who is not required to serve a mandatory jail term may impose any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the overriding purposes and principles of misdemeanor sentencing.

(4) The court imposing a sentence for a minor misdemeanor may impose a term of community service in lieu of all or part of a fine. The term of community service imposed for a minor misdemeanor shall not exceed 30 hours. After imposing a term of community service, the court may modify the sentence to authorize a reasonable contribution, as determined by the court, to the appropriate general fund as provided in division (F)(2) of this section.

(R.C. § 2929.27) (Rev. 2012)

(D) Financial sanctions.

(1) In addition to imposing court costs pursuant to R.C. § 2947.23, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division. 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:

(a) Restitution.

1. 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 upon the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division 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.

2. If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court 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.

3. 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 R.C. § 3937.18.

4. If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than 5% of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

5. The victim or survivor of the victim 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.

(b) *Fines.* A fine of the type described in divisions (G)(1)(b)1. and (G)(1)(b)2. of this section payable to the appropriate entity as required by law:

1. A fine in the following amount:
 - a. For a misdemeanor of the first degree, not more than \$1,000;
 - b. For a misdemeanor of the second degree, not more than \$750;
 - c. For a misdemeanor of the third degree, not more than \$500;
 - d. For a misdemeanor of the fourth degree, not more than \$250;
 - e. For a minor misdemeanor, not more than \$150.
2. A state fine or cost as defined in R.C. § 2949.111.

(c) *Reimbursement.*

1. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including but not limited to the following:

- a. All or part of the costs of implementing any community control sanction, including a supervision fee under R.C. § 2951.021;
- b. 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;
- c. All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under R.C. § 4510.13.

2. The amount of reimbursement under division (D)(1)(c)1. 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 division. If the court

does not order reimbursement under that division, confinement costs may be assessed pursuant to a repayment policy adopted under R.C. § 2929.37. In addition, the offender may be required to pay the fees specified in R.C. § 2929.38 in accordance with that section.

(2) (a) If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this division (D) or court costs or is likely in the future to be able to pay the sanction or costs.

(b) If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (C)(1) of this section in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (C)(1) of this section in lieu of or in addition to imposing a financial sanction under this division (D) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (C)(4) of this section in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. If a person fails to pay a financial sanction or court costs, the court may order community service in lieu of the financial sanction or court costs.

(3) (a) The offender shall pay reimbursements imposed upon the offender pursuant to division (D)(1)(c) of this section to pay the costs incurred by a county pursuant to any sanction imposed under division (C), or (D) of this section to the county treasurer. The county treasurer shall deposit the reimbursements in the county's General Fund. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under division (C), or (D) of this section.

(b) The offender shall pay reimbursements imposed upon the offender pursuant to division (D)(1)(c) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under division (C), or (D) of this section to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in the municipal corporation's General Fund. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under division (C), or (D) of this section.

(c) The offender shall pay reimbursements imposed pursuant to division (D)(1)(c) of this section for the costs incurred by a private provider pursuant to a sanction imposed under division (C), or (D) of this section to the provider.

(4) (a) Except as otherwise provided in this division (D)(4), a financial sanction imposed under division (D)(1) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (D)(1)(c)1.a. of this section upon an offender is a judgment in favor of the entity administering the community control sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (D)(1)(c)1.b. of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail or other residential facility, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (D)(1)(a) of this section is an order in favor of the victim of the offender's criminal act that can be collected through a certificate of judgment as described in division (D)(4)(b)1. of this section, through execution as described in division (D)(4)(b)2. of this section or through an order as described in division (D)(4)(b)3. of this section and the offender shall be considered for purposes of the collection as a judgment debtor.

(b) Once a financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may do any of the following:

1. Obtain from the clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;
2. Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in R.C. § 2929.18(D)(1) and (D)(2) or a substantially equivalent municipal ordinance.
3. Obtain an order for the assignment of wages of the judgment debtor under R.C. § 1321.33

or a substantially equivalent municipal ordinance.

(5) The civil remedies authorized under division (D)(4) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.

(6) Each court imposing a financial sanction upon an offender under this division (D) may designate the clerk of the court or another person to collect the financial sanction. The clerk, or another person authorized by law or the court to collect the financial sanction may do the following:

(a) Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this division (D), a court shall comply with R.C. §§ 307.86 through 307.92.

(b) Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, or by any other reasonable method, in any time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a county court or a municipal court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the board of county commissioners of the county pursuant to R.C. § 301.28. If the court is a municipal court not operated by a county, the clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.

(c) To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.

(7) No financial sanction imposed under this division (D) shall preclude a victim from bringing a civil action against the offender.

(E) Organizational penalties.

(1) Regardless of the other penalties provided in this section, an organization convicted of an offense pursuant to § 1.09 shall be fined by the court as follows:

- (a) For a misdemeanor of the first degree, not more than \$5,000;
- (b) For a misdemeanor of the second degree, not more than \$4,000;
- (c) For a misdemeanor of the third degree, not more than \$3,000;
- (d) For a misdemeanor of the fourth degree, not more than \$2,000;
- (e) For a minor misdemeanor, not more than \$1,000;
- (f) For a misdemeanor not specifically classified, not more than \$2,000;
- (g) For a minor misdemeanor not specifically classified, not more than \$1,000.

(2) When an organization is convicted of an offense 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 such penalty shall be imposed in lieu of the penalty provided in this section.

(3) When an organization is convicted of an offense not specifically classified, and the penalty provided includes a higher fine than that provided in this section, then the penalty imposed shall be pursuant to the penalty provided for violation of the section defining the offense.

(4) This section does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to § 1.09, either in addition to or in lieu of a fine imposed pursuant to this section.

CHAPTER 2: GENERAL PROVISIONS

Section

- 2.01 Definitions
- 2.02 Compliance with order of police officer
- 2.03 Obeying traffic-control devices
- 2.04 Signal lights
- 2.05 Ambiguous or non-working traffic signals
- 2.06 Alteration, defacement, or removal prohibited
- 2.07 Signal preemption devices; prohibitions

- 2.99 Penalty

§ 2.01 DEFINITIONS.

Except as otherwise provided, the definitions set forth in R.C. § 4501.01 shall apply to this Chapter 2. For the purpose of this Chapter 2, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGRICULTURAL TRACTOR. Every self-propelled 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.

ALLEY. 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 any street or highway that has been declared an “alley” by the Legislative Authority of the municipality in which the street or highway is located.

ARTERIAL STREET. 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.

BEACON. A highway traffic signal with one or more signal sections that operate in a flashing mode.

BICYCLE. 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 14 inches in diameter.

BUS. Every motor vehicle designed for carrying more than nine passengers, and used for the transportation of persons other than in a ridesharing arrangement, 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.

BUSINESS DISTRICT. The territory fronting upon a street or highway, including the street or highway, between successive intersections within the municipality, where 50% or more of the frontage between successive intersections is occupied by buildings in use for business, or within or outside the municipality where 50% 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 the territory is indicated by official traffic-control devices.

CHAUFFEURED LIMOUSINE. A motor vehicle that is designed to carry nine or fewer passengers and is operated for hire 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 agreement, made in advance of boarding, to provide transportation from a specific location in an chauffeured limousine. The term does not include any vehicle that is used exclusively in the business of funeral directing. (R.C. § 4501.01(LL))

CHILD DAY-CARE CENTER. Has the same meaning as set forth in R.C. § 5104.01.

COMMERCIAL TRACTOR. 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 the other vehicles, or the load thereon, or both.

CONTROLLED-ACCESS HIGHWAY. 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 certain points only and in a manner as may be determined by the public authority having jurisdiction over the street or highway.

CROSSWALK.

- (1) 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;
- (2) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface;
- (3) Notwithstanding the foregoing provisions of this definition, there shall not be a crosswalk where the Legislative Authority has placed signs indicating no crossing.

DRIVER. Any person who drives or is in actual physical control of a vehicle.

EMERGENCY VEHICLE. Emergency vehicles of municipal, township or county departments or public utility corporations, when identified as such as required by law, the Director of Public Safety, or local authorities, and motor vehicles when commandeered by a police officer.

EXPLOSIVES. 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 a sudden generation of highly heated gases, such 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 limited quantities of such nature or in such packing that it is impossible to procure a simultaneous or a destructive explosion of the units, to the injury of life, limb, or property by fire, friction, concussion, percussion, or by a detonator, such as fixed ammunition for small arms, firecrackers, or safety fuse matches.

EXPRESSWAY. A divided arterial highway for through traffic with full or partial control of access with an excess of 50% of all crossroads separated in grade.

FLAMMABLE LIQUID. Any liquid which has a flash point of 70°F or less, as determined by a tagliabue or equivalent closed cup test device.

FREEWAY. A divided multi-lane highway for through traffic with crossroads separated in grade and with full control of access.

FUNERAL ESCORT VEHICLE. Any motor vehicle, including a funeral hearse, while used to facilitate the movement of a funeral procession.

GROSS WEIGHT. The weight of a vehicle plus the weight of any load thereon.

HIGHWAY. 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.

HIGHWAY MAINTENANCE VEHICLE. 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.

HIGHWAY TRAFFIC SIGNAL. A power-operated traffic control device by which traffic is warned or directed to take some specific action. The term does not include a power-operated sign, steadily illuminated pavement marker, warning light, or steady burning electric lamp.

HYBRID BEACON. 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.

INTERSECTION.

- (1) 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.

(2) If a highway includes two roadways that are 30 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 30 feet or more apart, then every crossing of any two roadways of such highways constitutes a separate intersection.

(3) At a location controlled by a traffic control signal, regardless of the distance between the separate intersections as described in division (2) of this definition:

(a) 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.

(b) 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.

(c) 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.

LANED HIGHWAY. A highway the roadway of which is divided into two or more clearly marked lanes for vehicular traffic.

LOCAL AUTHORITIES. Every county, municipal, and other local board or body having authority to adopt police regulations under the Constitution and laws of this state.

MEDIAN. 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.

MOTOR VEHICLE. Every vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, 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 25 miles per hour or less.

MOTORCYCLE. 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.

MOTORIZED BICYCLE or MOPED. Any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that may be pedaled, and that is equipped with a helper motor of not more than 50 cubic centimeters piston displacement that produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of not greater than 20 miles per hour on a level surface.

MOTORIZED WHEELCHAIR. Any self-propelled vehicle designed for, and used by, a person with a disability and that is incapable of a speed in excess of eight miles per hour.

MULTI-WHEEL AGRICULTURAL TRACTOR. A type of agricultural tractor that has two or more wheels or tires on each side of one axle at the rear of the tractor, is designed or used for drawing other vehicles or wheeled machinery, has no provision for carrying loads independently of the drawn vehicles or machinery, and is used principally for agricultural purposes.

OPERATE. To cause or have caused movement of a vehicle.

OPERATOR. Any person who drives or is in actual physical control of a vehicle.

PARKED or PARKING. The standing of a vehicle upon a street, road, alley, highway or public ground, whether

accompanied or unaccompanied by a driver, but does not include the temporary standing of a vehicle for the purpose of and while actually engaged in loading or loading merchandise or passengers.

PEDESTRIAN. Any natural person afoot.

PERSON. Every natural person, firm, partnership, association or corporation.

POLE TRAILER. 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 connections.

POLICE OFFICER. Every officer authorized to direct or regulate traffic, or to make arrests for violations of traffic regulations.

PREDICATE MOTOR VEHICLE OR TRAFFIC OFFENSE. Any of the following:

(1) A violation of R.C. § 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.214, 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;

(2) A violation of R.C. § 4511.17(A)(2), 4511.51(A) through (D), or 4511.74(A);

(3) A violation of any provision of R.C. §§ 4511.01 through 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;

(4) A violation of a municipal ordinance that is substantially equivalent to any section or provision set forth or described in division (1), (2), or (3) of this definition.

PRIVATE ROAD OPEN TO PUBLIC TRAVEL. 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. The term 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.

PRIVATE ROAD OR DRIVEWAY. 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.

PUBLIC SAFETY VEHICLE. Any of the following:

(1) Ambulances, including private ambulance companies under contract to a municipality, township, or county, and private ambulances and nontransport vehicles bearing license plates issued under R.C. § 4503.49;

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

(3) Any motor vehicle when properly identified as required by the 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 State Fire Marshal shall be designated by the Director of Public Safety as the certifying agency for all public safety vehicles described herein;

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

(5) 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 such a vehicle when transporting an ill or injured person to a

hospital, regardless of whether such vehicle has already passed a hospital;

(6) Vehicles used by the Motor Carrier Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission as specified in R.C. § 5503.34.

RAILROAD. A carrier of persons or property operating upon rails placed principally on a private right-of-way.

RAILROAD SIGN OR SIGNAL. 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.

RAILROAD TRAIN. A steam engine or an electric or other motor, with or without cars coupled thereto, operated by a railroad.

RESIDENCE DISTRICT. 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.

RIDESHARING ARRANGEMENT. Includes the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver, and includes arrangements known as carpools, vanpools, and buspools.

RIGHT-OF-WAY. Either of the following, as the context requires:

(1) The right of a vehicle or pedestrian to proceed uninterruptedly in a lawful manner in the direction in which it, he or she is moving, in preference to another vehicle or pedestrian approaching from a different direction into its, his or her path;

(2) 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.

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.

ROADWAY. That portion of a highway improved, designed, or ordinarily used for vehicular travel, except the berm or shoulder. If a highway includes two or more separate roadways, the term means any roadway separately, but not all the roadways collectively.

RURAL MAIL DELIVERY VEHICLE. Every vehicle used to deliver United States mail on a rural mail delivery route.

SAFETY ZONE. 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 so as to be plainly visible at all times.

SCHOOL BUS. Every bus designed for carrying more than nine passengers which 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 the term does not include a bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of a municipality, or within such limits and the territorial limits of municipalities immediately contiguous to the municipality, nor a common passenger carrier certified by the Public Utilities Commission unless the bus is devoted exclusively to the transportation of children to and from a school session or a school function, and the term 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 15 children in the van or bus at any time.

SEMITRAILER. 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.

SHARED-USE PATH. A bikeway outside the traveled way and physically separated 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.

SIDEWALK. That portion of a street between the curb lines, or the lateral line of a roadway, and the adjacent property lines, intended for the use of pedestrians.

STANDING. When prohibited, means any halting of a vehicle, even momentarily, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device.

STATE HIGHWAY. A highway under the jurisdiction of the Department of Transportation, outside the limits of municipalities, provided that the authority conferred upon the Director of Transportation in R.C. § 5511.01 to erect state highway route markers and signs directing traffic shall not be modified by R.C. §§ 4511.01 through 4511.79 and 4511.99.

STATE ROUTE. Every highway which is designated with an official state route number and so marked.

STOP. When required, means a complete cessation of movement.

STOP INTERSECTION. Any intersection at one or more entrances of which stop signs are erected.

STOPPING. When prohibited, means any halting of a vehicle, even momentarily, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device.

STREET. 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.

THROUGH HIGHWAY. Every street or highway as provided in R.C. § 4511.65, or a substantially equivalent municipal ordinance.

THRUWAY. A through highway whose entire roadway is reserved for through traffic and on which roadway parking is prohibited.

TRAFFIC. Pedestrians, ridden or herded animals, vehicles, streetcars, and other devices, either singly or together, while using for purposes of travel any highway or private road open to public travel.

TRAFFIC CONTROL DEVICE. 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.

TRAFFIC CONTROL SIGNAL. Any highway traffic signal by which traffic is alternately directed to stop and permitted to proceed.

TRAILER. 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 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 25 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 25 miles per hour.

TRUCK. Every motor vehicle, except trailers and semitrailers, designed and used to carry property.

TYPE A FAMILY DAY-CARE HOME. Has the same meaning as set forth in R.C. § 5104.01.

URBAN DISTRICT. 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 a distance of one-quarter of a mile or more, and the character of the territory is indicated by official traffic-control devices.

VEHICLE. Every device, including a motorized bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except that the term does not include any motorized wheelchair, any electric personal assistive mobility device, any device that is moved by power collected from overhead electric trolley wires or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power.
(R.C. § 4511.01) (Rev. 2015)

§ 2.02 COMPLIANCE WITH ORDER OF POLICE OFFICER.

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

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

(C) (1) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer.

(2) A violation of division (A) of this section is a misdemeanor of the first degree.

(3) Except as provided in divisions (C)(4) and (C)(5) of this section, a violation of division (B) of this section is a misdemeanor of the first degree.

(4) Except as provided in division (C)(5) of this section, a violation of division (B) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds by proof beyond a reasonable doubt that in committing the offense, the offender was fleeing immediately after the commission of a felony.

(5) (a) A violation of division (B) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds any of the following by proof beyond a reasonable doubt:

1. The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property.

2. The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

(b) If a police officer pursues an offender who is violating division (B) of this section and division (C)(5) (a) of this section applies, the sentencing court, in determining the seriousness of an offender's conduct for purposes of sentencing the offender for a violation of division (B) of this section, shall consider, along with the factors set forth in R.C. §§ 2929.12 and 2929.13 that are required to be considered, all of the following:

1. The duration of the pursuit;

2. The distance of the pursuit;

3. The rate of speed at which the offender operated the motor vehicle during the pursuit;

4. Whether the offender failed to stop for traffic lights or stop signs during the pursuit;

5. The number of traffic lights or stop signs for which the offender failed to stop during the pursuit;

6. Whether the offender operated the motor vehicle during the pursuit without lighted lights during a time when lighted lights are required;

7. Whether the offender committed a moving violation during the pursuit;

8. The number of moving violations the offender committed during the pursuit;

9. Any other relevant factors indicating that the offender's conduct is more serious than conduct normally constituting the offense.

(D) In addition to any other sanction imposed for a violation of division (A) of this section or a misdemeanor violation of division (B) of this section, the court shall impose a class five suspension from the range specified in R.C. § 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section or under R.C. § 2921.331 or any other substantially equivalent municipal ordinance, in addition to any other sanction imposed for the offense, the court shall impose a class one suspension as described in R.C. § 4510.02(A)(1). 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 R.C. § 4510.021. No judge

shall suspend any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this division.

(E) As used in this section:

MOVING VIOLATION. Has the same meaning as in R.C. § 2743.70.

POLICE OFFICER. Has the same meaning as in R.C. § 4511.01.

§ 2.03 OBEYING TRAFFIC-CONTROL DEVICES.

(A) (1) 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.

(2) No provision 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) Whoever violates division (A) 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 division (A) 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 division (A) of this section is guilty of a misdemeanor of the third degree.

§ 2.04 SIGNAL LIGHTS.

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 R.C. § 4511.14, 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 R.C. § 4511.14 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, then before entering the intersection; and shall remain stopped until a signal indication to proceed is displayed except as provided in divisions (C)(1), (C)(2), and (C)(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 R.C. § 4511.14 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) 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) This section does not apply at railroad grade- crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by R.C. §§ 4511.61 and 4511.62.

§ 2.05 AMBIGUOUS OR NON-WORKING TRAFFIC SIGNALS.

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

§ 2.06 ALTERATION, DEFACEMENT, OR REMOVAL PROHIBITED.

(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 division, whoever violates division (A)(1) or (A)(3) of this section is guilty of a misdemeanor of the third degree. If a violation of division (A)(1) or (A)(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 division (A)(1) or (A)(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 to be prosecuted under appropriate state law.

(2) Except as otherwise provided in this division, whoever violates division (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 division (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 division (A)(2) of this section is guilty of a misdemeanor of the third degree.

§ 2.07 SIGNAL PREEMPTION DEVICES; PROHIBITIONS.

(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 device.

(B) Division (A)(1) of this section does not apply to any of the following persons and division (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 R.C. § 109.17(A)(1), (A)(12), (A)(14), or (A)(19);

(2) A state highway patrol officer;

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

(C) Whoever violates division (A)(1) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (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.

§ 2.99 PENALTY.

(A) Whoever is convicted of or pleads guilty to a misdemeanor or minor misdemeanor shall be sentenced in accordance with § 1.99(A) through (E).

(B) Whoever violates any provision of this traffic code for which no penalty otherwise is provided in the section violated is guilty of one of the following:

(1) Except as otherwise provided in division (B)(2) or (B)(3) of this section, a minor misdemeanor;

(2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, a misdemeanor of the fourth degree;

(3) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more predicate motor vehicle or traffic offenses, a misdemeanor of the third degree.

CHAPTER 2.1: LICENSING PROVISIONS

Section

- 2.08 Shortcutting; Avoiding Traffic Control Devices
- 2.10 Display of license plates or validation stickers; registration
- 2.11 Operation or sale without certificate of title
- 2.12 Use of unauthorized plates
- 2.13 Prohibited acts
- 2.14 Display of license
- 2.15 Prohibition against false statements
- 2.16 Operating motor vehicle or motorcycle without valid license
- 2.17 Failure to reinstate license
- 2.18 Definitions – Commercial Driver's Licenses
- 2.19 Prerequisites to operation of commercial motor vehicle

§ 2.08 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES

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

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

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

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

§ 2.10 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS; REGISTRATION.

(A) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the front and rear of the motor vehicle the distinctive number and registration mark, including any county identification sticker and any validation sticker issued under R.C. §§ 4503.19 and 4503.191, furnished by the Director of Public Safety, except that a manufacturer of motor vehicles or dealer therein, the holder of an in-transit permit, and the owner or operator of a motorcycle, motorized bicycle or moped, motor-driven cycle or motor scooter, cab-enclosed motorcycle, 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 only on the rear license plate, except that a commercial tractor that does not receive an apportioned license plate under the international registration plan shall display the validation sticker 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 its visibility.

(2) No person to whom a temporary license placard or windshield sticker has been issued for the use of a motor vehicle under 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) Except as otherwise provided by R.C. §§ 4503.103, 4503.173, 4503.41, 4503.43, and 4503.46, no person who is the owner or chauffeur of a motor vehicle operated or driven upon the public roads or highways shall fail to file annually the application for registration or to pay the tax therefor.

(C) (1) Within 30 days of becoming a resident of this state, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this state. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this state under a license issued by another state.

(2) For purposes of division (C)(1) of this section, **RESIDENT** means any person to whom any of the following applies:

- (a) The person maintains their principal residence in this state and does not reside in this state as a result

of the person's active service in the United States armed forces.

(b) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under R.C. § 4507.01.

(D) No person shall operate or drive upon the highways of this municipality 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.

(E) No person who is the owner of a motor vehicle and a resident of this state shall operate or drive the motor vehicle upon the highways of this municipality while it displays a distinctive number or identification mark issued by or under the

authority of another state, without complying with the laws of this state relating to the registration and identification of motor vehicles.

- (F)
- (1) Whoever violates division (A) of this section is guilty of a minor misdemeanor.
 - (2) Whoever violates division (B) of this section is guilty of a minor misdemeanor.
 - (3) (a) Whoever violates division (C) of this section is guilty of a minor misdemeanor.

(b) The offense established under division (F)(3)(a) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of R.C. § 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(4) Whoever violates division (D) of this section is guilty of operation of a motor vehicle bearing license plates or an identification mark issued to another, a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.

(5) Whoever violates division (E) of this section is guilty of illegal operation by a resident of this state of a motor vehicle bearing the distinctive number or identification mark issued by a foreign jurisdiction, a minor misdemeanor.

§ 2.11 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 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 state 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 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 R.C. Chapter 4505;

(4) Fail to surrender the certificate of title to a Clerk of a Court of Common Pleas as provided in 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 R.C. Chapter 4505;

(6) Except as otherwise provided in R.C. Chapters 4505 and 4517, sell at wholesale a motor vehicle 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 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 state 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 \$200, imprisoned not more than 90 days, or both.

§ 2.12 USE OF UNAUTHORIZED PLATES.

(A) No person shall operate or drive a motor vehicle upon the public roads and highways in this municipality if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:

(1) It is fictitious;

(2) It is a counterfeit or an unlawfully made copy of any distinctive number or identification mark;

(3) It belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the public roads and highways 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 public roads and highways in this municipality during the 30-day period described in R.C. § 4503.12(A) (4).

(B) A person who fails to comply with the transfer of registration provisions of R.C. § 4503.12 and is charged with a violation of that section shall not be charged with a violation of this section.

(C) Whoever violates division (A)(1), (A)(2), or (A)(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.

§ 2.13 PROHIBITED ACTS.

(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 R.C. § 4507.08 or 4507.081 when knowing the same to be false or fictitious.

(B) Whoever violates any division of this section is guilty of a misdemeanor of the first degree.

§ 2.14 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 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 division (B)(2) of this section, whoever violates this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to §

130.18, § 130.99 or 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 § 130.99(E) or R.C. § 2929.26; notwithstanding § 130.99(G)(1)(b)1. and R.C. § 2929.28(A)(2)(a), the offender may be fined up to \$1,000; and notwithstanding § 130.99(F)(1)(c) and R.C. § 2929.27(A)(3), the offender may be ordered pursuant to § 130.99(F)(3) or R.C. § 2929.27(C) to serve a term of community service of up to 500 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 R.C. § 2705.02(A) 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 this section, R.C. § 4507.35, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

§ 2.15 PROHIBITION AGAINST FALSE STATEMENTS.

(A) No person shall knowingly make a false statement to any matter or thing required by the provisions of this traffic code.

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

§ 2.16 OPERATING MOTOR VEHICLE OR MOTORCYCLE WITHOUT VALID LICENSE.

(A) (1) No person, except those expressly exempted under 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 R.C. Chapter 4507 or a commercial driver's license issued under R.C. Chapter 4506.

(2) No person, except a person expressly exempted under 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 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 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 non-certified copy of the law enforcement automated data system report or a non-certified 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 division (A)(1) or (A)(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 division (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 division (A)(2) of this section. The person charged with a violation of division (A)(1) or (A)(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 division, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to § 130.18, § 130.99 or 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 § 130.99(E) or R.C. § 2929.26; notwithstanding § 130.99(G)(1)(b)1. and R.C. § 2929.28(A)(2)(a), the offender may be fined up to \$1,000; and, notwithstanding § 130.99(F)(1)(c) and R.C. § 2929.27(A)(3), the offender may be ordered pursuant to § 130.99(F)(3) or R.C. § 2929.27(C) to serve a term of community service of up to 500 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 R.C. § 2705.02(A) that may be filed in the underlying case. If the offender previously has been convicted of or pleaded guilty to any violation of this section 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 division, 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 this section 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 R.C. § 4510.12, this section, or a substantially equivalent municipal ordinance.

(E) If the offender is sentenced under division (C)(2) of this section, if within three years of the offense the offender previously was convicted of or pleaded guilty to one or more violations of R.C. § 4510.12, this section, 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 R.C. § 4510.02(A)(7).

§ 2.17 FAILURE TO REINSTATE LICENSE.

(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 non-certified copy of the law enforcement automated data system report or a non-certified 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 division (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 division (A) of this section. The person charged with a violation of division (A) of this section 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 division (C)(2) of this section, whoever violates this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to § 130.18, § 130.99 or 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 § 130.99(E) or R.C. § 2929.26; notwithstanding § 130.99(G)(1)(b)1. and R.C. § 2929.28(A)(2)(a), the offender may be fined up to \$1,000; and, notwithstanding § 130.99(F)(1)(c) and R.C. § 2929.27(A)(3), the offender may be ordered pursuant to § 130.99(F)(3) or R.C. § 2929.27(C) to serve a term of community service of up to 500 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 R.C. § 2705.02(A) that may be filed in the underlying case.

(2) If, within three years of a violation of division (A) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of this section, R.C. § 4510.21 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 R.C. § 4510.02(A)(7).

(D) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.

§ 2.18 DEFINITIONS - COMMERCIAL DRIVER'S LICENSES

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires

a different meaning.

COMMERCIAL DRIVER'S LICENSE. A license issued in accordance with R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle.

COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM. The information system established pursuant to the requirements of the "Commercial Motor Vehicle Safety Act of 1986", 100 Stat. 3207-171, 49 U.S.C. App. 2701.

COMMERCIAL MOTOR VEHICLE. Except when used in R.C. § 4506.25, 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 that 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 16 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 16 passengers including the driver;

(5) Is transporting hazardous materials for which placarding is required under 49 C.F.R. part 172, subpart F, as amended; or

(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.

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.

DOMICILED. Having a true, fixed, principal, and permanent residence to which an individual intends to return.

DOWNGRADE. Any of the following, as applicable:

(1) A change in the commercial driver's license, or commercial driver's license temporary instruction permit, holder's self-certified status as described in R.C. § 4506.10(A)(1);

(2) A change to a lesser class of vehicle;

(3) Removal of commercial driver's license privileges from the individual's driver's license.

DRIVE. To drive, operate or be in physical control of a motor vehicle.

DRIVER. 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.

DRIVER'S LICENSE. A license issued by the Bureau of Motor Vehicles that authorizes an individual to drive.

EMPLOYER. 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.

ENDORSEMENT. 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.

FARM TRUCK. 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 150 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 150 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 definition and is not used in the operations of a motor carrier, as defined in R.C. § 4923.01.

FOREIGN JURISDICTION. Any jurisdiction other than a state.

MEDICAL VARIANCE. One of the following received by a driver from the Federal Motor Carrier Safety Administration that allows the driver to be issued a medical certificate:

(1) An exemption letter permitting operation of a commercial motor vehicle under 49 C.F.R. part 381, subpart C or 49 C.F.R. § 391.64;

(2) A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. § 391.49.

MOTOR VEHICLE. 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.

PEACE OFFICER. Has the same meaning as in R.C. § 2935.01

PUBLIC SAFETY VEHICLE. Has the same meaning as in R.C. § 4511.01(E)(1) and (E)(3).

RECREATIONAL VEHICLE. Includes every vehicle that is defined as a recreational vehicle in R.C. § 4501.01 and is used exclusively for purposes other than engaging in business for profit.

RESIDENCE. Any person's residence determined in accordance with standards prescribed in the rules adopted by the Registrar.

SCHOOL BUS. Has the same meaning as in R.C. § 4511.01.

UPGRADE. A change in the class of vehicles, endorsements, or self-certified status as described in R.C. § 4506.10(A) (1) that expands the ability of a current commercial driver's license holder to operate commercial motor vehicles under this chapter or R.C. Chapter 4506.

VEHICLE. Has the same meaning as in R.C. § 4511.01.
(R.C. § 4506.01) (Rev. 2016)

§ 2.19 PREREQUISITES TO OPERATION OF COMMERCIAL MOTOR VEHICLE.

(A) Except as provided in divisions (B) or (C) of this section, the following shall apply:

(1) No person shall drive a commercial motor vehicle on a highway in this state 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 R.C. § 4506.13;

(c) A valid restricted commercial driver's license and waiver for farm-related service industries issued under 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 R.C. § 4506.06(B).

(2) No person who has been a resident of this state for 30 days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued in another jurisdiction.

(B) Nothing in division (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 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 reserve 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 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 division (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) Notwithstanding any other provision of law, a person may drive a commercial motor vehicle on a highway in this municipality if all of the following conditions are met:

(1) The person has a valid commercial driver's license or commercial driver's license temporary instruction permit issued by any state or jurisdiction in accordance with the minimum standards adopted by the Federal Motor Carrier Safety Administration under the "Commercial Motor Vehicle Safety Act of 1986", 100 Stat. 3207-171, 49 U.S.C. App., for issuance of commercial driver's licenses;

(2) The person's commercial driver's license or temporary instruction permit is not suspended, revoked, or canceled, and the person has the appropriate endorsements for the vehicle that is being driven;

(3) The person is not disqualified from driving a commercial motor vehicle;

(4) The person is not subject to an out-of-service order;

(5) The person is medically certified as physically qualified to operate a commercial motor vehicle in accordance with R.C. Chapter 4506.

(a) A person who submitted a medical examiner's certificate to the Registrar in accordance with R.C. § 4506.10(A)(1) and whose medical certification information is maintained in the commercial driver's license information system is not required to have the medical examiner's certificate in the person's possession when on duty.

(b) A person whose medical certification information is not maintained in the commercial driver's license information system shall have in the person's possession when on duty the original or a copy of the current medical examiner's certificate that was submitted to the Registrar. However, the person may operate a commercial motor vehicle with such proof of medical certification for not more than 15 days after the date the current medical examiner's certificate was issued to the person.

(c) A person who has a medical variance shall have in the person's possession the original or copy of the medical variance documentation at all times while on duty.

(E) No person shall drive a commercial motor vehicle on a highway in this municipality if the person does not meet the conditions specified in division (D) of this section.

(F) Except as set forth in 49 C.F.R. §§ 390.3(f), 391.2, 391.62, 391.67, and 391.68, no person holding a commercial driver's license temporary instruction permit or a commercial driver's license issued under R.C. Chapter 4506 may drive a commercial motor vehicle in interstate commerce until the person is at least 21 years of age.

(G) (1) Whoever violates this section is guilty of a misdemeanor of the first degree.

(2) The offenses established under divisions (D), (E) and (F) of this section are strict liability offenses and R.C. § 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(3) Whoever violates any other section of this Chapter 2.1 is guilty of a misdemeanor of the first degree, unless specified otherwise within the violated section.

CHAPTER 2.2: TRAFFIC RULES

Section

- 2.21 Lanes of travel upon roadways
- 2.22 Driving through safety zone
- 2.23 Vehicles traveling in opposite directions
- 2.24 Rules governing overtaking and passing of vehicles
- 2.25 Permission to overtake and pass on the right
- 2.26 Driving to left of center line
- 2.27 Prohibition against driving upon left side of roadway
- 2.28 Hazardous zones
- 2.29 Rules for driving in marked lanes
- 2.30 Space between moving vehicles
- 2.31 Rules for turns at intersections
- 2.32 U-turns and turning in roadway prohibited
- 2.33 Starting and backing vehicles
- 2.34 Turn and stop signals
- 2.35 Hand and arm signals
- 2.36 Right-of-way at intersections
- 2.37 Right-of-way when turning left
- 2.38 Right-of-way at through highways; stop signs; yield signs
- 2.39 Stop at sidewalk area; stop signs on private roads and driveways
- 2.40 Pedestrian on sidewalk has right-of-way
- 2.41 Right-of-way of public safety vehicles
- 2.42 Funeral procession has right-of-way
- 2.43 Pedestrians yield right-of-way to public safety vehicle
- 2.44 Pedestrian on crosswalk has right-of-way
- 2.45 Right-of-way yielded to blind person
- 2.46 Right-of-way yielded by pedestrian
- 2.47 Pedestrian movement in crosswalks
- 2.48 Pedestrian on bridge or railroad crossing
- 2.49 Persons operating motorized wheelchairs
- 2.50 Stop signs at grade crossings
- 2.51 Driving vehicle across railroad grade crossing
- 2.52 Vehicles required to stop at grade crossings
- 2.53 Slow-moving vehicles or equipment crossing railroad tracks
- 2.54 Regulations concerning school buses
- 2.55 Violation of regulations; report; investigation; citation; warning
- 2.56 Obstruction and interference affecting view and control of driver
- 2.57 Occupying travel trailer while in motion
- 2.58 Driving upon sidewalk area or paths exclusively for bicycles
- 2.59 Obstructing passage of other vehicles
- 2.60 Following an emergency or public vehicle; approaching stationary public safety vehicle
- 2.61 Transporting child not in child-restraint system prohibited
- 2.62 Occupant restraining devices
- 2.63 Use of engine brakes prohibited
- 2.64 Operating motor vehicle while wearing earphones or earplugs
- 2.65 Cracking exhaust noises; peeling out
- 2.66 Texting while driving prohibited
- 2.67 Operation of Motorized Bicycle
- 2.68 Rules for Motorcycles
- 2.69 Riding Motorcycles Abreast

§ 2.21 LANES OF TRAVEL UPON ROADWAYS.

(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 division (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 division (A)(2) of this section. This division 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 division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

§ 2.22 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 division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

§ 2.23 VEHICLES TRAVELING 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 division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

§ 2.24 RULES GOVERNING OVERTAKING AND PASSING OF VEHICLES.

(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 division (A)(3) of this section, 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 highway as defined in R.C. § 4511.35, a limited access highway as defined in 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 division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

§ 2.25 PERMISSION TO OVERTAKE AND PASS ON THE RIGHT.

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

(1) When the vehicle overtaken is making or about to make a left turn; or

(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 the movement in safety. The movement shall not be made by driving off the roadway.

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

§ 2.26 DRIVING TO LEFT OF CENTER LINE.

(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 the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the 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 the traffic approaching from the opposite direction, before coming within 200 feet of any approaching vehicle.

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

§ 2.27 PROHIBITION AGAINST 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; or

(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 R.C. § 4511.25(A)(2) or a substantially equivalent municipal ordinance.

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

§ 2.28 HAZARDOUS ZONES.

(A) The Department of Transportation may determine those portions of any state highway where overtaking and passing other traffic or driving to the left of the center or center line of the roadway would be especially hazardous, and may, by appropriate signs or markings on the highway, indicate the beginning and end of such zones. When signs or markings are in place and clearly visible, every operator of a vehicle shall obey the directions of the signs or markings, notwithstanding the distances set out in R.C. § 4511.30.

(B) Division (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 R.C. § 4511.29, considering the speed of the slower vehicle.

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

traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

§ 2.29 RULES FOR DRIVING IN MARKED LANES.

(A) Whenever any roadway has been divided into two or more clearly marked lanes for traffic, or wherever within the municipality 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 the lane or line until the driver has first ascertained that the movement can be made with safety.

(2) Upon a roadway which is divided into three lanes and provides for the 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 the center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where the 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 division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

§ 2.30 SPACE BETWEEN MOVING VEHICLES.

(A) (1) 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 the vehicle and the traffic upon and the condition of the highway.

(2) 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 the vehicle and another vehicle ahead so an overtaking motor vehicle may enter and occupy the space without danger. This division does not prevent overtaking and passing nor does it apply to any lane specially designated for use by trucks.

(3) 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 the vehicles so an overtaking vehicle may enter and occupy the space without danger. This division shall not apply to funeral processions.

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

§ 2.31 RULES FOR TURNS 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 the 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 the 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 traffic moving in that lane.

(B) The Department of Transportation and local authorities may cause markers, buttons, or signs to 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 markers, buttons, or signs are so placed, no operator of a vehicle shall turn the vehicle at an intersection other than as directed and required by the markers, buttons, or signs.

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

§ 2.32 U-TURNS AND TURNING IN ROADWAY PROHIBITED.

(A) Except as provided in R.C. § 4511.13 and division (B) of this section, 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 such 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 division 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 division 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.

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

§ 2.33 STARTING AND BACKING VEHICLES.

(A) (1) No person shall start a vehicle which is stopped, standing, or parked until the movement can be made with reasonable safety.

(2) 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.

(3) No person shall back a motor vehicle on a freeway, except:

- (a) In a rest area;
- (b) In the performance of public works or official duties;
- (c) As a result of an emergency caused by an accident or breakdown of a motor vehicle.

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

§ 2.34 TURN AND STOP SIGNALS.

(A) (1) No person shall turn a vehicle or move right or left upon a highway unless and until the 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.

(2) 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.

(3) 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.

(4) 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 the 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 24 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 14 feet, whether a single vehicle or a combination of vehicles.

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

§ 2.35 HAND AND ARM SIGNALS.

(A) Except as provided in division (B) of this section, all signals required by the provisions of this traffic code, when given by hand and arm, shall be given from the left side of the vehicle in the following manner, and the 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 division (A)(2) of this section, 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 division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

§ 2.36 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 division (A) of this section is modified at through highways and otherwise as

stated in this traffic code or R.C. Chapter 4511.

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

§ 2.37 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 which is within the intersection or so close thereto as to constitute an immediate hazard.

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

§ 2.38 RIGHT-OF-WAY AT THROUGH HIGHWAYS; STOP SIGNS; YIELD 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) 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, 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.

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

§ 2.39 STOP AT SIDEWALK AREA; STOP SIGNS ON PRIVATE ROADS AND DRIVEWAYS.

(A) 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) The owner of a private road or driveway located in a private residential area containing 20 or more dwelling units may erect stop signs at places where the road or driveway intersects with another private road or driveway in the residential area, in compliance with all of the following requirements:

(1) The stop sign is sufficiently legible to be seen by an ordinarily observant person and meets the specifications of and is placed in accordance with the manual adopted by the Department of Transportation pursuant to R.C. § 4511.09;

(2) The owner has posted a sign at the entrance of the private road or driveway that is in plain view and clearly

informs persons entering the road or driveway that they are entering private property, stop signs have been posted and must be obeyed, and the signs are enforceable by law enforcement officers under state law. The sign required by this division, where appropriate, may be incorporated with the sign required by R.C. § 4511.211(A)(2), or any substantially equivalent municipal ordinance.

(C) The provisions of R.C. § 4511.43(A) and R.C. § 4511.46, or any substantially equivalent municipal ordinance, shall be deemed to apply to the driver of a vehicle on a private road or driveway where a stop sign is placed in accordance with division (B) of this section and to a pedestrian crossing such a road or driveway at an intersection where a stop sign is in place.

(D) When a stop sign is placed in accordance with division (B) of this section, any law enforcement officer may apprehend a person found violating the stop sign and may stop and charge the person with violating the stop sign.

(E) As used in this section, and for the purpose of applying R.C. § 4511.43(A) and R.C. § 4511.46, or any substantially equivalent municipal ordinance, to conduct under this section:

INTERSECTION. Means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two private roads or driveways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different private roads or driveways joining at any other angle may come in conflict.

(b) Where a private road or driveway includes two roadways 30 feet or more apart, then every crossing of two roadways of such private roads or driveways shall be regarded as a separate intersection.

OWNER. Has the same meaning as in R.C. § 4511.211.

PRIVATE RESIDENTIAL AREA CONTAIN-ING 20 OR MORE DWELLING UNITS. Has the same meaning as in R.C. § 4511.211.

ROADWAY. Means that portion of a private road or driveway improved, designed or ordinarily used for vehicular travel, except the berm or shoulder. If a private road or driveway includes two or more separate roadways, the term means any such roadway separately but not all such roadways collectively.

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

§ 2.40 PEDESTRIAN ON SIDEWALK HAS RIGHT-OF-WAY.

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

§ 2.41 RIGHT-OF-WAY OF PUBLIC SAFETY VEHICLES.

(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 highway 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 highway.

(C) This section applies to a coroner's vehicle only when the vehicle is operated in accordance with R.C. § 4511.171, or a substantially equivalent municipal ordinance. 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 division, whoever violates division (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.

§ 2.42 FUNERAL PROCESSION HAS RIGHT-OF-WAY.

(A) As used in this section, **FUNERAL PRO-CESSION** 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 R.C. § 4511.45 or a substantially equivalent municipal ordinance, 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 the Ohio Revised 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 division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

§ 2.43 PEDESTRIANS YIELD RIGHT-OF-WAY TO PUBLIC SAFETY VEHICLE.

(A) Upon the immediate approach of a public safety vehicle, as stated in R.C. § 4511.45 or a substantially equivalent municipal ordinance, 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 division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

§ 2.44 PEDESTRIAN ON CROSSWALK HAS RIGHT-OF-WAY.

(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 R.C. § 4511.132 or a substantially equivalent municipal ordinance, 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) Division (A) of this section does not apply under the conditions stated in R.C. § 4511.48(B), or a substantially equivalent municipal ordinance.

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

§ 2.45 RIGHT-OF-WAY YIELDED TO BLIND PERSON.

(A) (1) 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 20 degrees.

(2) 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 predominantly 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 or metallic cane, with or without a red tip.

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

§ 2.46 RIGHT-OF-WAY YIELDED BY PEDESTRIAN.

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

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

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

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

(E) This section does not relieve the operator of a vehicle from exercising due care to avoid colliding with any pedestrian upon any roadway.

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

§ 2.47 PEDESTRIAN MOVEMENT IN CROSSWALKS.

(A) Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

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

§ 2.48 PEDESTRIAN ON BRIDGE OR RAILROAD CROSSING.

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

§ 2.49 PERSONS OPERATING MOTORIZED WHEELCHAIRS.

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

§ 2.50 STOP SIGNS AT GRADE CROSSINGS.

(A) As used in this section, **ACTIVE GRADE CROSSING WARNING DEVICE** has the same meaning as in R.C. § 5733.43.

(B) The Department of Transportation and local authorities, with the approval of the Department, may designate dangerous highway crossings over railroad tracks and erect stop signs thereat.

(C) (1) The Department and local authorities shall erect stop signs at a railroad highway grade crossing in either of the following circumstances:

(a) New warning devices that are not active grade crossing warning devices are being installed at the grade crossing, and railroad crossbucks were the only warning devices at the grade crossing prior to the installation of the new warning devices.

(b) The grade crossing is constructed after July 1, 2013 and only warning devices that are not active grade crossing warning devices are installed at the grade crossing.

(2) Division (C)(1) of this section does not apply to a railroad highway grade crossing that the Director of Transportation has exempted from that division because of traffic flow or other considerations or factors.

(D) When stop signs are erected pursuant to division (B) or (C) of this section, the operator of any vehicle shall stop within 50, but not less than 15, feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.

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

offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

§ 2.51 DRIVING VEHICLE ACROSS RAILROAD GRADE CROSSING.

(A) (1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within 50 feet but not less than 15 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) through (A)(1)(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.

§ 2.52 VEHICLES REQUIRED TO STOP AT GRADE CROSSINGS.

(A) Except as provided in division (B) of this section, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 C.F.R. parts 100 through 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.

(B) This section does not apply at grade crossings when any local authority has filed an application with the Public Utilities Commission requesting the approval of an exempt crossing, and the Public Utilities Commission has authorized and approved an exempt crossing as provided in R.C. § 4511.63(B).

(C) As used in this section:

BUS. Means any vehicle originally designed by its manufacturer to transport 16 or more passengers, including the driver, or carries 16 or more passengers, including the driver.

EXEMPT CROSSING. Means a highway rail grade crossing authorized and approved by the Public Utilities Commission under R.C. § 4511.63(B) at which vehicles may cross without making the stop otherwise required by this section.

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.

(D) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or R.C. § 4511.63, 4511.76, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79, or a municipal ordinance that is substantially equivalent to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree.

§ 2.53 SLOW-MOVING VEHICLES OR EQUIPMENT CROSSING RAILROAD TRACKS.

(A) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of six or less miles per hour or a vertical body or load clearance of less than nine inches above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with divisions (A)(1) and (A)(2) of this section.

(1) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same, and while stopped, the person shall listen 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.

(2) No such crossing shall be made when warning is given by automatic signal, crossing gates, or a flagperson, or otherwise of the immediate approach of a railroad train or car.

(B) If the normal sustained speed of the vehicle, equipment, or structure is not more than three miles per hour, the person owning, operating, or moving the same shall also give notice of the intended crossing to a station agent or superintendent of the railroad, and a reasonable time shall be given to the railroad to provide proper protection for the crossing. Where the vehicles or equipment are being used in constructing or repairing a section of highway lying on both sides of a railroad grade crossing, and in this construction or repair it is necessary to repeatedly move the vehicles or equipment over the crossing, one daily notice specifying when the work will start and stating the hours during which it will be prosecuted is sufficient.

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

§ 2.54 REGULATIONS CONCERNING SCHOOL BUSES.

(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 division that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by division (B) of this section.

(B) Every school bus shall be equipped with amber and red visual signals meeting the requirements of R.C. § 4511.771 or a substantially equivalent municipal ordinance, 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 loading 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 division (A) above.

(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's or person's residence side of the road.

(F) (1) Whoever violates division (A) of this section may be fined an amount not to exceed \$500. A person who is issued a citation for a violation of division (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 R.C. § 4510.02(A)(7). 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.

(G) As used in this section:

HEAD START AGENCY. Has the same meaning as in R.C. § 3301.32.

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 R.C. § 4511.77, and is equipped with amber and red visual signals meeting the requirements of R.C. § 4511.77, irrespective of whether or not the bus has 15 or more children aboard at any time. The term does not include a van owned and operated by a head start agency, irrespective of its color, lights or markings.

§ 2.55 VIOLATION OF REGULATIONS; REPORT; INVESTIGATION; CITATION; WARNING.

(A) As used in this section, **LICENSE PLATE** includes but is not limited to any temporary license placard issued under R.C. § 4503.182 or substantially equivalent law of another jurisdiction.

(B) When the operator of a school bus believes that a motorist has violated R.C. § 4511.75(A) or a substantially equivalent municipal ordinance, the operator shall report the license plate number and general description of the vehicle

and of the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred. The information contained in the report relating to the license plate number and to the general description of the vehicle and the operator of the vehicle at the time of the alleged violation may be supplied by any person with first-hand knowledge of the information. Information of which the operator of the school bus has first-hand knowledge also may be corroborated by any other person.

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

§ 2.56 OBSTRUCTION AND INTERFERENCE AFFECTING VIEW AND CONTROL OF DRIVER.

(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 a 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) 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.

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

§ 2.57 OCCUPYING TRAVEL TRAILER WHILE IN MOTION.

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

§ 2.58 DRIVING UPON SIDEWALK AREA OR PATHS EXCLUSIVELY FOR BICYCLES.

(A) (1) 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.

(2) Nothing in this section shall be construed as prohibiting local authorities from regulating the operation of bicycles, except that no local authority may require that bicycles be operated on sidewalks.

(B) (1) 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.

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

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

§ 2.59 OBSTRUCTING PASSAGE OF OTHER VEHICLES.

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

§ 2.60 FOLLOWING AN EMERGENCY OR PUBLIC VEHICLE PROHIBITED; APPROACHING STATIONARY PUBLIC SAFETY VEHICLE WITH CAUTION.

(A) *Following an emergency or public vehicle prohibited.* 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 the vehicle within the block where the fire apparatus has stopped in answer to a fire alarm, unless directed to do so by a police officer or a firefighter.

(B) *Approaching stationary public safety vehicle with caution.*

(1) 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 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 R.C. § 4513.17, shall do either of the following:

(a) If the driver of the motor vehicle is traveling on a 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 and 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 R.C. §§ 4923.04 and 4923.06, or a highway maintenance vehicle.

(b) If the driver is not traveling on a highway of a type described in division (B)(1)(a) 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.

(2) This division (B) 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 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.

(3) No person shall fail to drive a motor vehicle in compliance with divisions (B)(1)(a) or (B)(1)(b) of this section when so required by division (B) of this section.

(C) *Penalty.*

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

(2) Notwithstanding § 130.99 or R.C. § 2929.28, upon a finding that a person operated a motor vehicle in violation of division (B)(3) 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.

§ 2.61 TRANSPORTING CHILD NOT IN CHILD RESTRAINT SYSTEM PROHIBITED.

(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 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 vehicle safety standards:

(1) A child who is less than four years of age;

(2) A child who weighs less than 40 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 40 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 division (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 R.C. § 4511.01 or a vehicle that is regulated under R.C. § 5104.015, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.

(D) When any child who is at least eight years of age but not older than 15 years of age, and who is not otherwise required by division (A), (B), or (C) of this section 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 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 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 division (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 division (C) or (D) of this section or causing the arrest of or commencing a prosecution of a person for a violation of division (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 division (C) or (D) of this section has been or is being committed.

(F) The 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 in 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 R.C. Chapter 4731 or a chiropractor licensed to practice in this state under 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) (1) Whoever violates division (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:

(a) Except as otherwise provided in division (J)(1)(b) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than \$25 nor more than \$75.

(b) If the offender previously has been convicted of or pleaded guilty to a violation of division (A), (B), (C), or (D) of this section or of a state law or municipal ordinance that is substantially equivalent any of those divisions, the offender is guilty of a misdemeanor of the fourth degree.

(2) All fines imposed pursuant to division (J)(1) of this section shall be forwarded to the State Treasurer for deposit in the Child Highway Safety Fund created by R.C. § 4511.81(I).

§ 2.62 OCCUPANT RESTRAINING DEVICES.

(A) *Definitions.* As used in this section:

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. § 1392.

COMMERCIAL CAR. Has the same meaning as in R.C. § 4501.01.

COMMERCIAL TRACTOR. Has the same meaning as in R.C. § 4501.01.

OCCUPANT RESTRAINING DEVICE. A seat safety belt, shoulder belt, harness, or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum federal vehicle safety standards established by the United States Department of Transportation.

PASSENGER. Any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

PASSENGER CAR. Has the same meaning as in R.C. § 4501.01.

TORT ACTION. A civil action for damages for injury, death, or loss to person or property. The term includes a product liability claim, as defined in R.C. § 2307.71, and as asbestos claim, as defined in R.C. § 2307.91, but does not include a civil action for damages for breach of contract or another agreement between persons.

VEHICLE and **MOTOR VEHICLE.** As used in the definitions of the terms set forth above, **VEHICLE** and **MOTOR VEHICLE** have the same meanings as in R.C. § 4511.01.

(B) *Prohibited acts.* No person shall do any of the following:

(1) Operate an automobile on any street or highway unless he or she 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 he or she 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 division (B)(3) of this section 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 he or she 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) *Exceptions.* Division (B)(3) of this section does not apply to a person who is required by R.C. § 4511.81 or a substantially equivalent municipal ordinance to be secured in a child restraint device or booster seat. Division (B)(1) of this

section 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. Divisions (B)(1) and (B)(3) of this section do not apply to a person who has an affidavit signed by a physician licensed to practice in this state under R.C. Chapter 4731 or a chiropractor licensed to practice in this state under 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) *Officers not permitted to stop cars to determine violation.* 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 division (B) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for the violation or for causing the arrest of or commencing a prosecution of a person for the violation. 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 the violation has been or is being committed.

(E) *Use of fines for educational program.* All fines collected for violations of division (B) of this section shall be forwarded to the State Treasurer for deposit in the funds as set forth in R.C. § 4513.263(E).

(F) *Limitations on evidence used for prosecution.*

(1) Subject to division (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 division (B)(1) or (B)(3) of this section 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 division (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 non-economic loss, as defined in 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) *Penalty.*

(1) Whoever violates division (B)(1) of this section shall be fined \$30.

(2) Whoever violates division (B)(2) shall be subject to a fine of \$30.

(3) Whoever violates division (B)(3) of this section shall be fined \$20.

(4) Except as otherwise provided in this division, whoever violates division (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 division (B)(4) of this section, whoever violates division (B)(4) of this section is guilty of a misdemeanor of the third degree.

§ 2.63 USE OF ENGINE BRAKES PROHIBITED.

(A) The non-emergency use of engine brakes within the municipality is prohibited.

(B) As used in this section, **ENGINE BRAKES** shall be defined to include but is not limited to Jake Brakes, Jacobs Brakes, C Brakes, PacBrakes, TekBrakes, and any other type of engine retarders commonly utilized within the trucking industry.

(C) This section does not apply to emergency vehicles operated by fire, police, or military units.

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

§ 2.64 OPERATING MOTOR VEHICLE WHILE WEARING EARPHONES OR EARPLUGS.

(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. The term 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 department personnel and emergency medical service personnel while on duty;
- (4) Any person operating equipment for use in the maintenance or repair of any highway;
- (5) Any person engaged in the operation of refuse collection equipment.

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

§ 2.65 CRACKING EXHAUST NOISES; PEELING OUT.

No person shall operate any motor vehicle, except when necessary for safe operation, or in compliance with law, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position, or in the shifting of gears while in motion, that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation,

or that the rubber tires of such vehicle squeal or leave tire marks on the roadway, commonly known as “peeling out”.

§ 2.66 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) Division (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 division (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 division (A) of this section is guilty of a minor misdemeanor.

(E) A prosecution for a violation of 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 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 R.C. § 2941.25.

(F) As used in this section:

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.

VOICE-OPERATED OR HANDS-FREE DEVICE. 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.

WRITE, SEND, OR READ A TEXT-BASED COMMUNICATION. 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.

§ 2.67 OPERATION OF MOTORIZED BICYCLE.

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

(1) The person is 14 or 15 years of age and holds a valid probationary motorized bicycle license issued after the person has passed the test provided for in this section, or the person is 16 years of age or older and holds either a valid commercial driver's license issued under R.C. Chapter 4506 or a driver's license issued under R.C. Chapter 4507 or a valid motorized bicycle license issued after the person has passed the test provided for in this section, except that if a person is 16 years of age, has a valid probationary motorized bicycle license and desires a motorized bicycle license, the person is not required to comply with the testing requirements provided for in this section.

(2) The motorized bicycle is equipped in accordance with the rules adopted under division (B) of this section and is in proper working order.

(3) The person, if under 18 years of age, is wearing a protective helmet on the person's head with the chin strap properly fastened and the motorized bicycle is equipped with a rearview 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.

(B) The Director of Public Safety, subject to R.C. Chapter 119, shall adopt and promulgate rules concerning protective helmets, the equipment of motorized bicycles, and the testing and qualifications of persons who do not hold a valid driver's or commercial driver's license. The test shall be as near as practicable to the examination required for a motorcycle operator's endorsement under R.C. § 4507.11. The test shall also require the operator to give an actual demonstration of the operator's ability to operate and control a motorized bicycle by driving one under the supervision of an examining officer.

(C) Every motorized bicycle license expires on the birthday of the applicant in the fourth year after the date it is issued, but in no event shall any motorized bicycle license be issued for a period longer than four years.

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

(E) The protective helmet and rearview mirror required by division (A)(3) of this section shall, on and after January 1, 1985, conform with rules adopted by the Director under division (B) of this section.

(F) Each probationary motorized bicycle license or motorized bicycle license shall be laminated with a transparent plastic material.

(G) Whoever violates division (A), (D), or (E) of this section is guilty of a minor misdemeanor.

§ 2.68 RULES FOR MOTORCYCLES

(A) (1) 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.

(2) 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.

(3) No person shall ride upon a motorcycle that is equipped with a seat other than while sitting upon the seat.

(4) No 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.

(B) (1) Except as provided in division (B)(3) of this section, no person shall operate or be a passenger on a motorcycle without using safety glasses or other protective eye device. Except as provided in division (B)(3) of this section, no person who is under the age of 18 years, or who holds a motorcycle operator's endorsement or license bearing a "novice" designation that is currently in effect as provided in 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 paragraph or a violation thereof shall not be used in the trial of any civil action.

(2) (a) Except as provided in division (B)(3) of this section, no person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar of Motor Vehicles pursuant to 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 Ohio Director of Public Safety.

(b) No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar of Motor Vehicles pursuant to R.C. § 4507.05 in any of the following circumstances:

1. At any time when lighted lights are required by R.C. § 4513.03(A)(1);
2. While carrying a passenger;
3. On any limited access highway.

(3) Divisions (B)(1) and (B)(2)(a) 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.

(C) Except as otherwise provided in this division, whoever violates division (A) or (B)(1) or (B)(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 division (A) or (B)(1) or (B)(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 division (A) or (B)(1) or (B)(2) of this section is guilty of a misdemeanor of the third degree.

§ 2.69 RIDING MOTORCYCLES ABREAST.

(A) Persons riding 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 motorcycles.

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

CHAPTER 2.7: MOTOR VEHICLE CRIMES

Section

- 2.70 Physical control of vehicle while under the influence
- 2.71 Driving commercial vehicle with impaired alertness or ability
- 2.72 Reckless operation of vehicles
- 2.73 Operator to be in reasonable control
- 2.74 Speed limits
- 2.75 Presenting false name or information to officer
- 2.76 Prohibition against resisting officer
- 2.77 Exchange of identity and vehicle registration
- 2.78 Accident involving injury to persons or property
- 2.79 Failure to report accident

§ 2.70 PHYSICAL CONTROL OF VEHICLE WHILE UNDER THE INFLUENCE.

(A) As used in this section, **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.

(B) 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 § 73.01(A)(1)(b), (A)(1)(c), (A)(1)(d), or (A)(1)(e).

(3) Except as provided in division (E) 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 § 73.01(A)(1)(j).

(C) (1) In any criminal prosecution or juvenile court proceeding for a violation of this section, if a law enforcement officer has administered a field sobriety test to the 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 acceptable 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 what were set by the National Highway Traffic Safety Administration, all of the following apply:

(a) The officer may testify concerning the results of the field sobriety test so administered.

(b) 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.

(c) If testimony is presented or evidence is introduced under division (C)(1)(a) or (C)(1)(b) 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.

(2) Division (C)(1) 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 division, from considering evidence or testimony that is not otherwise disallowed by division (C)(1) of this section.

(D) Whoever violates this section 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 R.C. § 4510.02(A)(7).

(E) Division (B)(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 § 73.01(A)(1)(j) 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.

§ 2.71 DRIVING COMMERCIAL VEHICLE WITH IMPAIRED ALERTNESS OR ABILITY; USE OF DRUGS.

(A) No person shall drive a commercial motor vehicle, as defined in R.C. § 4506.01, or a commercial car or commercial tractor, as defined in R.C. § 4501.01, while the person's ability or alertness is so impaired by fatigue, illness, or other causes that it is unsafe for the person to drive such vehicle.

(B) No owner, as defined in R.C. § 4501.01, of a commercial motor vehicle, commercial car or commercial tractor, or a person employing or otherwise directing the driver of such vehicle, shall require or knowingly permit a driver in any such condition described in division (A) of this section to drive such vehicle upon any street or highway.

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or R.C. § 4511.79, or R.C. § 4511.63, 4511.76, 4511.761, 4511.762, 4511.764, or 4511.77 or a municipal ordinance that is substantially equivalent to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree.

§ 2.72 RECKLESS OPERATION OF VEHICLES.

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

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

§ 2.73 OPERATOR TO BE IN 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.

§ 2.74 SPEED LIMITS.

(A) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard for 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 him or her 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 this section by the Director of Transportation or local authorities, 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 20 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 division (B)(4) of this section, and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by divisions (B)(9) and (B)(10) of this section. 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 R.C. § 3301.16 and any nonchartered school that during the preceding year filed with the Department of Education in compliance with O.A.C. § 3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets state minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone. The term also includes a special elementary school that in writing requests the County Engineer to create a school zone at the location of the school. Upon receipt of such written request, the County Engineer shall create a school zone at that location by erecting appropriate signs.

(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, and also includes that portion of a state highway. Upon request from local authorities for streets and highways under their jurisdiction and that portion of a state highway under the jurisdiction of the Director of Transportation or a request from a County Engineer in the case of a school zone for a special elementary school, the Director may extend the traditional school zone boundaries. The distances in divisions (B)(1)(c)1. through (B)(1)(c)3. below shall not exceed 300 feet per approach per direction, and are bounded by whichever of the following distances or combination 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 the highway.

(d) 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 divisions (B)(1)(a) and (B)(1)(c) of this section.

(e) As used in this division, **CROSSWALK** has the meaning given that term in R.C. § 4511.01(LL)(2).

(f) The Director may, upon request by resolution of the Legislative Authority 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 a crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet in each appropriate direction of the state route.

(g) As used in this section, **SPECIAL ELEMENTARY SCHOOL** means a school that meets all of the following:

1. It is not chartered and does not receive tax revenue from any source.
2. It does not educate children beyond the eighth grade.
3. It is located outside the limits of a municipal corporation.
4. A majority of the total number of students enrolled at the school are not related by blood.

5. The principal or other person in charge of the special elementary school annually sends a report to the superintendent of the school district in which the special elementary school is located indicating the total number of students enrolled at the school, but otherwise the principal or other person in charge does not report any other information or data to the superintendent.

(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 divisions (B)(4) and (B)(6) of this section;

(4) Fifty miles per hour on controlled-access highways and expressways within the municipality;

(5) Fifty-five miles per hour on highways outside the municipality, other than highways within island jurisdictions as provided in division (B)(8) of this section, highways as provided in division (B)(9) of this section, and highways, expressways and freeways as provided in divisions (B)(12), (B)(13), (B)(14) and (B)(16) of this section;

(6) 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;

(7) Fifteen miles per hour on all alleys within the municipality;

(8) Thirty-five miles per hour on highways outside the municipality that are within an island jurisdiction;

(9) Sixty miles per hour on two-lane state routes outside municipal corporations as established by the Director under R.C. § 4511.21(H)(2);

(10) Fifty-five miles per hour at all times on freeways with paved shoulders inside the municipality, other than freeways as provided in divisions (B)(14) and (B)(16) of this section;

(11) Fifty-five miles per hour at all times on freeways outside the municipality, other than freeways as provided in divisions (B)(14) and (B)(16) of this section;

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

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

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

(15) 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;

(16) 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 divisions (B)(1)(a), (B)(2), (B)(3), (B)(4), (B)(6), (B)(7) and (B)(8) of this section 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 division (D) of this section. 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 55 miles per hour, except upon a two-lane state route as provided in division (B)(9) of this section and upon a highway, expressway or freeway as provided in divisions (B)(12), (B)(13), (B)(14) and (B)(16) of this section;

(2) At a speed exceeding 60 miles per hour upon a two-lane state route as provided in division (B)(9) of this section and upon a highway as provided in division (B)(12) of this section;

(3) At a speed exceeding 65 miles per hour upon an expressway as provided in division (B)(13) of this section or upon a freeway as provided in division (B)(16) of this section, except upon a freeway as provided in division (B)(14) of this section;

(4) At a speed exceeding 70 miles per hour upon a freeway as provided in division (B)(14) of this section;

(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 R.C. § 4511.21(I)(2) or (L)(2).

(E) Pursuant to R.C. § 4511.21(E), in every charge of violating 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 division (C) of this section also the speed which division (B)(1)(a), (B)(2), (B)(3), (B)(4), (B)(6), (B)(7) or (B)(8) of, or a limit declared or established pursuant to, this section or R.C. § 4511.21 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 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) Pursuant to R.C. § 4511.21(F), when a speed in excess of both a prima facie limitation and a limitation in division (D) of this section is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both division (B)(1)(a), (B)(2), (B)(3), (B)(4), (B)(6), (B)(7) or (B)(8) of this section, or of a limit declared or established pursuant to this section or R.C. § 4511.21 by the Director or local authorities, and of the limitation in division (D) of this section. If the court finds a violation of division (B)(1)(a), (B)(2), (B)(3), (B)(4), (B)(6), (B)(7) or (B)(8) of, or a limit declared or established pursuant to, this section or R.C. § 4511.21 has occurred, it shall enter a judgment of conviction under such division and dismiss the charge under division (D) of this section. If it finds no violation of division (B)(1)(a), (B)(2), (B)(3), (B)(4), (B)(6), (B)(7) or (B)(8) of, or a limit declared or established pursuant to, this section or R.C. § 4511.21, it shall then consider whether the evidence supports a conviction under division (D) of this section.

(G) Pursuant to R.C. § 4511.21(G), points shall be assessed for a violation of a limitation under division (D) of this section in accordance with R.C. § 4510.036.

(H) Whenever, in accordance with R.C. § 4511.21(H) through (N), the maximum prima facie 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:

COMMERCIAL BUS. Means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.

INTERSTATE SYSTEM. Has the same meaning as in 23 U.S.C. § 101.

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.

OUTERBELT. 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.

RURAL. Outside urbanized areas, as designated in accordance with 23 U.S.C. § 101, and outside of a business or urban district.

(J) *Speed limits for private roads and driveways.*

(1) The owner of a private road or driveway located in a private residential area containing 20 or more dwelling units may establish a speed limit on the road or driveway by complying with all of the following requirements:

(a) The speed limit is not less than 25 miles per hour and is indicated by a sign that is in a proper position, is sufficiently legible to be seen by an ordinarily observant person, and meets the specifications for the basic speed limit sign included in the manual adopted by the Department of Transportation pursuant to R.C. § 4511.09;

(b) The owner has posted a sign at the entrance of the private road or driveway that is in plain view and clearly informs persons entering the road or driveway that they are entering private property, a speed limit has been established for the road or driveway, and the speed limit is enforceable by law enforcement officers under state law.

(2) No person shall operate a vehicle upon a private road or driveway as provided in division (J)(1) of this section at a speed exceeding any speed limit established and posted pursuant to division (J)(1).

(3) When a speed limit is established and posted in accordance with division (J)(1) of this section, a law enforcement officer may apprehend a person violating the speed limit of the residential area by utilizing any of the means described in R.C. § 4511.091 or by any other accepted method of determining the speed of a motor vehicle and may stop and charge the person with exceeding the speed limit.

(4) Pursuant to R.C. § 4511.211(D), points shall be assessed for violation of a speed limit established and posted in accordance with division (J)(1) of this section in accordance with R.C. § 4510.036.

(5) As used in this division (J):

OWNER. Includes but is not limited to a person who holds title to the real property in fee simple, a condominium owners' association, a property owners' association, a board of directors or trustees of a private community, and a nonprofit corporation governing a private community.

PRIVATE RESIDENTIAL AREA CONTAINING 20 OR MORE DWELLING UNITS. Does not include a Chautauqua assembly as defined in R.C. § 4511.90.

(K) Penalties.

(1) Divisions (A) through (I).

(a) A violation of any provision of divisions (A) through (I) of this section is one of the following:

1. Except as otherwise provided in divisions (K)(1)(a)2., (K)(1)(a)3., (K)(1)(b), and (K)(1)(c) of this section, a minor misdemeanor;

2. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of divisions (A) through (I) of this section, R.C. § 4511.21, or any provision of any other municipal ordinance that is substantially equivalent to any provision of that section, a misdemeanor of the fourth degree;

3. 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 divisions (A) through (I) of this section, R.C. § 4511.21, or any provision of any other municipal ordinance that is substantially equivalent to any provision of that section, a misdemeanor of the third degree.

(b) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of division (A) through (I) of this section, R.C. § 4511.21, or any other municipal ordinance that is substantially equivalent to any provision of that section, and operated a motor vehicle faster than 35 miles an hour in a business district of the municipality, faster than 50 miles an hour in other portions of the municipality, or faster than 35 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.

(c) Notwithstanding division (K)(1)(a) of this section, if the offender operated a motor vehicle in a

construction zone where a sign was then posted in accordance with 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 division and if the court determines that the offender is an indigent person and unable to pay the fine.

(2) *Division (J).* A violation of division (J)(2) of this section is one of the following:

(a) Except as otherwise provided in divisions (K)(2)(b) and (K)(2)(c) 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 division (J)(2) of this section, R.C. § 4511.211(B), or any other municipal ordinance that is substantially equivalent to that division, 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 division (J)(2) of this section, R.C. § 4511.211(B), or any other municipal ordinance that is substantially equivalent to that division, a misdemeanor of the third degree.

§ 2.75 PRESENTING FALSE NAME OR INFORMATION TO 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.

§ 2.76 PROHIBITION AGAINST RESISTING OFFICER.

(A) No person shall resist, hinder, obstruct, or abuse any sheriff, constable, or other official while that official is attempting to arrest offenders under any provision of this Chapter 2. No person shall interfere with any person charged under any provision of this Chapter 2 with the enforcement of the law relative to public highways.

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

(C) It is a defense to prosecution under this section that the hindrance, obstruction, resistance, or interference alleged consisted of constitutionally protected speech only.

§ 2.77 EXCHANGE OF IDENTITY AND VEHICLE REGISTRATION.

(A) (1) 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.

(2) 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.

(3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.

(B) (1) Whoever violates division (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 to 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 R.C. § 4510.02(A)(5). No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this division.

(2) The offender shall provide the court with proof of financial responsibility as defined in 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 § 130.99(G) or R.C. § 2929.18 or 2929.28 in an amount not exceeding \$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.

§ 2.78 ACCIDENT INVOLVING INJURY TO PERSONS OR PROPERTY.

(A) (1) 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.

(2) 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 24 hours after the accident or collision, shall forward to the police department of the municipality 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.

(3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.

(B) (1) Whoever violates division (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 to 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 R.C. § 4510.02(A)(5). No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this division.

(2) The offender shall provide the court with proof of financial responsibility as defined in 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 § 130.99(G) or R.C. § 2929.18 or 2929.28 in an amount not exceeding \$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.

§ 2.79 FAILURE TO REPORT ACCIDENT.

(A) No person shall fail to report a motor vehicle accident as required under state or local law.

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

CHAPTER 2.8: EQUIPMENT AND LOADS

Section

- 2.80 Unsafe vehicles, prohibition against operation
- 2.81 Lighted lights required
- 2.82 Headlights
- 2.83 Tail lights and illumination of rear license plate
- 2.84 Red reflectors required
- 2.85 Stoplight regulations
- 2.86 Red light or flag required
- 2.87 Lights on parked vehicles
- 2.88 Lights and emblem on slow-moving vehicles; lights and reflectors on multi-wheel agricultural tractors or farm machinery
- 2.89 Two lights displayed
- 2.90 Headlights required
- 2.91 Mufflers; excessive smoke or gas
- 2.92 Rearview mirrors
- 2.93 Directional signals
- 2.94 Studded tires; seasonal use permitted
- 2.95 Limitation of load extension on left side of vehicle
- 2.96 All loads shall be properly secured

§ 2.80 UNSAFE VEHICLES, PROHIBITION AGAINST OPERATION.

(A) No person shall drive or move, or cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person.

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

§ 2.81 LIGHTED LIGHTS REQUIRED.

(A) Every vehicle, other than a motorized bicycle, operated upon a street or highway within this state shall display lighted lights and illuminating devices as required by R.C. §§ 4513.04 to 4513.37 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 highway are not discernible at a distance of 1,000 feet ahead;
- (3) At any time when the windshield wipers of the vehicle are in use because of precipitation on the windshield.

(B) Every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the Ohio Director of Public Safety under R.C. § 4511.521. No motor vehicle, during any time specified in this section, shall be operated upon a street or highway within this state using only parking lights as illumination.

(C) Whenever in such sections a requirement is declared as to the distance from which certain lamps and devices shall render objects visible, or within which such lamps or devices shall be visible, such distance shall be measured upon a straight level unlighted highway under normal atmospheric conditions unless a different condition is expressly stated.

(D) Whenever in such sections 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.

(E) 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 within this state to stop the vehicle solely because the officer observes that

a violation of division (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 division, or causing the arrest of or commencing a prosecution of a person for a violation of that division.

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

§ 2.82 HEADLIGHTS.

(A) (1) Every motor vehicle, other than a motor-cycle, shall be equipped with at least two headlights with at least one near each side of the front of the motor vehicle.

(2) Every motorcycle shall be equipped with at least one and not more than two headlights.

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

§ 2.83 TAIL LIGHTS AND ILLUMINATION OF REAR LICENSE PLATE.

(A) (1) 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 rearmost vehicle need be visible from the distance specified.

(2) 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 50 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.

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

§ 2.84 RED REFLECTORS REQUIRED.

(A) (1) Every new motor vehicle sold after September 6, 1941, and operated on a highway, other than a commercial tractor to which a trailer or semitrailer is attached, shall carry at the rear, either as a part of the tail lamps or separately, two red reflectors meeting the requirements of this section, except that vehicles of the type mentioned in R.C. § 4513.07 or a substantially equivalent municipal ordinance shall be equipped with reflectors as required by the regulations provided for in that section.

(2) Every such reflector shall be of such size and characteristics and so maintained as to be visible at night from all distances within 300 feet to 50 feet from such vehicle.

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

§ 2.85 STOPLIGHT REGULATIONS.

(A) (1) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a 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 500 feet to the rear; provided that in the case of a train of vehicles only the stop lights on the rearmost vehicle need be visible from the distance specified.

(2) 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.

(3) 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 R.C. § 4513.19.

(4) Historical motor vehicles as defined in 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.

§ 2.86 RED LIGHT OR FLAG REQUIRED.

(A) Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of this vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in R.C. § 4513.03 or a substantially equivalent municipal ordinance, a red light or lantern plainly visible from a distance of at least 500 feet to the sides 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 16 inches square.

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

§ 2.87 LIGHTS ON PARKED VEHICLES.

(A) Except in case of an emergency, whenever a vehicle is parked or stopped upon a roadway open to traffic or a shoulder adjacent thereto, whether attended or unattended, during the times mentioned in R.C. § 4513.03 or a substantially equivalent municipal ordinance, 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 within the municipality where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon such highway. Any lighted headlights upon a parked vehicle shall be depressed or dimmed.

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

§ 2.88 LIGHTS AND EMBLEM ON SLOW-MOVING VEHICLES; LIGHTS AND REFLECTORS ON MULTI-WHEEL AGRICULTURAL TRACTORS OR FARM MACHINERY.

(A) All vehicles other than bicycles, including animal-drawn vehicles and vehicles referred to in R.C. § 4513.02(G), not specifically required to be equipped with lamps or other lighting devices by R.C. §§ 4513.03 through 4513.10, or any substantially equivalent municipal ordinances, shall, at the times specified in R.C. § 4513.03 or a substantially equivalent municipal ordinance, be equipped with at least one lamp 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 lamps 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 lamp 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 headlamps. Lamps and reflectors required by this section shall meet standards adopted by the 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 Director of Transportation, a city or village engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the Director and the *Manual and Specifications for a Uniform System of Traffic-Control Devices*, as set forth in R.C. § 4511.09, which is designed for operation at a speed of 25 miles per hour or less, shall be operated at a speed not exceeding 25 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 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 25 miles per hour may be operated on a street or highway at a speed greater than 25 miles per hour provided it is operated in accordance with this section. As used in this division, "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 division (B) of this section 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 division (B) of this section, 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 division (B) of this section.

(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 25 miles per hour unless the unit displays a slow-moving vehicle emblem as specified in division (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 division (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 25 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 1,000 feet to the rear at all times specified in R.C. § 4513.03 or a substantially equivalent municipal ordinance. 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 division, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating or rotating amber light, as permitted by R.C. § 4513.17 or a substantially equivalent municipal ordinance, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.

(F) (1) Every animal-drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:

(a) With a slow-moving vehicle emblem complying with division (B) of this section;

(b) With alternate reflective material complying with rules adopted under division (F)(2) below;

(c) With both a slow-moving vehicle emblem and alternate reflective material as specified in division (F) (2) below.

(2) Rules adopted by the Director of Public Safety, subject to R.C. Chapter 119, establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this division, 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 R.C. § 4513.03 or a substantially equivalent municipal ordinance, from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps.

(G) (1) Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 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 division.

(2) If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 miles per hour is being operated on a street or highway at a speed greater than 25 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 25 miles per hour is being operated on a street or highway at a speed greater than 25 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 25 miles per hour or less.

(J) Lights and reflector requirements for multi-wheel agricultural tractors or farm machinery.

(1) (a) Every multi-wheel agricultural tractor whose model year was 2001 or earlier, when being operated or traveling on a street or highway at the times specified in R.C. § 4513.03, or a substantially equivalent municipal ordinance, at a minimum shall be equipped with and display reflectors and illuminated amber lamps so that the extreme left and right projections of the tractor are indicated by flashing lamps displaying amber light, visible to the front and the rear; by amber reflectors, all visible to the front; and by red reflectors, all visible to the rear.

(b) The lamps displaying amber light need not flash simultaneously and need not flash in conjunction with any directional signals of the tractor.

(c) The lamps and reflectors required by division (J)(1)(a) of this section and their placement shall meet standards and specifications contained in rules adopted by the Director of Public Safety in accordance with R.C. Chapter 119. The rules governing the amber lamps, amber reflectors, and red reflectors and their placement shall correlate with and, as far as possible, conform with paragraphs 4.1.4.1, 4.1.7.1, and 4.1.7.2, respectively, of the American Society of Agricultural Engineers Standard ANSI/SAE S279.10 OCT98, Lighting and Marking of Agricultural Equipment on Highways.

(2) Every unit of farm machinery whose model year was 2002 or later, when being operated or traveling on a street or highway at the times specified in R.C. § 4513.03, or a substantially equivalent municipal ordinance, shall be equipped with and display markings and illuminated lamps that meet or exceed the lighting, illumination, and marking standards and specifications that are applicable to that type of farm machinery for the unit's model year specified in the American Society of Agricultural Engineers Standard ANSI/SAE S279.11 APR01, Lighting and Marking of Agricultural Equipment on Highways, or any subsequent revisions of that standard.

(3) The lights and reflectors required by division (J)(1) of this section are in addition to the slow-moving vehicle emblem and lights required or permitted by R.C. § 4513.11 or 4513.17, or a substantially equivalent municipal ordinance, to be displayed on farm machinery being operated or traveling on a street or highway.

(4) No person shall operate any unit of farm machinery on a street or highway or cause any unit of farm machinery to travel on a street or highway in violation of divisions (J)(1) or (J)(2) of this section.

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

§ 2.89 TWO LIGHTS DISPLAYED.

(A) At all times mentioned in R.C. § 4513.03 or a substantially equivalent municipal ordinance, at least two lighted lights shall be displayed, one near each side of the front of every motor vehicle, except when such vehicle is parked.

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

§ 2.90 HEADLIGHTS REQUIRED.

(A) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in R.C. § 4513.03 or a substantially equivalent municipal ordinance, 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, subject to the following requirements:

(1) Whenever the driver of a vehicle approaches an oncoming vehicle, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

(2) Every new motor vehicle registered in this state which has multiple-beam road lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlights is in use, and shall not otherwise be lighted. This indicator shall be so designed and located that, when lighted, it will be readily visible without glare to the driver of the vehicle.

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

§ 2.91 MUFFLERS; EXCESSIVE SMOKE OR GAS.

(A) (1) 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, bypass or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

(2) 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 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.

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

§ 2.92 REARVIEW MIRRORS.

(A) Every motor vehicle and motorcycle shall be equipped with a mirror so located as to reflect to the operator a view of the highway 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 and motorcycles and shall have a clear view to the rear of their vehicles and motorcycles by mirror.

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

§ 2.93 DIRECTIONAL SIGNALS.

(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) As used in this section, ***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 R.C. § 4513.03 or a substantially equivalent municipal ordinance.

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

§ 2.94 STUDDERED TIRES; SEASONAL USE PERMITTED.

(A) For the purposes of this section, ***STUDDERED 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.

(B) (1) Except as provided in division (B)(2) of this section, no person shall operate any motor vehicle other than a public safety vehicle or school bus that is equipped with studded tires on any street or highway in this municipality, except during the period extending from the first day of November of each year through the fifteenth day of April 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 division (B)(1) of this section.

(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.

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

§ 2.95 LIMITATION OF LOAD EXTENSION ON LEFT SIDE OF VEHICLES.

(A) No passenger-type vehicle shall be operated on a highway with any load carried on the vehicle which extends more than six inches beyond the line of the fenders on the vehicle's left side.

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

§ 2.96 ALL LOADS SHALL BE PROPERLY SECURED.

(A) No vehicle shall be driven or moved on any highway unless the 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 the 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 highway unless the load is covered with a sufficient cover to prevent the load or any part of the load from spilling onto the highway.

(R.C. § 4513.31)

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

CHAPTER 3.1: PARKING REGULATIONS

Section

- 3.01 Prohibition against parking on highways
- 3.02 Condition when motor vehicle left unattended
- 3.03 Parking prohibitions
- 3.04 Parking in alleys and narrow streets; exceptions
- 3.05 Registered owner prima facie liable for unlawful parking
- 3.06 Waiver

§ 3.01 PROHIBITION AGAINST PARKING ON HIGHWAYS.

(A) (1) Upon any highway, no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the highway if it is practicable to stop, park, or so leave such vehicle off the paved or main traveled part of the highway. In every event a clear and unobstructed portion of the 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 highway.

(2) 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 highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

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

§ 3.02 CONDITION WHEN MOTOR VEHICLE LEFT UNATTENDED.

(A) (1) 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.

(2) 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.

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

§ 3.03 PARKING PROHIBITIONS.

(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 title, or while obeying the directions of a police officer or a traffic-control device, in any of the following places:

- (1) On a sidewalk, except as provided in division (B) of this section;
- (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 20 feet of a crosswalk at an intersection;
- (7) Within 30 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 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by a traffic-control device;
- (9) Within 50 feet of the nearest rail of a railroad crossing;
- (10) Within 20 feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within 75 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 elevated structure upon a highway, or within a highway tunnel;
- (14) At any place where signs prohibit stopping;

(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 150 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 R.C. § 4511.711, or any substantially equivalent municipal ordinance.

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

§ 3.04 PARKING IN ALLEYS AND NARROW STREETS; EXCEPTIONS.

(A) No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than 10 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.

(B) 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 30 minutes.

§ 3.05 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 evidencethat 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.

§ 3.06 WAIVER.

Any person charged with a violation of any provision of this chapter for which payment of a prescribed fine may be made, may pay such sum in the manner prescribed on the issued traffic ticket. Such payment shall be deemed a plea of 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 alleged violation. Payment of the prescribed fine need not be accepted when laws prescribe that a certain number of such offenses shall require court appearance.

CHAPTER 3.1: CANVASSING AND SOLICITING

Section

- 3.11 Definitions
- 3.12 Permit Required
- 3.13 Application for Permit Procedure
- 3.14 Standards for Issuance of a Permit
- 3.15 Notice Regulating Canvassing or Soliciting, Prohibitions
- 3.16 Prohibition of Canvassing or Soliciting in Proximity to Schools
- 3.17 Prohibition of Canvassing or Soliciting on Streets or Highways
- 3.18 Penalty

§ 3.11 DEFINITIONS

For the purpose of this Chapter, the following definitions shall apply:

Canvassing or Soliciting means any of the following:

- 1) The unsolicited person(s) to person(s) offering for inspection or sale of any goods, subscriptions, property (tangible or intangible), services or anything of value anywhere in the Village of Ashley by a person over 16 years of age.
- 2) The unsolicited person(s) to person(s) requests or, inquires for money, funds, property (tangible or intangible), services, or anything of value anywhere in the Village of Ashley for charitable, religious or public purpose or any other not for profit or noncommercial purpose, by any person over 16 years of age.
- 3) The unsolicited person(s) to person(s) offering for inspection or sale of any goods, subscriptions, property (tangible or intangible), services or anything of value anywhere in the Village of Ashley by a person over 16 years of age, or offer or attempt to sell any advertisement, advertising space, book, card, chance, coupon, device, magazine, membership, subscription, ticket or any other product in connection which or appeal is made when the whole or any part of the proceeds from any such sale will go to or be donated to any charitable, religious or public purpose or other not for profit or noncommercial purposes.

§ 3.12 PERMIT REQUIRED

(A) Any person who canvasses or solicits shall have a valid permit before engaging in such activity in the Village of Ashley.

(B) A person canvassing or soliciting within the Municipality for the exclusive purpose of proselytizing a religion or providing information in respect to a religion shall be exempt from the registration requirement of this Ordinance. Any person, who by state or federal law or constitutional provision has been exempted from regulations for canvassing or soliciting as defined herein and offers to the Mayor satisfactory evidence thereof, shall be exempt from the registration requirements of this Ordinance.

§ 3.13 APPLICATION FOR PERMIT PROCEDURE

(A) Each applicant for a permit shall, not less than forty-eight (48) hours nor more than five (5) days prior to the commencement or canvassing or soliciting furnish the Mayor with the following information on forms provided by the Municipality.

(1) Name, age and physical description of applicant,

(2) Complete permanent and local address of applicant,

(3) Name and address of the person, firm, corporation or association for whom the canvassing or solicitation is presently being made and any other person, firm, corporation or association for whom the applicant has canvassed or solicited during the past three years.

(4) A description of the nature of the business and the goods, services or wares to be sold or otherwise sufficient to identify the subject matter of the soliciting in which the applicant will engage.

(5) The names of all other municipalities in which the applicant has conducted soliciting activities during the past year.

(6) Whether the applicant has complied with the requirements of Ohio Revised Code Chapter 1716 pertaining to charitable solicitations if applicable.

(7) Whether the applicant has ever been denied a license or permit to solicit or had such license or permit revoked, including the time and place of such denial or revocation.

(8) Whether the applicant has ever been convicted of a felony violation or a misdemeanor violation involving moral turpitude and the time and place of such conviction.

(9) The proposed dates and times of the solicitation and routes to be followed in conducting same.

(10) The make, model, year, color and license plate number of automobiles used by the applicant during the period of solicitation within the Municipality, and the number of the applicant's driver's license and state of issuance.

(11) Applicants who propose to handle foodstuffs shall also attach to their application, a statement from a licensed physician, dated not more than 14 days prior to the date of application, certifying the applicant to be free of contagious or communicable disease and produce any licenses required by Delaware County and the Ohio Revised Code Chapter 3717.

(B) Each applicant shall prior to receiving a permit, pay a registration fee of \$20.00 for each canvasser or solicitor.

(C) Any charitable organization is exempt from paying the registration fee set forth herein, but is required to obtain a permit. The term "charitable organization" is defined to mean and include any patriotic, philanthropic, religious, social service, welfare, benevolent, educational, civil or fraternal organization.

(D) Each permit shall expire twenty-one (21) days after its date of issue.

§ 3.14 STANDARDS FOR ISSUANCE OF A PERMIT

(A) Upon receipt of an application, an investigation of the person(s) and matters set out in the application shall be made.

(B) The application for permit shall be approved unless the investigation discloses that the applicant would pose a discernible threat to the public health, safety, or general welfare. The following among any other discernable threats to the public health safety and welfare will constitute a valid reason for disapproval of the application for a permit:

(1) The applicant has been convicted within the last ten (10) years of a felony, a sex offense, a drug trafficking offense, and any offense of violence or offense involving moral turpitude.

(2) The applicant has made willful misrepresentations in the application.

(3) The applicant has committed prior violations of ordinances or codes pertaining to canvassers or solicitors.

(4) The applicant has committed prior fraud or has a record of breaches of contract.

(C) No person subject to the provisions of this Chapter shall canvas or solicit, except between the hours of 10 A.M. and 7 P.M. or sunset, whichever occurs earlier in time.

(D) No canvasser or solicitor shall enter or attempt to enter a dwelling or apartment of any resident in the municipality without an express invitation from the occupant of the house or apartment, who is twenty-one (21) years of age or older.

(E) No person subject to the terms of this Chapter shall make any false, fraudulent, misleading or deceptive statement during the course of that person's soliciting activity within the Municipality.

(F) No person subject to this Chapter shall make any canvas or solicitation on any property when notified by sign that soliciting is prohibited as provided in Section 112.09.

(G) No canvasser or solicitor shall engage in or transact any type of business or solicitation other than that specified on the permit.

§ 3.15 NOTICE REGULATING CANVASSING OR SOLICITING, PROHIBITIONS

(A) Any dwelling or business may prohibit canvassing or soliciting by posting a sign upon or near the main entrance to the dwelling or business sufficiently describing that canvassing or soliciting is prohibited.

(B) It shall be the duty of the canvasser or solicitor upon going onto any premises in the Village to examine for a no-canvassing or no soliciting notice. If any property displays such a notice, then the canvasser or solicitor shall immediately and peacefully depart from the premises.

(C) No canvasser or solicitor shall go upon or remain on any premises, or go upon any such premises and ring a doorbell or knock on any door of any person displaying either a no canvassing or no soliciting sign.

§ 3.16 PROHIBITION OF CANVASSING OR SOLICITING IN PROXIMITY TO SCHOOLS

No person shall canvass or solicit or park for purpose of canvassing or soliciting within 1,000 feet of any school property between the hours of 7:00 A.M. and 4:00 P.M. on school days.

§ 3.17 PROHIBITION OF CANVASSING OR SOLICITING ON STREETS OR HIGHWAYS

No person shall stand on or adjacent to a street, roadway or highway for the purpose of canvassing or soliciting any occupant of any vehicle.

§ 3.18 PENALTY

Whoever violates any provision in this Chapter (Chapter 112) is guilty of a misdemeanor of the third degree and shall be imprisoned not more than sixty days or shall be fined not more than \$500.00. Each day's violation of this Chapter shall constitute a separate offense.

Section 2. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council that resulted in those formal acts were in meetings open to the public in compliance with the law.

Section 3. This Ordinance is declared to be an emergency measure, necessary for the immediate preservation of the public peace, safety, health and welfare of the Village of Ashley and due to the immediate need to establish an effective and reasonable standard for canvassing and soliciting within the Village. Wherefore, this Ordinance shall be effective immediately following its adoption.

CHAPTER 3.2: LAWN CARE MAINTAINANCE

Section

- 3.21 Lawn Maintenance Requirements
- 3.22 Notice to Owner, Lessees, Agents and Tenants
- 3.23 Village Council May Bring Property into Compliance
- 3.24 Penalty
- 3.25 Notice to Owner to Remove Litter; Service
- 3.26 Fees for Service and Return
- 3.27 Procedure When Owner Fails to Comply with Notice
- 3.28 Written Return to County Auditor; Amount as a Lien Upon Property
- 3.29 Penalty
- 3.30 Open Burning Standards
- 3.31 Junk and Nuisance Vehicles Prohibited

§ 3.21 LAWN MAINTAINANCE REQUIREMENTS

(A) Property owners, lessees, agents, and tenants of real property located within the Village shall be responsible for maintaining said property from the edge of the abutting street or alley throughout said property. Such maintenance shall include cutting grass; maintaining shrubbery, flowers, trees, vines; and removing weeds, dead foliage, and other undesirable vegetation. Further, such maintenance shall ensure that pedestrian traffic on abutting sidewalk areas and views for motorists of street lights, traffic signs or the view of any other streets or intersections are not inhibited.

(B) Consistent with subsection (A) above, grass and weeds on any property located within the Village shall be maintained on a continuing basis according to the following:

(1) As to property within a residential or commercial area: All areas shall be maintained at a height no greater than 6 inches or maturing to seed.

(2) As to property within a residential or commercial area under development and not in an agricultural crop and that lack initial building construction:

(a) Grass shall be cut at least twice in every year, once between June 1 and July 1 and once between August 1 and September 1.

(b) Application of weed control may be required if large areas of said weeds are growing and will spread if not controlled. (Refer to Ohio Basic Code section 93.40 (B) for list of Noxious Weeds).

§ 3.22 NOTICE TO OWNER, LESSEES, AGENTS AND TENANTS

(A) In the event that a property is deemed to be not in compliance with any provision of this section, either as a result of the filing of a complaint by any person or by action of Village Council, the Village shall provide written notice by certified mail to the violating party. Said notice shall inform the violating party that it must comply with this section within 5 days of service of notice.

(B) If the violating party has not complied with this section within 10 days after the first notice has been served, a second notice shall be sent via certified mail requesting compliance and advising that a citation shall follow if property is not brought within compliance within 5 days of service of the second notice.

§ 3.23 VILLAGE COUNCIL MAY BRING PROPERTY INTO COMPLIANCE

(A) In any case of continuing noncompliance after the second notice, Village Council has the option to bring said property into compliance. Any expenses associated with such action on the part of the Village shall be forwarded to the County Auditor to be added to the tax duplicate as noted in Ohio Basic Code section 93.44.

§ 3.24 PENALTY

(A) If noncompliance continues beyond second notice, the Village Police Department shall issue a misdemeanor citation with the application of a \$150 fine. An additional \$150 noncompliance fine shall apply for each day said property remains in noncompliance.

(B) In application of this Section, care shall be taken to recognize unusual weather and/or family health situations

which may reasonably delay compliance with this section.

§ 3.25 NOTICE TO OWNER TO REMOVE LITTER; SERVICE

(A) Upon a finding by the Village Council that litter has been placed on lands in a municipality, and has not been removed, and constitutes a detriment to public health, the Village Council, shall cause a written notice to be served upon the owner and, if different, upon the lessee, agent, or tenant having charge of the littered land, notifying him or her that litter is on the land, and that it must be collected and removed within 15 days after the service of the notice

(B) As used in this section, Litter includes any garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature.

(C) If the owner or other person having charge of the land is a nonresident of the municipality whose address is known, the notice shall be sent to his or her address by certified mail. If the address of the owner or other person having charge of the land is unknown, it is sufficient to publish the notice in a paper of general circulation in the county.

(D) This section does not apply to land being used under a municipal building or construction permit or license, a municipal permit or license, or a conditional zoning permit or variance to operate a junkyard, scrap metal processing facility, or similar business, or a permit or license issued pursuant to Ohio Revised Code Chapter 3734, Ohio Revised Code § 4737.05 through 4737.12, or Ohio Revised Code Chapter 6111.

§ 3.26 FEES FOR SERVICE AND RETURN

The Police Chief or any police officer may make service and return of the notice provided for in § 3.25 and shall be allowed the same fees as that provided for service and return of summons in civil cases before a magistrate.

§ 3.27 PROCEDURE WHEN OWNER FAILS TO COMPLY WITH NOTICE

If the owner, lessee, agent, or tenant having charge of the lands mentioned in § 3.25 fails to comply with the notice required by such section, the Village Council shall cause such litter removed and may employ the necessary labor to perform the task. All expenses incurred shall, when approved by the Village Council, be paid out of the money in the treasury of the municipality not otherwise appropriated.

§ 3.28 WRITTEN RETURN TO COUNTY AUDITOR; AMOUNT AS A LIEN UPON PROPERTY

The Village Council shall make a written return to the County Auditor of their action under § 3.25, 3.26, and 3.27, with a statement of the charges for their services, the amount paid for labor, the fees of the officers serving the notices, and a proper description of the premises. These amounts, when allowed, shall be entered upon the tax duplicate and 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.

§ 3.29 PENALTY

(A) In any case of continuing noncompliance after the fifteen (15) day notice, the Village Police Department may issue a misdemeanor citation with the application of a \$150 fine. An additional \$150 noncompliance fine may apply for each fifteen (15) day period said property remains in noncompliance.

(B) In application of this Section, care shall be taken to recognize unusual weather and/or family health situations which may reasonably delay compliance with this Section.

§ 3.3 OPEN BURNING STANDARDS

(A) Definitions – As used in this section, all definitions are the same as OAC **§3747-19-01**

(B) No person or property owner shall cause or allow open burning in a restricted area except as provided in paragraphs (C) or (D) of this ordinance

(C) Open burning shall be allowed for the following purposes without notification to, or permission from, the Village of Ashley:

1. Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers or 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 created from the burning of seasoned firewood.
- b. They are not used for waste disposal purposes
- 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 requirements to obtain a hazardous waste permit pursuant to paragraph (D)(1)(d) of rule 3745-50-45 of the Ohio Administrative Code.

4. Fires set as a part of 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 or other drugs seized by federal, state, or local law enforcement.

6. Fires allowed by paragraphs (B)(1), (B)(2), and (B)(4) of this rule 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.

(D) Open burning shall be allowed with prior notification to the Ohio EPA in accordance with paragraph (B) of rule 3745-19-05 of the Ohio Administrative Code under the following conditions:

1. The Chief of the Ashley Police Department and Chief of the Elm Valley Joint Fire District are notified at least 10 business days prior to the date the fire is to be set. Saturdays, Sundays, and legal holidays shall not be considered business days.

2. The notification must include copies of permits from the Ohio EPA.

(E) Whoever violates this ordinance is guilty of a minor misdemeanor with a fine not to exceed \$150.00, and no jail time assessed. Each day the violation occurs is considered a new violation for the purposes of enforcement.

§ 3.31 JUNK AND NUISANCE VEHICLES PROHIBITED

(A) As used in this section “junk motor vehicle” means any motor vehicle which is three years old or older; extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor or transmission; apparently inoperable; and having a fair market value of one thousand five hundred dollars (\$1500.00) or less, that is left uncovered in the open on private property for more than seventy-two hours with the permission of the person having the right to the possession of the property, except if the person is operating a junk yard or scrap metal processing facility under authority of Ohio R.C. 47374.05 to 4737.12 or regulated under the authority of the Municipality; or if the property on which the motor vehicle is left is not subject to the licensure or regulation by any government authority, unless the person having right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation; or if the motor vehicle is a collector’s vehicle, as defined in Ohio R.C. 4501.01(F).

(B) As used in this section “nuisance vehicle” means any motor vehicle which is parked in the open and which appears to be in a condition of neglect or disrepair. Evidence of a motor vehicle being in a condition of neglect or disrepair includes, but is not limited to:

- (1) Being a breeding ground or harbor for mosquitoes, other rodents, feral cats, or other pests;
- (2) Being a point of growth of weeds or other vegetation;
- (3) Being a point of accumulation, of garbage, food waste, animal waste, or other rotten or putrescent matter of any kind, construction debris, or other general household refuse;
- (4) Being so situated or located that there is danger of it falling or turning over, or posing a danger to the public;
- (5) Having flat or missing tires;
- (6) Having an expired or missing license plate;
- (7) Having visible conditions or defects that would make it impossible, unsafe, or illegal to be operated on a highway;
- (8) Having been otherwise, declared a health and safety hazard or a public nuisance

(C) No person shall be prevented from storing or keeping, or restricted in the method of storing or keeping, any collector's vehicle on private property with the permission of the person having the right to the possession of the property, except that a person having such permission may be required to conceal by means of buildings, fences, vegetation, or terrain or other suitable obstruction, any unlicensed collector's vehicle stored in the open.

(D) The Chief of Police shall cause notice, by certified mail with return receipt requested, to the person having the right to the possession of the property on which a junk or nuisance motor vehicle is left, that within ten days of the notice, the junk or nuisance motor vehicle shall be covered by being housed in a garage or other suitable structure, shall be repaired or improved so that it is no longer a junk or nuisance motor vehicle, or shall be removed from the property.

(E) No person shall willfully leave a junk or nuisance motor vehicle uncovered in the open for more than ten days after receipt of a notice as provide in this section. The fact that a junk, or nuisance motor vehicle is so left is prima-facie evidence of failure to comply with the notice, and each subsequent period of ten days that a junk or nuisance motor vehicle continues to be so left constitutes a separate offense.

(F) If a vehicle appears to be in violation of this section as viewed from adjacent or public property, a Code Enforcement Officer or Police Officer may enter the areas of a premises that are in plain view and not enclosed within any building to further investigate the condition of the vehicle; unless otherwise prohibited. Any such officer may, upon investigation, determine and declare that a vehicle is a junk or nuisance vehicle, and take appropriate actions.

(G) Whoever violates this section is guilty of a minor misdemeanor on a first offense, on a second offense such person is guilty of a misdemeanor of the fourth degree, on each subsequent offense such person is guilty of a misdemeanor of the third degree.

(H) If the property owner or person having charge of such property can not be located after a reasonable search has been conducted, there may be filed with the Court of Common Pleas an act of abatement requesting the court order removal of such vehicle to a storage or salvage lot. All such charges for the removal of such vehicle shall be assessed against the property taxes.