

**GREAT PARKS OF HAMILTON  
COUNTY, OHIO  
CODE OF BY-LAWS**

Current through Amendment No. 132.15, amended 3-19-2015

Published by:

**American Legal Publishing Corporation**

One West Fourth Street, Third Floor

Cincinnati, Ohio 45202

Tel: (800) 445-5588

Fax: (513) 763-3562

Internet: <http://www.amlegal.com>

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL PROVISIONS**

**CHAPTER 10: GENERAL PROVISIONS**

Section

- 10.01 Short titles
- 10.02 Definitions
- 10.03 Rules of construction
- 10.04 Revivor; effect of amendment or repeal
- 10.05 Construction of section references
- 10.06 Conflicting provisions
- 10.07 Severability
- 10.08 Reference to offices
- 10.09 Errors and omissions
- 10.10 By-laws repealed
- 10.11 By-laws unaffected
- 10.12 By-laws saved
- 10.99 General penalty

**§ 10.01 SHORT TITLES.**

(A) All by-laws of a permanent and general nature of the park district, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the "park district code", for which designation "codified by-laws", "code of by-laws", or "code" may be substituted. Code, title, chapter, and section headings do not constitute any part of the law as contained in the by-laws.

(R.C. § 1.01)

(B) All references to codes, titles, chapters, and sections are to such components of the by-laws unless otherwise specified. Any component code may be referred to and cited by its name, such as the "traffic code". Sections may be referred to and cited by the designation "\$" followed by the number, such as "§ 10.01". Headings and captions used in these by-laws other than the title, chapter, and section numbers, are employed for reference purposes only and shall not be deemed a part of the text of any section.

## § 10.02 DEFINITIONS.

For purposes of these codified by-laws the following words and phrases shall have the following meanings ascribed to them respectively.

**AND.** May be read **OR**, and **OR** may be read **AND**, if the sense requires it.

(R.C. § 1.02(F))

**ANOTHER.** When used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.

(R.C. § 1.02(B))

**BOARD OF PARK COMMISSIONERS** or **BOARD.** The body appointed to govern the park district pursuant to R.C. § 1545.05.

**COUNTY.** The county or counties in which the park district is located, specifically Hamilton and Clermont Counties in the State of Ohio.

**EXECUTIVE DIRECTOR.** The chief executive officer appointed by and answerable to the Board of Park Commissioners of Great Parks of Hamilton County.

### **IMPRISONED.**

(1) Imprisoned under a sentence imposed for an offense or serving a term of imprisonment, prison term, jail term, term of local incarceration, or other term under a sentence imposed for an offense in an institution under the control of the department of rehabilitation and correction, a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, a minimum security jail, a community-based correctional facility, a halfway house, an alternative residential facility, or another facility described or referred to in R.C. § 2929.34 for the type of criminal offense and under the circumstances specified or referred to in that section.

(2) As used in division (1) of this definition, "community-based correctional facility", "halfway house", and "alternative residential facility" have the same meanings as in R.C. § 2929.01.

(R.C. § 1.05)

**INTERNET.** The international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.

**KEEPER** or **PROPRIETOR.** Includes all persons, whether acting by themselves or as a servant, agent, or employee.

**LAND** or **REAL ESTATE.** Includes rights and easements of incorporeal nature.

(R.C. § 701.01(E))

**MAY.** Is permissive.

**OATH.** Includes affirmation; and **SWEAR** includes affirm.

(R.C. §§ 1.59, 701.01)

**OWNER.** When applied to property, includes any part owner, joint owner, or tenant in common of the whole or part of such

property.

**PARK.** Any land owned or controlled by the Board of Park Commissioners of Great Parks of Hamilton County.

**PARK DISTRICT** or **DISTRICT.** Great Parks of Hamilton County.

**PERSON.** Includes an individual, corporation, business trust, estate, trust, partnership, and association.

(R.C. §§ 1.59(C), 701.01)

**PERSONAL PROPERTY.** Includes all property except real.

**PLAN OF SEWERAGE, SYSTEM OF SEWERAGE, SEWER, and SEWERS.** Include sewers, sewage disposal works and treatment plants, and sewage pumping stations, together with facilities and appurtenances necessary and proper therefor.

(R.C. § 701.01)

**PREMISES.** As applied to property, includes land and buildings.

**PROPERTY.** Includes real, personal, and mixed estates and interests.

(R.C. § 701.01(D))

**PUBLIC AUTHORITY.** Includes boards of education; the municipal, county, state, or federal government, its officers, or an agency thereof; or any duly authorized public official.

**PUBLIC PLACE.** Includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation, or amusement.

**R.C. or REVISED CODE.** Refers to the Ohio Revised Code.

**REAL PROPERTY.** Includes lands, tenements, and hereditaments.

**REGISTERED MAIL.** Includes certified mail; and **CERTIFIED MAIL** includes registered mail. (R.C. § 1.02(G))

**ROAD.** Includes alleys, avenues, boulevards, lanes, streets, highways, viaducts, and all other public thoroughfares which are adjacent to or through the Great Parks of Hamilton County and which are designed and intended for motor vehicle traffic.

**SHALL.** Is mandatory.

**SIDEWALK.** That portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

**STATE.** The State of Ohio.

**TENANT** or **OCCUPANT.** As applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

**TRAIL.** Includes footpaths, cartpaths, bikepaths, horsepaths, and all other passageways within the park district which have been designed, constructed, and maintained by the park district, and which are not specifically reserved for motor vehicle traffic.

**WEEK.** Seven consecutive days.

(R.C. § 1.44)

**WHOEVER.** Includes all persons, natural and artificial; partners; principals, agents, and employees; and all officials, public or private.

(R.C. § 1.02(A))

**WRITTEN** or **IN WRITING.** Includes printing and any representation of words, letters, symbols, or figures; this provision does not affect any law relating to signatures.

(R.C. §§ 1.59, 701.01(B))

**YEAR.** 12 consecutive months.

(R.C. § 1.44)

(Prior by-law § 18)

### **§ 10.03 RULES OF CONSTRUCTION.**

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

(R.C. § 1.42)

(B) *Singular and plural; gender; tenses.* As used in these codified by-laws, unless the context otherwise requires:

- (1) The singular includes the plural, and the plural includes the singular.
- (2) Words of one gender include the other genders.
- (3) Words in the present tense include the future.

(R.C. § 1.43)

(C) *Calendar; computation of time.*

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

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

(R.C. § 1.14)

(3) When an act is to take effect or become operative from and after a day named, no part of that day shall be included. If priority of legal rights depends upon the order of events on the same day, such priority shall be determined by the times in the day at which they respectively occurred.

(R.C. § 1.15)

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

(R.C. § 1.45)

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

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

(R.C. § 1.46)

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

(F) *Joint authority.* All words purporting to give joint authority to three or more park district officers or other persons shall be construed as giving that authority to a majority of the officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority, or is inconsistent with state law.

(G) *Exceptions.* The rules of construction shall not apply to any law which contains any express provision excluding the construction, or when the subject matter or context of the law is repugnant thereto.

#### **§ 10.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.**

(A) The repeal of a repealing statute does not revive the by-law originally repealed nor impair the effect of any saving clause therein.

(R.C. § 1.57)

(B) The reenactment, amendment, or repeal of a by-law does not, except as provided in division (C) below:

(1) Affect the prior operation of the by-law or any prior action taken thereunder;

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

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

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

(C) If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment or amendment of a by-law, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the by-law as amended.

(R.C. § 1.58)

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

(R.C. § 1.54)

#### **§ 10.05 CONSTRUCTION OF SECTION REFERENCES.**

(A) Wherever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in the reference.

(B) References in the codified by-laws to action taken or authorized under designated sections of the codified by-laws include, in every case, action taken or authorized under the applicable legislative provision which is superseded by these codified by-laws.

(R.C. § 1.23)

(C) A reference to any portion of a provision of this code applies to all re-enactments or amendments thereof.

(R.C. § 1.55)

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

(R.C. § 1.56)

(E) Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered, unless the subject matter be changed or materially altered by the amendment or revision.

#### **§ 10.06 CONFLICTING PROVISIONS.**

If the provisions of different codes, chapters, or sections of the codified by-laws conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be so construed as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

#### **§ 10.07 SEVERABILITY.**

If any provisions of a section of these codified by-laws or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.

(R.C. § 1.50)

#### **§ 10.08 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of the park district exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

#### **§ 10.09 ERRORS AND OMISSIONS.**

If a manifest error be discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express the intention, the spelling shall be corrected, and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

#### **§ 10.10 BY-LAWS REPEALED.**

These codified by-laws from and after their effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior by-laws pertaining to the subjects treated by these codified by-laws shall be deemed repealed from and after the effective date of this code of by-laws.

#### **§ 10.11 BY-LAWS UNAFFECTED.**

All by-laws of a temporary or special nature, and all other by-laws pertaining to subjects not enumerated and embraced in this code of by-laws, shall remain in full force and effect unless herein repealed expressly or by necessary implication.

#### **§ 10.12 BY-LAWS SAVED.**

Whenever a by-law by its nature either authorizes or enables the Board of Park Commissioners, or a certain park district officer or employee, to make additional by-laws or regulations for the purpose of carrying out the intention of the by-law, all by-laws and regulations of a similar nature serving the purpose, effected prior to the codification and not inconsistent thereto, shall remain in effect, and are saved.

#### **§ 10.99 GENERAL PENALTY.**

(A) Where an act or omission is prohibited or declared unlawful in this code of by-laws, and no penalty of fine or imprisonment is otherwise provided, the offender shall be fined not more than \$150 for a first offense and not more than \$1,000 for each subsequent offense.

(B) If the Board of Park Commissioners that adopted the by-law or rule that the offender violated and that was the basis of the offender's violation of R.C. § 1545.09(C) has adopted a penalty for the violation under R.C. § 1545.09(B), the offender shall be penalized in accordance with the penalty so adopted for the violation.

(R.C. § 1545.99) (Prior by-law § 19)

## Chapter

**30. GENERAL PROVISIONS****31. PURCHASING****APPENDIX A: STATUTORY PROVISIONS OF R.C. CHAPTER 1545****CHAPTER 30: GENERAL PROVISIONS**

## Section

- 30.01 Application of Title III
- 30.02 Park Commissioners
- 30.03 Board of Park Commissioners
- 30.04 By-laws
- 30.05 Employees
- 30.06 Police powers
- 30.07 Contracts for park district law enforcement officers to render police services to political subdivisions
- 30.08 Park district law enforcement departments providing police services to political subdivisions without contract

***Cross-reference:***

*Statutory provisions of R.C. Chapter 1545, see Appendix A*

**§ 30.01 APPLICATION OF TITLE III.**

Title III of this code of by-laws is designed to include and incorporate, insofar as is practical, legislation concerning the organization, qualifications, appointment, terms of office, compensation, and the powers and duties of the officials and Board of the park district. Pertinent sections of the Ohio Revised Code relative to these offices and boards have been assembled and adopted as a part of this title. No material changes of the code sections referred to by annotation have been made. The purpose of including these sections is to afford easy reference to the statutory provisions.

**§ 30.02 PARK COMMISSIONERS.**

(A) *Appointment.* Upon the creation of a park district, the probate judge shall appoint three Commissioners who shall take office immediately and whose terms shall expire one, two, and three years, respectively, from the first day of January next after the date of their appointment. Thereafter their successors shall be appointed by the probate judge for terms of three years.

(B) *Oath.* Before entering upon the performance of the duties, of the office, each Commissioner shall take an oath to perform faithfully the duties of the office, and shall give bond for that faithful performance in the sum of \$5,000. The bond shall be approved by and filed with the County Auditor.

(C) *Compensation.* Commissioners shall serve without compensation, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

(D) *Membership.* Any Board of Park Commissioners of a park district may elect to expand the membership of the Board from three members to five members upon a majority vote of the Board. Upon such a vote, the Board shall certify to the probate judge a resolution requesting the judge to appoint two additional members to the Board. The probate judge shall appoint those additional

members, and they shall take office immediately upon their appointment. One member shall be appointed to a term that expires on the first day of January of the year following the year of that member's appointment, and one member shall be appointed to a term that expires on the first day of January of the second year following the year of that member's appointment. Thereafter, their successors shall be appointed by the probate judge for terms of three years.

(R.C. § 1545.05)

### **§ 30.03 BOARD OF PARK COMMISSIONERS.**

(A) The Commissioners appointed in accordance with § 30.02 shall constitute the Board of Park Commissioners of the park district. The Board shall be a body politic and corporate, and may sue and be sued as provided in R.C. §§ 1545.01 through 1545.28.

(R.C. § 1545.07)

(B) The Board shall meet from time to time as necessary to conduct official business of the Board. The Board shall conduct its business only if at least three Park Commissioners are in attendance. An affirmative vote of at least three Park Commissioners is required for any action taken by vote. All Board of Park Commissioner meetings shall be open to the general public pursuant to R.C. § 121.22. The Board may adopt Board governance rules and policies as the Board deems advisable.

(By-law 8-05)

### **§ 30.04 BY-LAWS.**

The Board of Park Commissioners shall adopt such by-laws and rules as the Board deems advisable for the preservation of good order within and adjacent to parks and reservations of land, and for the protection and preservation of the parks, parkways, and other reservations of land under its jurisdiction and control and of property and natural life therein.

(R.C. § 1545.09)

### **§ 30.05 EMPLOYEES.**

The Board may employ a secretary and such other employees as are necessary in the performance of the powers conferred upon the Board including an Executive Director who shall serve as chief executive officer appointed by the Board of Park Commissioners. The Executive Director is responsible for ensuring the park district operates under the by-laws, rules, and policies established by the Board and in accordance with the legal mandates and requirements set forth by laws of the State of Ohio and the United States.

(R.C. § 1545.07) (By-law 8-05)

### **§ 30.06 POLICE POWERS.**

(A) The employees that the Board of Park Commissioners designates for that purpose, may exercise all the powers of police officers within and adjacent to the lands under the jurisdiction and control of the Board or when acting as authorized by R.C. § 1545.131 or 1545.132. Before exercising the powers of police officers, the designated employees shall comply with the certification requirement established in R.C. § 109.77, take an oath, and give a bond to the state in the sum that the Board prescribes, for the proper performance of their duties in this respect. This section is subject to the following division (B) below.

(B) (1) The Board of Park Commissioners shall not designate an employee as provided in division (A), on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the employee previously has been convicted or has pleaded guilty to a felony.

(2) (a) The Board of Park Commissioners shall terminate the employment of an employee designated as provided in division (A) if the employee does either of the following:

1. Pleads guilty to a felony;
2. Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in R.C. § 2929.43 in which the

employee agrees to surrender the certificate awarded to the employee under R.C. § 109.77.

(b) The Board shall suspend from employment an employee designated as provided in division (A) of this section if the employee is convicted, after trial, of a felony. If the employee files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the employee does not file a timely appeal, the Board shall terminate the employment of that employee. If the employee files an appeal that results in the employee's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the employee, the Board shall reinstate that employee. An employee who is reinstated under this division (B) shall not receive any back pay unless that employee's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the employee of the felony.

(3) Division (B) does not apply regarding an offense that was committed prior to January 1, 1995.

(4) The suspension from employment, or the termination of the employment, of an employee under division (B)(2) shall be in accordance with R.C. Ch. 119.

(R.C. § 1545.13)

### **§ 30.07 CONTRACTS FOR PARK DISTRICT LAW ENFORCEMENT OFFICERS TO RENDER POLICE SERVICES TO POLITICAL SUBDIVISIONS.**

(A) The Board of Park Commissioners of a park district may enter into contracts with one or more townships, township police districts, joint police districts, municipal corporations, or county sheriffs of this state, with one or more township park districts created pursuant to R.C. § 511.18 or other park districts, with one or more state universities or colleges, as defined in R.C. § 3345.12, or with a contiguous political subdivision of an adjoining state, and a township, township police district, joint police district, municipal corporation, county sheriff, township park district, other park district, or state university or college may enter into a contract with a park district upon any terms that are agreed to by them, to allow the use of the park district police or law enforcement officers designated under R.C. § 1545.13 to perform any police function, exercise any police power, or render any police service on behalf of the contracting entity that the entity may perform, exercise, or render.

(B) R.C. Chapter 2744, insofar as it applies to the operation of police departments, applies to the contracting entities and to the members of the police force or law enforcement department when they are rendering service outside their own subdivisions pursuant to that contract.

(C) Members of the police force or law enforcement department acting outside the political subdivision in which they are employed, pursuant to that contract, shall be entitled to participate in any indemnity fund established by their employer to the same extent as while acting within the employing subdivision. Those members shall be entitled to all the rights and benefits of R.C. Chapter 4123 to the same extent as while performing service within the subdivision.

(D) The contracts entered into pursuant to this section may provide for the following:

(1) A fixed annual charge to be paid at the times agreed upon and stipulated in the contract;

(2) Compensation based upon the following:

(a) A stipulated price for each call or emergency;

(b) The number of members or pieces of equipment employed;

(c) The elapsed time of service required in each call or emergency.

(3) Compensation for loss or damage to equipment while engaged in rendering police services outside the limits of the subdivision that owns and furnishes the equipment;

(4) Reimbursement of the subdivision in which the police force or law enforcement department members are employed for any indemnity award or premium contribution assessed against the employing subdivision for workers' compensation benefits for injuries or death of its police force or law enforcement department members occurring while engaged in rendering police services pursuant to the contract.

(R.C. § 1545.131)

## **§ 30.08 PARK DISTRICT LAW ENFORCEMENT DEPARTMENTS PROVIDING POLICE SERVICES TO POLITICAL SUBDIVISIONS WITHOUT CONTRACT.**

(A) The police force or law enforcement department of any park district may provide police protection to any county, municipal corporation, township, township police district, or joint police district of this state, to any other park district or any township park district created pursuant to R.C. § 511.18, or to a governmental entity of an adjoining state without a contract to provide police protection, upon the approval, by resolution, of the Board of Park Commissioners of the park district in which the police force or law enforcement department is located and upon authorization by an officer or employee of the police force or department providing the police protection who is designated by title of office or position, pursuant to the resolution of the Board of Park Commissioners, to give the authorization.

(B) R.C. Chapter 2744, insofar as it applies to the operation of police departments, shall apply to any park district and to members of its police force or law enforcement department when those members are rendering police services pursuant to this section outside the park district by which they are employed.

(C) Police force or law enforcement department members acting, as provided in this section, outside the park district by which they are employed shall be entitled to participate in any pension or indemnity fund established by their employer to the same extent as while acting within the park district by which they are employed. Those members shall be entitled to all rights and benefits of R.C. Chapter 4123 to the same extent as while performing services within the park district by which they are employed.

(R.C. § 1545.132)

## **CHAPTER 31: PURCHASING**

---

### Section

31.01 Contracting for goods and services

31.02 Acquiring property

31.03 Authorizing contracts

### ***Cross-reference:***

*Statutory provisions of R.C. Chapter 1545, see Appendix A*

## **§ 31.01 CONTRACTING FOR GOODS AND SERVICES.**

(A) For the purposes of acquiring, planning, developing, protecting, maintaining, or improving lands and facilities thereon under R.C. § 1545.11, or under § 31.02 of this code, and for other types of assistance which it finds necessary in carrying out its duties under R.C. Chapter 1545, the Board may hire and contract for professional, technical, consulting, and other special services, and may purchase goods.

(B) In procuring any goods, the Board shall contract as a contracting authority under R.C. §§ 307.86 through 307.91, to the same extent and with the same limitations as a Board of County Commissioners.

(C) In procuring any services, as required in R.C. § 1545.09, the Board shall establish procedures within its by-laws. The Board hereby requires the Executive Director to solicit requests for proposals from multiple vendors for contracts that exceed the dollar threshold required for competitive bidding as outlined in R.C. 307.86. The results from this process shall be presented to the Board for approval.

## **§ 31.02 ACQUIRING PROPERTY.**

(A) The Board of Park Commissioners may acquire lands either within or without the park district for conversion into forest reserves and for the conservation of the natural resources of the state, including streams, lakes, submerged lands, and swamplands, and to those ends may create parks, parkways, forest reservations, and other reservations and afforest, develop, improve, protect, and promote the use of the same in such manner as the Board deems conducive to the general welfare. Such lands may be acquired by the

Board, on behalf of the district, by:

(1) Gift or devise;

(2) Purchase for cash, by purchase by installment payments with or without a mortgage, by entering into lease-purchase agreements, by lease with or without option to purchase;

(3) Appropriation.

(B) In furtherance of the use and enjoyment of the lands controlled by it, the Board may accept donations of money or other property or may act as trustees of land, money, or other property, and use and administer the same as stipulated by the donor, or as provided in the trust agreement. The terms of each such donation or trust shall first be approved by the probate court before acceptance by the Board.

(C) In case of appropriation, the proceedings shall be instituted in the name of the Board, and shall be conducted in the manner provided in R.C. §§ 163.01 through 163.22.

(R.C. § 1545.11) (Prior by-law, § 16)

### **§ 31.03 AUTHORIZING CONTRACTS.**

The Board authorizes the Executive Director, or his or her designee, to execute any and all contracts necessary to conduct the business of the park district. All contracts must meet the Board approval process as outlined in §§ 31.01 and 31.02.

## **APPENDIX A: STATUTORY PROVISIONS OF R.C. CHAPTER 1545**

---

### ***Editor's note:***

*As park districts in Ohio are governed by the statutory provisions of R.C. Chapter 1545 and therefore often have need to refer to such provisions, we have included in this appendix the complete text of R.C. Chapter 1545.*

### **Section**

- 1545.01 Park districts created
- 1545.02 Application to probate judge
- 1545.03 Notice and hearing
- 1545.04 Evidence - argument - judgment
- 1545.041 Conversion of township park district - resolution
- 1545.05 Park commissioners
- 1545.06 Removal of park commissioners - vacancy
- 1545.07 Board of park commissioners - employees
- 1545.071 Group insurance
- 1545.072 Board may authorize use of park district credit card
- 1545.08 Reports of board of park commissioners
- 1545.09 Bylaws and rules
- 1545.10 Contract with corporation or association maintaining museum of natural history
- 1545.11 Board of park commissioners - power to acquire lands
- 1545.12 Sale or lease of lands - notice - approval by probate court

- 1545.13 Park commission employees designated as law enforcement officers
- 1545.131 Mutual aid contracts
- 1545.132 Providing police service without contract
- 1545.14 Agreement with other public authorities to assume control of parks
- 1545.15 Annexation procedure
- 1545.16 Powers of budget commissioners, auditors, and treasurers in relation to park districts
- 1545.17 Improvement of public highway
- 1545.18 Assessment of cost of improvement - collection
- 1545.19 Assessment may be increased with consent of property owners
- 1545.20 Tax levy
- 1545.21 Tax levy for use of district - submission to electors - bonds
- 1545.211 Anticipation notes
- 1545.22 Depositories for funds - duties of county treasurer and county auditor
- 1545.23 Disposition of proceeds from sale or lease of park mineral rights
- 1545.24 Issuance of bonds
- 1545.25 [Repealed]
- 1545.26 [Repealed]
- 1545.27 Bonds are lawful investments
- 1545.28 Replacement fund
- 1545.29 [Repealed]
- 1545.30 [Repealed]
- 1545.35 Dissolution of active park district
- 1545.36 Petition for dissolution of district
- 1545.37 Application for hearing on dissolution
- 1545.38 Proceedings for dissolution of inactive district
- 1545.39 Ceasing activity pending determination on petition
- 1545.40 Dissolution
  
- 1545.99 Penalty

## **§ 1545.01 PARK DISTRICTS CREATED.**

Park districts may be created which include all or a part of the territory within a county, and the boundary lines of such district shall be so drawn as not to divide any existing township or municipal corporation within such county.

## **§ 1545.02 APPLICATION TO PROBATE JUDGE.**

Application for the creation of a park district shall be made to the probate judge of the county within which the district is to be located. Such application shall either be signed by a majority of the electors residing within the proposed district as determined by the number of electors voting at the most recent general election within such territory, or, in lieu thereof, shall be authorized by resolution adopted by the board of county commissioners, any board of township trustees, or legislative authority of any municipal corporation within such proposed district. Such application shall state the name of the proposed district, shall contain an accurate description of the territory to be included, and shall be accompanied with an accurate map or plat thereof.

### **§ 1545.03 NOTICE AND HEARING.**

Upon the filing of the application provided for in R.C. § 1545.02, the probate judge shall fix a time for the hearing of such application which shall not be less than twenty nor more than forty days subsequent to the date of the filing of the application. Such judge shall publish notice of the filing of such application and the date of hearing thereof in two newspapers of general circulation within such district, or if there is but one newspaper of general circulation within such district, in such newspaper. If there is no newspaper of general circulation within such proposed district, then such judge shall post such notice in five of the most public places within such proposed district. Such notice shall be published or posted for a period of not less than fifteen days prior to the date fixed for the hearing. The hearing may be adjourned from time to time upon good cause shown.

### **§ 1545.04 EVIDENCE - ARGUMENT - JUDGMENT.**

At a hearing on an application for the creation of a park district, evidence may be taken as in other civil cases in the probate court, and the probate judge shall hear all arguments for and against the creation of such district. If he finds that such application is signed or authorized as provided in R.C. § 1545.02, and that the creation of such district will be conducive to the general welfare, he shall enter an order creating the district under the name specified in the application.

The judge may amend or change the limits of the territory described in the application at the time of the hearing, provided that in no case shall he increase the limits or size of said district. In case any of the original territory is eliminated from the district as finally established, the boundary lines of the district as finally ordered by the court shall not divide any existing township or municipal corporation.

### **§ 1545.041 CONVERSION OF TOWNSHIP PARK DISTRICT - RESOLUTION.**

(A) Any township park district created pursuant to R.C. § 511.18 that includes park land located outside the township in which the park district was established may be converted under the procedures provided in this section into a park district to be operated and maintained as provided for in this chapter, provided that there is no existing park district created under R.C. § 1545.04 in the county in which the township park district is located. The proposed park district shall include within its boundary all townships and municipal corporations in which lands owned by the township park district seeking conversion are located, and may include any other townships and municipal corporations in the county in which the township park district is located.

(B) Conversion of a township park district into a park district operated and maintained under this chapter shall be initiated by a resolution adopted by the board of park commissioners of the park district. Any resolution initiating a conversion shall include the following:

- (1) The name of the township park district seeking conversion;
- (2) The name of the proposed park district;
- (3) An accurate description of the territory to be included in the proposed district;

(4) An accurate map or plat of the proposed park district. The resolution may also include a proposed tax levy for the operation and maintenance of the proposed park district. If such a tax levy is proposed, the resolution shall specify the annual rate of the tax, expressed in dollars and cents for each one hundred dollars of valuation and in mills for each dollar of valuation, and shall specify the number of consecutive years the levy will be in effect. The annual rate of such a tax may not be higher than the total combined millage of all levies then in effect for the benefit of the township park district named in the resolution.

(C) Upon adoption of the resolution provided for in division (B) of this section, the board of park commissioners of the township park district seeking conversion under this section shall certify the resolution to the board of elections of the county in which the park district is located no later than four p.m. of the seventy-fifth day before the day of the election at which the question will be voted

upon. Upon certification of the resolution to the board, the board of elections shall make the necessary arrangements to submit the question of conversion of the township park into a park district operated and maintained under R.C. Chapter 1545, to the electors qualified to vote at the next primary or general election who reside in the territory of the proposed park district. The question shall provide for a tax levy if such a levy is specified in the resolution.

(D) The ballot submitted to the electors as provided in division (C) of this section shall contain the following language:

Shall the . . . . . (name of the township park district seeking conversion) be converted into a park district to be operated and maintained under R.C. Chapter 1545 under the name of . . . . . (name of proposed park district), which park district shall include the following townships and municipal corporations:

(name townships and municipal corporations)

Approval of the proposed conversion will result in the termination of all existing tax levies voted for the benefit of . . . . . (name of the township park district sought to be converted) and in the levy of a new tax for the operation and maintenance of . . . . . (name of proposed park district) at a rate not exceeding . . . . . (number of mills) mills for each one dollar of valuation, which is . . . . . (rate expressed in dollars and cents) for each one hundred dollars of valuation, for . . . (number of years the millage is to be imposed) years, commencing on the . . . . (year) tax duplicate.

FOR THE PROPOSED CONVERSION

AGAINST THE PROPOSED CONVERSION

(E) If the proposed conversion is approved by at least a majority of the electors voting on the proposal, the township park district that seeks conversion shall become a park district subject to R.C. Chapter 1545 effective the first day of January following approval by the voters. The park district shall have the name specified in the resolution, and effective the first day of January following approval by the voters, the following shall occur:

(1) The indebtedness of the former township park district shall be assumed by the new park district;

(2) All rights, assets, properties, and other interests of the former township park district shall become vested in the new park district, including the rights to any tax revenues previously vested in the former township park district; provided, that all tax levies in excess of the ten mill limitation approved for the benefit of the former township park district shall be removed from the tax lists after the February settlement next succeeding the conversion. Any tax levy approved in connection with the conversion shall be certified as provided in R.C. § 5705.25.

(3) The members of the board of park commissioners of the former township park district shall be the members of the members of the board of park commissioners of the new park district, with all the same powers and duties as if appointed under R.C. § 1545.05. The term of each such commissioner shall expire on the first day of January of the year following the year in which his term would have expired under R.C. § 511.19. Thereafter, commissioners shall be appointed pursuant to R.C. § 1545.05.

**§ 1545.05 PARK COMMISSIONERS.**

(A) Upon the creation of a park district, the probate judge shall appoint three commissioners who shall take office immediately and whose terms shall expire one, two, and three years, respectively, from the first day of January next after the date of their appointment. Thereafter, their successors shall be appointed by the probate judge for terms of three years. Before entering upon the performance of the duties of the office, each commissioner shall take an oath to perform faithfully the duties of the office and shall give bond for that faithful performance in the sum of five thousand dollars. The bond shall be approved by and filed with the county auditor. The commissioners shall serve without compensation, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

(B) Any board of park commissioners of a park district may elect to expand the membership of the board from three members to five members upon a majority vote of the board. Upon such a vote, the board shall certify to the probate judge a resolution requesting the judge to appoint two additional members to the board. The probate judge shall appoint those additional members, and they shall take office immediately upon their appointment. One member shall be appointed to a term that expires on the first day of January of the year following the year of that member's appointment, and one member shall be appointed to a term that expires on the first day of January of the second year following the year of that member's appointment. Thereafter, their successors shall be appointed by the probate judge for terms of three years.

## **§ 1545.06 REMOVAL OF PARK COMMISSIONERS - VACANCY.**

Any park commissioner may be removed at the discretion of the probate judge, either upon complaint filed with such judge or upon his own motion. No such removal shall be made without giving such commissioner not less than ten days' notice and a full opportunity to be heard in his own behalf in a public hearing. The order removing such commissioner shall state the reasons therefor and shall be entered upon the records of the probate court. In case of such removal, or in case of other vacancy in the office of commissioner, the vacancy shall be filled by the judge by appointment for the unexpired term.

## **§ 1545.07 BOARD OF PARK COMMISSIONERS - EMPLOYEES.**

The commissioners appointed in accordance with R.C. § 1545.05 or pursuant to R.C. § 1545.041 shall constitute the board of park commissioners of the park district. Such board shall be a body politic and corporate, and may sue and be sued as provided in R.C. §§ 1545.01 to 1545.28. Such board may employ a secretary and such other employees as are necessary in the performance of the powers conferred in such sections. The board may appoint a treasurer to act as custodian of the board's funds and as fiscal officer for the park district. For the purposes of acquiring, planning, developing, protecting, maintaining, or improving lands and facilities thereon under R.C. § 1545.11, and for other types of assistance which it finds necessary in carrying out its duties under R.C. Chapter 1545, the board may hire and contract for professional, technical, consulting, and other special services, including, in accordance with R.C. § 309.09(D), the legal services of the prosecuting attorney of the county in which the park district is located, and may purchase goods. In procuring any goods with a cost in excess of fifty thousand dollars, the board shall contract as a contracting authority under R.C. §§ 307.86 to 307.91, to the same extent and with the same limitations as a board of county commissioners. In procuring services, the board shall contract in the manner and under procedures established by the bylaws of the board as required in R.C. § 1545.09.

## **§ 1545.071 GROUP INSURANCE.**

The board of park commissioners of any park district may procure and pay all or any part of the cost of group insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, or prescription drugs, or sickness and accident insurance or a combination of any of the foregoing types of insurance or coverage for park district officers and employees and their immediate dependents issued by an insurance company duly authorized to do business in this state.

The board may procure and pay all or any part of the cost of group life insurance to insure the lives of park district employees.

The board also may contract for group health care services with health insuring corporations holding a certificate of authority under R.C. Chapter 1751 provided that each officer or employee is permitted to:

(A) Choose between a plan offered by an insurance company and a plan offered by a health insuring corporation and provided further that the officer or employee pays any amount by which the cost of the plan chosen by the officer or employee exceeds the cost of the plan offered by the board under this section;

(B) Change the choice made under division (A) of this section at a time each year as determined in advance by the board.

Any appointed member of the board of park commissioners and the spouse and dependent children of the member may be covered, at the option and expense of the member, as a noncompensated employee of the park district under any benefit plan described in division (A) of this section. The member shall pay to the park district the amount certified to it by the benefit provider as the provider's charge for the coverage the member has chosen under division (A) of this section. Payments for coverage shall be made, in advance, in a manner prescribed by the board. The member's exercise of an option to be covered under this section shall be in writing, announced at a regular public meeting of the board, and recorded as a public record in the minutes of the board.

The board may provide the benefits authorized in this section by contributing to a health and welfare trust fund administered through or in conjunction with a collective bargaining representative of the park district employees.

The board may provide the benefits described in this section through an individual self-insurance program or a joint self-insurance program as provided in R.C. § 9.833.

## **§ 1545.072 BOARD MAY AUTHORIZE USE OF PARK DISTRICT CREDIT CARD.**

(A) The board of park commissioners may authorize an officer, employee, or appointee of the board to use a credit card held by

the park district to pay for expenses related to park district business. The debt incurred as a result of the use of a credit card under this section shall be paid from park district funds.

(B) Misuse of a credit card held by the board by an officer, employee, or appointee of a board of park commissioners is a violation of R.C. § 2913.21.

(C) An officer, employee, or appointee, in a civil action, may be found personally liable to the park district for the officer's, employee's, or appointee's unauthorized use of the park district credit card.

(D) Any officer, employee, or appointee who is authorized to use a credit card held by the board of park commissioners and who suspects the loss, theft, or possibility of another person's unauthorized use of the credit card shall notify the board of park commissioners of the suspected, loss, theft, or possible unauthorized use immediately in writing. The officer, employee, or appointee may be held personally liable for unauthorized debt resulting from such loss, theft, or unauthorized use, in the amount of fifty dollars or the amount charged to the credit card as a result of the loss, theft, or unauthorized use, whichever is less.

#### **§ 1545.08 REPORTS OF BOARD OF PARK COMMISSIONERS.**

The board of park commissioners shall compile and publish reports and information relating to the park district and to the proceedings and functions of the board. The board shall keep an accurate and permanent public record of all its proceedings.

#### **§ 1545.09 BYLAWS AND RULES.**

(A) The board of park commissioners shall adopt such bylaws and rules as the board considers advisable for the preservation of good order within and adjacent to parks and reservations of land, and for the protection and preservation of the parks, parkways, and other reservations of land under its jurisdiction and control and of property and natural life therein. The board shall also adopt bylaws or rules establishing a procedure for contracting for professional, technical, consulting, and other special services. Any competitive bidding procedures of the board do not apply to the purchase of benefits for park district officers or employees when such benefits are provided through a health and welfare trust fund administered through or in conjunction with a collective bargaining representative of the park district employees, as authorized in R.C. § 1545.071. Summaries of the bylaws and rules shall be published as provided in the case of ordinances of municipal corporations under R.C. § 731.21 before taking effect.

(B) (1) As used in division (B)(2) of this section, "similar violation under state law" means a violation of any section of the Revised Code, other than division (C) of this section, that is similar to a violation of a bylaw or rule adopted under division (A) of this section.

(2) The board of park commissioners may adopt by bylaw a penalty for a violation of any bylaw or rule adopted under division (A) of this section, and any penalty so adopted shall not exceed in severity whichever of the following is applicable:

(a) The penalty designated under the Revised Code for a violation of the state law that is similar to the bylaw or rule for which the board adopted the penalty;

(b) For a violation of a bylaw or rule adopted under division (A) of this section for which the similar violation under state law does not bear a penalty or for which there is no similar violation under state law, a fine of not more than one hundred fifty dollars for a first offense and not more than one thousand dollars for each subsequent offense.

(3) A summary of any bylaw adopted under division (B)(2) of this section shall be published as provided in the case of ordinances of municipal corporations under R.C. § 731.21 before taking effect.

(C) No person shall violate any bylaws or rules adopted under division (A) of this section. All fines collected for any violation of this section shall be paid into the treasury of such park board.

#### **§ 1545.10 CONTRACT WITH CORPORATION OR ASSOCIATION MAINTAINING MUSEUM OF NATURAL HISTORY.**

The board of park commissioners may contract for a term not exceeding three years, upon such terms as the board deems expedient, with any private corporation or association not for profit maintaining a museum of natural history in any county within which the park district is located in whole or in part, or which has for its object the promotion of interest in or the conservation and preservation of the flora or fauna in any portion or all of the territory comprising the district for the purpose of obtaining for such

district such services and assistance as can be rendered by such corporation or association.

### **§ 1545.11 BOARD OF PARK COMMISSIONERS - POWER TO ACQUIRE LANDS.**

The board of park commissioners may acquire lands either within or without the park district for conversion into forest reserves and for the conservation of the natural resources of the state, including streams, lakes, submerged lands, and swamplands, and to those ends may create parks, parkways, forest reservations, and other reservations and afforest, develop, improve, protect, and promote the use of the same in such manner as the board deems conducive to the general welfare. Such lands may be acquired by such board, on behalf of said district, (1) by gift or devise, (2) by purchase for cash, by purchase by installment payments with or without a mortgage, by entering into lease-purchase agreements, by lease with or without option to purchase, or, (3) by appropriation. In furtherance of the use and enjoyment of the lands controlled by it, the board may accept donations of money or other property, or may act as trustees of land, money, or other property, and use and administer the same as stipulated by the donor, or as provided in the trust agreement. The terms of each such donation or trust shall first be approved by the probate court before acceptance by the board.

In case of appropriation, the proceedings shall be instituted in the name of the board, and shall be conducted in the manner provided in R.C. §§ 163.01 to 163.22, inclusive.

This section applies to districts created prior to April 16, 1920.

### **§ 1545.12 SALE OR LEASE OF LANDS - NOTICE - APPROVAL BY PROBATE COURT.**

(A) Except as provided in division (B) of this section, if the board of park commissioners finds that any lands that it has acquired are not necessary for the purposes for which they were acquired by the board, it may sell and dispose of the lands upon terms the board considers advisable. The board also may lease or permit the use of any lands for purposes not inconsistent with the purposes for which the lands were acquired, and upon terms the board considers advisable. No lands shall be sold pursuant to this division without first giving notice of the board's intention to sell the lands by publication once a week for four consecutive weeks in a newspaper of general circulation in the district or as provided in R.C. § 7.16. The notice shall contain an accurate description of the lands and shall state the time and place at which sealed bids will be received for the purchase of the lands, and the lands shall not thereafter be sold at private sale for less than the best and highest bid received without giving further notice as specified in this division.

(B) (1) After compliance with division (B)(2) of this section, the board of park commissioners may sell land upon terms the board considers advisable to any park district established under R.C. § 511.18 or R.C. Chapter 1545, any political subdivision of the state, the state or any department or agency of the state, or any department or agency of the federal government for conservation uses or for park or recreation purposes without the necessity of having to comply with division (A) of this section.

(2) Before the board of park commissioners may sell land under division (B)(1) of this section, the board shall offer the land for sale to each of the following public agencies that is authorized to acquire, develop, and maintain land for conservation uses or for park or recreation purposes: each park district established under R.C. § 511.18 or R.C. Chapter 1545 or political subdivision in which the land is located, each park district that is so established and that adjoins or each political subdivision that adjoins a park district so established or political subdivision in which the land is located, and each agency or department of the state or of the federal government that operates parks or conservation or recreation areas near the land. The board shall make the offer by giving a written notice that the land is available for sale, by first class mail, to these public agencies. A failure of delivery of the written notice to any of these public agencies does not invalidate any proceedings for the sale of land under this division. Any public agency that is so notified and that wishes to purchase the land shall make an offer to the board in writing not later than sixty days after receiving the written notice.

If there is only one offer to purchase the land made in that sixty-day period, the board need not hold a public hearing on the offer. The board shall accept the offer only if it determines that acceptance of the offer will result in the best public use of the land.

If there is more than one offer to purchase the land made in that sixty-day period, the board shall not accept any offer until the board holds a public hearing on the offers. If, after the hearing, the board decides to accept an offer, it shall accept the offer that it determines will result in the best public use of the land.

(C) No lands shall be sold under this section at either public or private sale without the approval of the probate court of the county in which the lands are situated.

### **§ 1545.13 PARK COMMISSION EMPLOYEES DESIGNATED AS LAW ENFORCEMENT OFFICERS.**

(A) As used in this section, "felony" has the same meaning as in R.C. § 109.511.

(B) The employees that the board of park commissioners designates for that purpose may exercise all the powers of police officers within and adjacent to the lands under the jurisdiction and control of the board or when acting as authorized by R.C. § 1545.131 or 1545.132. Before exercising the powers of police officers, the designated employees shall comply with the certification requirement established in R.C. § 109.77, take an oath, and give a bond to the state in the sum that the board prescribes, for the proper performance of their duties in that respect. This division is subject to division (C) of this section.

(C) (1) The board of park commissioners shall not designate an employee as provided in division (B) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the employee previously has been convicted of or has pleaded guilty to a felony.

(2) (a) The board of park commissioners shall terminate the employment of an employee designated as provided in division (B) of this section if the employee does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of R.C. § 2929.43 in which the employee agrees to surrender the certificate awarded to the employee under R.C. § 109.77.

(b) The board shall suspend from employment an employee designated as provided in division (B) of this section if the employee is convicted, after trial, of a felony. If the employee files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the employee does not file a timely appeal, the board shall terminate the employment of that employee. If the employee files an appeal that results in the employee's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the employee, the board shall reinstate that employee. An employee who is reinstated under division (C)(2)(b) of this section shall not receive any back pay unless that employee's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the employee of the felony.

(3) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1995.

(4) The suspension from employment, or the termination of the employment, of an employee under division (C)(2) of this section shall be in accordance with R.C. Chapter 119.

### **§ 1545.131 MUTUAL AID CONTRACTS.**

The board of park commissioners of a park district may enter into contracts with one or more townships, township police districts, joint police districts, municipal corporations, or county sheriffs of this state, with one or more township park districts created pursuant to R.C. § 511.18 or other park districts, with one or more state universities or colleges, as defined in R.C. § 3345.12, or with a contiguous political subdivision of an adjoining state, and a township, township police district, joint police district, municipal corporation, county sheriff, township park district, other park district, or state university or college may enter into a contract with a park district upon any terms that are agreed to by them, to allow the use of the park district police or law enforcement officers designated under R.C. § 1545.13 to perform any police function, exercise any police power, or render any police service on behalf of the contracting entity that the entity may perform, exercise, or render.

R.C. Chapter 2744, insofar as it applies to the operation of police departments, applies to the contracting entities and to the members of the police force or law enforcement department when they are rendering service outside their own subdivisions pursuant to that contract.

Members of the police force or law enforcement department acting outside the political subdivision in which they are employed, pursuant to that contract, shall be entitled to participate in any indemnity fund established by their employer to the same extent as while acting within the employing subdivision. Those members shall be entitled to all the rights and benefits of R.C. Chapter 4123, to the same extent as while performing service within the subdivision.

The contracts entered into pursuant to this section may provide for the following:

(A) A fixed annual charge to be paid at the times agreed upon and stipulated in the contract;

(B) Compensation based upon the following:

(1) A stipulated price for each call or emergency;

(2) The number of members or pieces of equipment employed;

(3) The elapsed time of service required in each call or emergency.

(C) Compensation for loss or damage to equipment while engaged in rendering police services outside the limits of the subdivision that owns and furnishes the equipment;

(D) Reimbursement of the subdivision in which the police force or law enforcement department members are employed for any indemnity award or premium contribution assessed against the employing subdivision for workers' compensation benefits for injuries or death of its police force or law enforcement department members occurring while engaged in rendering police services pursuant to the contract.

### **§ 1545.132 PROVIDING POLICE SERVICE WITHOUT CONTRACT.**

The police force or law enforcement department of any park district may provide police protection to any county, municipal corporation, township, township police district, or joint police district of this state, to any other park district or any township park district created pursuant to R.C. § 511.18, or to a governmental entity of an adjoining state without a contract to provide police protection, upon the approval, by resolution, of the board of park commissioners of the park district in which the police force or law enforcement department is located and upon authorization by an officer or employee of the police force or department providing the police protection who is designated by title of office or position, pursuant to the resolution of the board of park commissioners, to give the authorization.

R.C. Chapter 2744, insofar as it applies to the operation of police departments, shall apply to any park district and to members of its police force or law enforcement department when those members are rendering police services pursuant to this section outside the park district by which they are employed.

Police force or law enforcement department members acting, as provided in this section, outside the park district by which they are employed shall be entitled to participate in any pension or indemnity fund established by their employer to the same extent as while acting within the park district by which they are employed. Those members shall be entitled to all rights and benefits of R.C. Chapter 4123 to the same extent as while performing services within the park district by which they are employed.

### **§ 1545.14 AGREEMENT WITH OTHER PUBLIC AUTHORITIES TO ASSUME CONTROL OF PARKS.**

A board of park commissioners may by agreement with the legislative or other public authority in control of parks or park lands either within or without the park district, assume control of all or a portion of any existing parks or park lands or otherwise contract or cooperate with such public authority in connection with the use, development, improvement, and protection of parks or park lands. In such event, such parks or park lands may be developed, improved, and protected as in case of lands otherwise acquired by said board. This section does not authorize said board to acquire or control any park, park lands, parkways, playgrounds, other lands, or boulevards owned or controlled by any other public authority except by agreement as provided in this section.

### **§ 1545.15 ANNEXATION PROCEDURE.**

When conducive to the general welfare, any territory adjacent and contiguous to an existing park district, whether located within or without the county in which such district was created, may be annexed to such district. When a petition is filed with the board of park commissioners requesting such annexation, containing an accurate description of the territory proposed to be annexed, accompanied by an accurate map or plat of such territory, and signed either by a majority of the electors residing within such territory or by not less than fifty such electors, the board shall determine whether it is advisable that such annexation should be made. If the board determines in favor of such annexation, it shall make application to the probate court of the county in which such territory is located, setting forth the fact of the filing of such petition and the reasons why it is advisable that such territory should be annexed to such district. Any such board may of its motion file such petition in such court. Upon the filing of such petition, like proceedings shall be had as are provided in R.C. §§ 1545.03 and 1545.04 upon application for the creation of a park district, except that the territory so annexed may include a part only of an existing township or municipal corporation.

### **§ 1545.16 POWERS OF BUDGET COMMISSIONERS, AUDITORS, AND TREASURERS IN RELATION TO PARK DISTRICTS.**

In the event of the annexation to a park district of territory located in a county other than the county in which such district was created, the budget commissioners of the county in which such annexed territory is located shall exercise, with reference to such annexed territory, the powers conferred upon budget commissioners by R.C. § 1545.20, and the county auditor and county treasurer of the county in which such annexed territory is located shall exercise, with reference to taxes levied and collected by the board of park commissioners upon such annexed territory, the powers conferred upon auditors and treasurers by R.C. § 1545.22.

#### **§ 1545.17 IMPROVEMENT OF PUBLIC HIGHWAY.**

When a public highway extends into or through a park area, or when a public highway forms all or part of a suitable connection between two or more park areas, and it is deemed advisable to make alterations in the route or width of such highway, or to grade, drain, pave, or otherwise improve such highway, boards of park commissioners may enter into agreements with the public authorities in charge or control of so much of said highway as lies within such park area or which forms the whole or part of a connecting link between two or more park areas, providing for the doing of any of such things, under the procedure authorized by law in case of such public authorities, and for the payment by such boards of so much of the cost thereof as is agreed upon. This section does not affect the legal status of such highway.

#### **§ 1545.18 ASSESSMENT OF COST OF IMPROVEMENT - COLLECTION.**

In the development and improvement of the lands acquired by a board of park commissioners, such board may assess such portion of the cost of such development or improvement as it deems equitable, not to exceed fifty per cent of such total cost, upon abutting, contiguous, adjacent, or otherwise specifically benefited lands, in an amount not in excess of and in proportion to the special benefits conferred upon such lands by such development or improvement. Such assessment shall be payable in not to exceed ten equal annual installments, and said board may borrow money in anticipation of the collection of such special assessments. The proceedings had in the levying and collection of such special assessments, including the issue of bonds of the park district in anticipation of the collection of deferred assessments, shall be as provided in case of the levy and assessment of special assessments for street improvements in municipal corporations, insofar as such proceedings are applicable. If any such assessment is twenty-five dollars or less, or whenever the unpaid balance of any such assessment is twenty-five dollars or less, such assessment shall be paid in full, and not in installments, at the time when the first or next installment would otherwise become due and payable.

#### **§ 1545.19 ASSESSMENT MAY BE INCREASED WITH CONSENT OF PROPERTY OWNERS.**

In case of any development or improvement, the assessments authorized by R.C. § 1545.18 shall not in the aggregate exceed the cost of a development or improvement sufficient only to serve that need of the property to be assessed, unless the development or improvement has been petitioned for by the owners of not less than sixty per cent, both in foot frontage and in tax valuation, of the property to be assessed, consenting to a larger assessment than provided for in this section and R.C. § 1545.18, in which event such larger assessment may be levied to the extent specified in such petition.

Any owner of property to be assessed in accordance with R.C. § 1545.18 may appeal to the probate court in the county in which such property is located from the action of the board of park commissioners in the matter of the determination of the aggregate amount to be assessed for any given development or improvement or in the matter of the determination of the assessment against any specific property, or both, in the manner provided in R.C. §§ 6117.01 to 6117.40, inclusive, and the court may review and modify the action of the board with respect to such assessments.

#### **§ 1545.20 TAX LEVY.**

A board of park commissioners may levy taxes upon all the taxable property within the park district in an amount not in excess of one-half of one mill upon each dollar of the district tax valuation in any one year, subject to the combined maximum levy for all purposes otherwise provided by law. After the budget commission of the county in which the district is located certifies such levy, or such modification thereof as it considers advisable, to the county auditor, he shall place it upon the tax duplicate. The board may then borrow money in anticipation of the collection of such tax, and issue the negotiable notes of such board therefor in an amount not in excess of fifty per cent of the proceeds of such tax, based upon the amount of the current tax valuation. Such notes shall not be issued for a period longer than one year, and shall be payable out of the proceeds of such levy. To the extent of such notes and the interest which accrues thereon such levy shall be exclusively appropriated to the payment of such notes. Any portion of such notes remaining

unpaid through any deficiency in such levy shall be payable out of the next ensuing levy which shall be made by said board in the next ensuing year in an amount at least sufficient to provide for the payment of said notes, but not in excess of one half of one mill in accordance with R.C. § 133.17.

### **§ 1545.21 TAX LEVY FOR USE OF DISTRICT - SUBMISSION TO ELECTORS - BONDS.**

The board of park commissioners, by resolution, may submit to the electors of the park district the question of levying taxes for the use of the district. The resolution shall declare the necessity of levying such taxes, shall specify the purpose for which such taxes shall be used, the annual rate proposed, and the number of consecutive years the rate shall be levied. Such resolution shall be forthwith certified to the board of elections in each county in which any part of such district is located, not later than the ninetieth day before the day of the election, and the question of the levy of taxes as provided in such resolution shall be submitted to the electors of the district at a special election to be held on whichever of the following occurs first:

(A) The day of the next general election;

(B) The first Tuesday after the first Monday in May in any calendar year, except that if a presidential primary election is held in that calendar year, then the day of that election. The ballot shall set forth the purpose for which the taxes shall be levied, the annual rate of levy, and the number of years of such levy. If the tax is to be placed on the current tax list, the form of the ballot shall state that the tax will be levied in the current tax year and shall indicate the first calendar year the tax will be due. If the resolution of the board of park commissioners provides that an existing levy will be canceled upon the passage of the new levy, the ballot may include a statement that: "an existing levy of ... mills (stating the original levy millage), having ... years remaining, will be canceled and replaced upon the passage of this levy". In such case, the ballot may refer to the new levy as a "replacement levy" if the new millage does not exceed the original millage of the levy being canceled or as a "replacement and additional levy" if the new millage exceeds the original millage of the levy being canceled. If a majority of the electors voting upon the question of such levy vote in favor thereof, such taxes shall be levied and shall be in addition to the taxes authorized by R.C. § 1545.20, and all other taxes authorized by law. The rate submitted to the electors at any one time shall not exceed two mills annually upon each dollar of valuation unless the purpose of the levy includes providing operating revenues for one of Ohio's major metropolitan zoos, as defined in R.C. § 4503.74, in which case the rate shall not exceed three mills annually upon each dollar of valuation. When a tax levy has been authorized as provided in this section or in R.C. § 1545.041, the board of park commissioners may issue bonds pursuant to R.C. § 133.24 in anticipation of the collection of such levy, provided that such bonds shall be issued only for the purpose of acquiring and improving lands. Such levy, when collected, shall be applied in payment of the bonds so issued and the interest thereon. The amount of bonds so issued and outstanding at any time shall not exceed one per cent of the total tax valuation in such district. Such bonds shall bear interest at a rate not to exceed the rate determined as provided in R.C. § 9.95.

### **§ 1545.211 ANTICIPATION NOTES.**

In addition to the authority conferred by R.C. § 1545.21, in anticipation of the collection of current revenues in and for any fiscal year, the board of park commissioners may borrow money and issue notes therefor in anticipation of the receipt of taxes for debt charges or current expenses to the extent necessary to meet such charges or expenses, but not in excess of the estimated receipts for the current tax year, less all advances. The sums so anticipated shall be deemed appropriated for the payment of such notes at maturity. The notes shall not run more than one year, nor bear interest at a rate exceeding the rate provided in R.C. § 9.95, and the proceeds therefrom shall be used only for the purposes for which the anticipated taxes were levied. No board shall borrow money or issue notes in anticipation of such taxes before the first day of January of the year of such tax receipts.

### **§ 1545.22 DEPOSITORIES FOR FUNDS - DUTIES OF COUNTY TREASURER AND COUNTY AUDITOR.**

(A) If a treasurer is appointed by a board of park commissioners pursuant to R.C. § 1545.07, the accounts of the board shall be kept by that treasurer. The treasurer shall be an ex officio officer of the board. No contract of the board shall become effective until the treasurer certifies that there are funds of the board sufficient to provide for that contract.

(B) If no treasurer is appointed by the board pursuant to R.C. § 1545.07:

(1) All funds under the control of a board of park commissioners shall be kept in depositories selected in the manner provided for the deposit of county funds, insofar as such proceedings are applicable, and such deposits shall be secured as provided in the case of county funds. The county treasurer of the county in which the park district is located shall be the custodian of the funds of the board and shall be an ex officio officer of the board. He shall pay the funds out upon the warrant of the county auditor of the county in which

the district is located. Interest earned on all funds under the control of the board of park commissioners shall be credited to such funds.

(2) The county auditor shall be an ex officio officer of the board, and no contract of the board involving the expenditure of money shall become effective until the auditor certifies that there are funds of the board in the custody of the county treasurer and otherwise unappropriated sufficient to provide therefor. The auditor shall draw warrants on the treasurer to disburse the funds of the board upon order of the board, evidenced by the certificate of its secretary.

(3) Any such board of park commissioners may select a depository for the funds of the district, in the manner provided in R.C. §§ 135.01 to 135.21, upon the adoption of a resolution declaring such intent. The resolution shall be certified to the board of county commissioners and to the treasurer in the counties in which the district is located. The board of park commissioners shall thereupon become the governing board for such district with respect to the deposit of funds of such district.

(C) If no deposits to or expenditures from the funds of a park district have been made for a period of five years, the county auditor or the treasurer appointed by the board shall send written notice to the probate court of the county.

### **§ 1545.23 DISPOSITION OF PROCEEDS FROM SALE OR LEASE OF PARK MINERAL RIGHTS.**

If a park district enters into an agreement for the sale or lease of mineral rights regarding a park within the district, any royalties or other moneys resulting from the sale or lease shall be deposited into a special fund that the board of park commissioners shall create. The fund shall be used exclusively for maintenance of parks within the district and for the acquisition of new park lands.

### **§ 1545.24 ISSUANCE OF BONDS.**

The board of park commissioners of any park district may issue bonds pursuant to R.C. Chapter 133 for the purpose of acquiring and improving lands as authorized by R.C. § 1545.11. The board may secure the payment of such bonds by pledge or deed of trust of any of its revenues and receipts resulting from rentals, concessions, licenses, and permits. The board shall not pledge the credit or taxing power of the district for the payment of any such bonds, nor shall any of the bonds issued under this section be deemed to be an indebtedness of the district.

### **§ 1545.25 [REPEALED].**

Effective Date: 10-30-1989

### **§ 1545.26 [REPEALED].**

Effective Date: 10-30-1989

### **§ 1545.27 BONDS ARE LAWFUL INVESTMENTS.**

Park district revenue bonds are lawful investments of banks, trust companies, trustees, the boards of trustees of the sinking funds of municipal corporations, school districts, and counties, the administrator of workers' compensation, the state teachers retirement system, the public employees retirement system, and the school employees retirement system, and also are acceptable as security for the deposit of public moneys.

### **§ 1545.28 REPLACEMENT FUND.**

The board of park commissioners may establish and maintain a replacement fund, and for that purpose may set aside annually out of its revenue such sum as it may determine necessary. In case of total or partial destruction of or injury to any of the property of the park district from any cause, or in case it becomes necessary to demolish part or to repair or replace the same, in whole or in part, because of the unfitness of such property, such replacement fund may be used to rebuild on the original site or elsewhere, or to restore, repair, or improve such property.

Such replacement fund may be invested by such district in bonds of the United States, the state, or of a county, municipal corporation, school district, or township of this state, and when necessary for the purposes of such funds such securities may be disposed of by such district.

### **§ 1545.29 [REPEALED].**

Effective Date: 7-1-1989

### **§ 1545.30 [REPEALED].**

Effective Date: 7-1-1989

### **§ 1545.35 DISSOLUTION OF ACTIVE PARK DISTRICT.**

An active park district created under this chapter and to which no territory has been annexed under R.C. § 1545.15 may be dissolved under R.C. § 1545.36 or 1545.37. An active park district to which territory has been annexed under R.C. § 1545.15 may be dissolved only under the applicable provisions of R.C. § 1545.37. A park district that has been inactive for five years may be dissolved under R.C. § 1545.38.

### **§ 1545.36 PETITION FOR DISSOLUTION OF DISTRICT.**

(A) When the board of elections of the county in which a park district is located has had filed with it a petition calling for the dissolution of the district, and determines that the petition meets the requirements of this section and R.C. § 3501.38, the board shall place the issue of the dissolution on the ballot at the next special election to be held on the day of a general or primary election. Written notice of the filing of the petition shall be sent immediately to the board of park commissioners and the probate court that created the district.

(B) The petition shall:

(1) Be filed with the board no less than ninety days before the next election;

(2) Be supported by the signatures of at least twenty-five per cent of the number of voters in the district who voted in the preceding gubernatorial election.

(C) If the petition as filed does not have the required number of signatures and the time for filing has elapsed, the board shall declare it invalid. No further petition for dissolution shall be received until after the next election is completed. On determination of these findings, the board shall send written notice of them to the principal circulator.

(D) (1) If a majority of the votes cast support the dissolution, the board shall immediately send written notice of the vote, citing the number of votes for and against the issue, to the probate court, to the board of park commissioners, and to the principal circulator. No park district shall be applied for within the dissolved district for a period of four years following the election in which the issue was supported.

(2) If the issue fails to obtain a majority of the votes cast, the board shall receive no further petition for dissolution until the fourth year following that in which the election failed, and shall send written notice of these results to the principal circulator and the board of park commissioners.

### **§ 1545.37 APPLICATION FOR HEARING ON DISSOLUTION.**

(A) An application for a hearing on dissolution may be filed with the probate court of the county that created the district at any time not prohibited by this section and shall meet the requirements of this section.

(B) The application shall:

(1) Bear the signatures of at least twenty-five per cent of the number of voters in the district who voted in the preceding

gubernatorial election;

(2) Bear the name, address, and telephone number of at least one voter registered in the district to be designated the applicant of record. Each applicant of record and the board of park commissioners shall be named parties to the proceedings.

(3) Be accompanied by a complete statement of the issues to be heard, signed by applicant of record. Failure to list completely the issues to be heard may, in the discretion of the court, be grounds for dismissal of the application.

(C) Each page of the application:

(1) Being circulated for signatures shall clearly state the purpose for which it is being circulated and at least one reason supporting that purpose. Each page lacking either statement shall be declared invalid.

(2) Shall be circulated by and signed in the presence of a voter registered in the district and bear a certification signed by him that this requirement has been met. Failure to certify or a false certification shall invalidate the page.

(D) Each signatory shall sign his name as recorded by the board of elections together with his current address and the date. Failure to comply with this division shall invalidate the signature.

(E) The original of the application and statement of issues shall be filed with the court and, concurrently, a copy of each shall be served on the board of park commissioners. Failure to timely serve these documents on the board are (is) grounds for denial of the application.

(F) Upon receipt of the application, the court shall determine its validity in terms of the requirements of divisions (B) to (E) of this section, and may on its own assess the application for validity of the signatures or forward it to the county board of elections for that assessment. Immediately upon determining the state of the application's validity, the court shall send written notice of its findings to each party. If the application is valid, the court shall forthwith set a date for hearing, not less than twenty days nor more than forty days from the date of its findings, and include the date in its notice to each party. Notice of the hearing shall be published in at least one daily newspaper of general circulation within the district for not less than five consecutive days, the period to end no less than ten days before the hearing. Failure to meet the requirement of notice to any party shall not invalidate the proceedings but shall postpone the time of hearing. A corrected notice shall be sent to each party with a new date of hearing set not less than twenty days nor more than forty days from the date of corrected notice, unless each party and the court agree to an earlier date. If the application is found to be invalid, the court shall send written notice to each party that the application is denied and has been impounded by the court. The court shall not receive any further application for hearing on dissolution for two years from the date of original filing.

On motion, any applicant may be named as a party at the discretion of the court. Any party may be heard on his own or through counsel. On motion by any party made at least five days before the hearing, evidence based on the statement of issues filed with the application shall be heard in accordance with the Rules of Civil Procedure. At the hearing, evidence may be heard at the discretion of the court. Argument for and against the dissolution shall be heard by the court, and may be limited at its discretion. A verbatim record of the hearing shall be taken. Upon completion of the hearing, the court shall issue its findings together with its reasons therefor to all parties. No more than thirty days shall pass between the adjournment of the hearing and the issuing of the findings. If the court finds that dissolution is conducive to the public welfare, no other park district shall be created within the same jurisdiction or part of it pursuant to R.C. §§ 1545.01 to 1545.04 or 1545.15 for four years from the date of finding. If the court finds that dissolution is not conducive to the public welfare, it shall find against it. Upon a finding against dissolution, the court shall impound the application, and advise each party that no further application for hearing on dissolution shall be received for four years from the date of finding.

(G) A park district that includes territory annexed under R.C. § 1545.15 shall only be dissolved by order of the probate court that created the district on compliance with this division and divisions (A) to (F) of this section. Pages of the application bearing signatures of registered voters of each annexed territory shall be filed for assessment of their validity with the probate court of the county in which the territory is located. The number of signatures needed to establish validity shall be a majority of the number of voters residing within the annexed territory who voted in the preceding gubernatorial election. Upon determination of its assessment, and in no case more than fifteen days after filing, the probate court of the county in which the annexed territory is located shall forward the pages of the application together with its findings to the probate court that created the district. The probate court that created the district shall incorporate these findings with its assessment of the application filed with it in accordance with division (F) of this section in reaching its determination of the entire application's validity and proceed in accordance with applicable provisions of division (F) of this section.

### **§ 1545.38 PROCEEDINGS FOR DISSOLUTION OF INACTIVE DISTRICT.**

On receipt of written notice from the county auditor that no deposits to or expenditures from the funds of a park district have been made for a period of five years, the probate court shall immediately serve written notice on the board of park commissioners and the

auditor of a date for hearing on the dissolution of the district. The notice shall also order the board to forward to the court a complete, current financial statement of the assets and liabilities of the district, an inventory of its real and personal property, available deeds to, maps or plats for, and other records of real property of the park district, and copies of any available plans of the district for park acquisition and development, or capital improvements. A copy of the notice shall be served on each party. The court shall publish notice of the hearing for five consecutive days in a daily newspaper of general circulation within the district, ending no less than fifteen days before the hearing. The issue of dissolution shall be heard and determined by the court in accordance with the applicable provisions of R.C. § 1545.37(F). If the court finds for dissolution, it shall as applicable proceed in accordance with R.C. § 1545.40.

### **§ 1545.39 CEASING ACTIVITY PENDING DETERMINATION ON PETITION.**

On receipt of notice of the filing of a petition with the county board of elections or an application for hearing or a notice of hearing from the probate court, the board of park commissioners shall cease all acquisition of land and the development of existing land unless valid options or contracts for which funds have been committed have been previously signed. No activity shall be resumed until the board of elections or the court determines, respectively, that the petition or application is invalid and the issue will not be voted on or heard, or the issue fails election, or the court finds against dissolution, whichever is earlier.

### **§ 1545.40 DISSOLUTION.**

On dissolution of a park district, the board of park commissioners is dissolved and all of its duties and responsibilities shall be exercised by the probate court until all of the board's business is completed and all of its property disposed of. The court may retain special counsel and another person who in the court's discretion are qualified to assist it in the closing out of business and disposal of property and any employee of the district the court determines is necessary to closing out the business or to maintaining the property of the district in good order until it is disposed of. Any employee not retained by the court shall be terminated within ten working days of the board's dissolution and paid one month's base salary or for one hundred seventy-three hours, whichever is applicable, in addition to all other pay and allowances due him. The same shall be paid to any employee retained by the court upon his termination.

The court shall send the director of natural resources notice of the dissolution together with an inventory of the district's real property, any personal property of the district that he considers to be functionally related to the use or management of the real property, and a full and accurate statement of any indebtedness that is secured by the real property. The director shall, within sixty days of receipt of such notice, notify the court of his acceptance or rejection of any such real property and its related personal property and indebtedness. If the director accepts, the court shall convey the real property to the state, subject to any deed or other restrictions placed upon use of the real property as a condition of receiving federal or state assistance for its acquisition or development, and transfer the related personal property to the department of natural resources. If the director rejects, the court shall convey any real property of the district and transfer any related personal property to any other agency of the state or any political subdivision or instrumentality of the state located within the former park district or within a county in which territory that was annexed to the district is located, that is interested in acquiring the real property for parks and recreation, conservation, or other public purposes, in that order of priority, and that is willing to assume any related indebtedness and fulfill any deed restrictions and any other restrictions placed upon use of the real property as a condition of receiving federal or state assistance for its acquisition or development.

If no state agency, political subdivision, or instrumentality of the state is willing to accept the real property and related personal property and indebtedness, the court shall convey such property to the board of county commissioners of the county in which the property is located. The board of county commissioners may sell, lease, or transfer such property in accordance with R.C. §§ 307.09 to 307.12. If there is any outstanding indebtedness on such property sold or leased, the proceeds from the sale or lease shall be paid into the fund from which payments are made to extinguish the indebtedness on such property and the proceeds shall be used for that purpose; otherwise the proceeds shall be paid into the general fund of the county. The budget commission shall continue to levy and collect taxes necessary for the payment of any outstanding indebtedness of the district for which tax revenues of the district were pledged and that is not otherwise assumed.

Except as otherwise provided in this section, upon dissolution of a park district, the probate court shall order the budget commission of each county affected to terminate the tax levies of the park district, levied under R.C. § 1545.20 or 1545.21, and the assessments levied under R.C. § 1545.18 and divide the net indebtedness of the district among the state, political subdivisions, and instrumentalities that acquire the district's real property on the basis of the market value of the real property that each acquires. Upon disposal of the district's real property, the court shall notify the budget commission, which shall transfer the remaining funds of the district to the proper authorities.

## § 1545.99 PENALTY.

Whoever violates R.C. § 1545.09(C) shall be punished as follows:

(A) Except as otherwise provided in division (B) of this section, the offender shall be fined not more than one hundred fifty dollars for a first offense and not more than one thousand dollars for each subsequent offense.

(B) If the board of park commissioners that adopted the bylaw or rule that the offender violated and that was the basis of the offender's violation of R.C. § 1545.09(C) has adopted a penalty for the violation under division (B) of that section, the offender shall be penalized in accordance with the penalty so adopted for the violation.

## TITLE V: PUBLIC WORKS

(This title is reserved for by-laws dealing with sewer, water, trash collection and the like.)

## TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS
- 71. LICENSING PROVISIONS
- 72. TRAFFIC RULES
- 73. PARKING REGULATIONS
- 74. EQUIPMENT AND LOADS
- 75. BICYCLES AND MOTORCYCLES

### CHAPTER 70: GENERAL PROVISIONS

Section

70.01 Definitions

70.99 Penalty

## § 70.01 DEFINITIONS.

For the purposes of this title, the following words and phrases shall have the following meanings ascribed to them respectively.

**ALL PURPOSE VEHICLE.** Any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all-season vehicles, mini-bikes, and trail bikes. **ALL-PURPOSE VEHICLE** does not include a utility vehicle as defined in R.C. § 4501.01 or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under R.C. Chapter 4503 or 4561, and any vehicle excepted from definition as a motor vehicle by R.C. § 4501.01(B).

**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.

**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.

**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 district has placed signs indicating no crossing.

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

**ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.** A self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of 750 watts, and when ridden on a paved level surface by an operator who weighs 170 pounds has a maximum speed of less than 20 mph.

**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.

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

**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.

**MOTOR 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.

**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 mph 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 not more than one brake horsepower and is capable of propelling the vehicle at a speed of not greater than 20 mph 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 mph.

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

**PARKING or PARKED.** 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.

**PASSENGER CAR.** Any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than 15 persons in a ridesharing arrangement.

**PEDESTRIAN.** Any natural person afoot.

**POLICE OFFICER.** Every officer authorized to direct or regulate traffic, or to make arrests for violations of traffic regulations, including specifically, park rangers.

**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.

**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.

**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, STREET, or 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.

**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.

**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.

**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.

**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.

**SNOWMOBILE.** Any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners, or caterpillar treads.

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

**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 mph 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 mph.

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

**U-TURN.** A turn that reverses the direction in which the vehicle making the turn is proceeding.

**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.

**§ 70.99 PENALTY.**

Whoever violates any provision of this traffic code for which no specific penalty is otherwise provided, shall be fined not more than \$150 for a first offense and not more than \$1,000 for each subsequent offense.

---

**CHAPTER 71: LICENSING PROVISIONS**

---

Section

*General Provisions*

71.01 Display of license plates or validation stickers

*Prohibitions*

71.05 Prohibited acts

71.06 Prohibition against permitting minor to operate vehicle

71.07 Restriction against owner lending vehicle for use of another

71.08 Display of license

71.09 Prohibition against false statements

71.10 Expired plates

71.11 Use of unauthorized plates

71.12 Operating with number of former owner

71.13 Resident operating with number issued by foreign state

**GENERAL PROVISIONS**

**§ 71.01 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS.**

(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.

(R.C. § 4503.21(A))

(B) Whoever violates division (A) of this section is guilty of a minor misdemeanor.

(R.C. § 4503.21(B))

## PROHIBITIONS

### § 71.05 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.

(R.C. § 4507.30)

### § 71.06 PROHIBITION AGAINST PERMITTING MINOR TO OPERATE VEHICLE.

(A) No person shall cause or knowingly permit any minor to drive a motor vehicle upon a highway as an operator, unless the minor has first obtained a license or permit to drive a motor vehicle under R.C. Chapter 4507.

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

(R.C. § 4507.31)

### § 71.07 RESTRICTION AGAINST OWNER LENDING VEHICLE FOR USE OF ANOTHER.

(A) No person shall permit a motor vehicle owned by the person or under the person's control to be driven by another if any of the following apply:

(1) The offender knows or has reasonable cause to believe that the other person does not have a valid driver's or commercial driver's license or permit or valid nonresident driving privileges;

(2) The offender knows or has reasonable cause to believe that the other person's driver's or commercial driver's license or permit or nonresident operating privileges have been suspended or canceled under R.C. Chapter 4510 or any other provision of the Ohio Revised Code;

(3) The offender knows or has reasonable cause to believe that the other person's act of driving the motor vehicle would violate any prohibition contained in R.C. Chapter 4509;

(4) The offender knows or has reasonable cause to believe that the other person's act of driving would violate R.C. § 4511.19;

(5) The offender knows or has reasonable cause to believe that the vehicle is the subject of an immobilization waiver order issued under R.C. § 4503.235 and the other person is prohibited from operating the vehicle under that order.

(B) Without limiting or precluding the consideration of any other evidence in determining whether a violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section has occurred, it shall be prima facie evidence that the offender knows or has reasonable cause to believe that the operator of the motor vehicle owned by the offender or under the offender's control is in a category described in division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section if any of the following applies:

(1) Regarding an operator allegedly in the category described in division (A)(1), (A)(3), or (A)(5) of this section, the offender and the operator of the motor vehicle reside in the same household and are related by consanguinity or affinity;

(2) Regarding an operator allegedly in the category described in division (A)(2) of this section, the offender and the operator of the motor vehicle reside in the same household, and the offender knows or has reasonable cause to believe that the operator has been charged with or convicted of any violation of law, or has committed any other act or omission, that would or could result in the suspension or cancellation of the operator's license, permit, or privilege;

(3) Regarding an operator allegedly in the category described in division (A)(4) of this section, the offender and the operator of the motor vehicle occupied the motor vehicle together at the time of the offense.

(C) Whoever violates this section is guilty of wrongful entrustment of a motor vehicle, and shall be punished as provided in divisions (C) to (H) of this section.

(1) Except as provided in division (C)(2) of this section, whoever violates division (A)(1), (A)(2), or (A)(3) of this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to 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 R.C. § 2929.26; notwithstanding R.C. § 2929.28(A)(2)(a), the offender may be fined up to \$1,000; and, notwithstanding R.C. § 2929.27(A)(3), the offender may be ordered pursuant to 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) (a) If, within three years of a violation of division (A)(1), (A)(2), or (A)(3) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of division (A)(1), (A)(2), or (A)(3) of this section, R.C. § 4511.203(A)(1), (A)(2), or (A)(3), the offender is guilty of a misdemeanor of the first degree.

(b) Whoever violates division (A)(4) or (A)(5) of this section is guilty of a misdemeanor of the first degree.

(3) For any violation of this section, in addition to the penalties imposed under this code or R.C. Chapter 2929, 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), and, if the vehicle involved in the offense is registered in the name of the offender, the court may order one of the following:

(a) Except as otherwise provided in division (C)(3)(b) or (C)(3)(c) of this section, the court may order, for 30 days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under R.C. § 4503.233.

(b) If the offender previously has been convicted of or pleaded guilty to one violation of this section, R.C. § 4511.203, the court may order, for 60 days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under R.C. § 4503.233.

(c) If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, R.C. § 4511.203, the court may order the criminal forfeiture to the state of the vehicle involved in the offense. If issued, the order shall be issued and enforced under R.C. § 4503.234.

(4) If title to a motor vehicle that is subject to an order for criminal forfeiture under division (C)(3)(c) of this section is assigned or transferred and R.C. § 4503.234(B)(2) or (B)(3) applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the National Automobile Dealers Association. The proceeds from any fine imposed under this division (C) shall be distributed in accordance with R.C. § 4503.234(C)(2).

(D) If a court orders the criminal forfeiture of a vehicle, the court shall not release the vehicle from the immobilization before the termination of the period of immobilization ordered unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(E) If a court orders the criminal forfeiture of a vehicle, upon receipt of the order from the court, neither the Registrar of Motor Vehicles nor any deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the order. The period of denial shall be five years after the date the order is issued, unless, during that five-year period, the court with jurisdiction of the offense that resulted in the order terminates the forfeiture and notifies the Registrar of the termination. If the court terminates the forfeiture and notifies the Registrar, the Registrar shall take all necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer the registration of the vehicle.

(F) This section does not apply to motor vehicle rental dealers or motor vehicle leasing dealers, as defined in R.C. § 4549.65.

(G) Evidence of a conviction of, plea of guilty to, or adjudication as a delinquent child for a violation of this section shall not be admissible as evidence in any civil action that involves the offender or delinquent child who is the subject of the conviction, plea, or adjudication and that arises from the wrongful entrustment of a motor vehicle.

(H) For purposes of this section, a vehicle is owned by a person if, at the time of a violation of this section, the vehicle is registered in the person's name.

(R.C. § 4511.203) Penalty, see § 70.99

### **§ 71.08 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 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 R.C. § 2929.26; notwithstanding R.C. § 2929.28(A)(2)(a), the offender may be fined up to \$1,000; and notwithstanding R.C. § 2929.27(A)(3), the offender may be ordered pursuant to 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 or R.C. § 4507.35, the offense is a misdemeanor of the first degree.

(R.C. § 4507.35)

### **§ 71.09 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.

(R.C. § 4507.36)

### **§ 71.10 EXPIRED PLATES.**

(A) 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.

(R.C. § 4503.11(A))

(B) Whoever violates division (A) of this section is guilty of a minor misdemeanor.

(R.C. § 4503.11(D))

### **§ 71.11 USE OF UNAUTHORIZED PLATES.**

(A) No person shall operate or drive a motor vehicle upon the public roads and highways in this park district 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 park district 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 park district 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.

(R.C. § 4549.08)

### **§ 71.12 OPERATING WITH NUMBER OF FORMER OWNER.**

(A) No person shall operate or drive upon the highways of this park district 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.

(B) Whoever violates division (A) 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.

(R.C. § 4549.11)

### **§ 71.13 RESIDENT OPERATING WITH NUMBER ISSUED BY FOREIGN STATE.**

(A) 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 park district 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.

(B) Whoever violates division (A) 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.

(R.C. § 4549.12)

## **CHAPTER 72: TRAFFIC RULES**

---

Section

### ***General Provisions***

72.01 Lanes of travel upon roadways

72.02 Compliance with posted regulations

- 72.03 Vehicles traveling in opposite directions
- 72.04 Emergency vehicles to proceed cautiously past red or stop signal
- 72.05 Obeying traffic-control devices
- 72.06 Signal lights
- 72.07 Flashing traffic signals
- 72.08 Prohibition against alteration, defacing, or removal
- 72.09 One-way highways and rotary traffic islands
- 72.10 Rules for driving in marked lanes
- 72.11 Space between moving vehicles
- 72.12 No passing
- 72.13 Rules for turns at intersections
- 72.14 Turning in roadway prohibited
- 72.15 Rules for starting and backing vehicles
- 72.16 Turn and stop signals
- 72.17 Hand and arm signals
- 72.18 Compliance with order of police officer
- 72.19 Prohibition against resisting officer

#### ***Right-of-Way***

- 72.20 Right-of-way at intersections
- 72.21 Right-of-way when turning left
- 72.22 Right-of-way at through highways; stop signs; yield signs
- 72.23 Stop at sidewalk or trail area
- 72.24 Right-of-way on public highway
- 72.25 Pedestrian on sidewalk or trail has right-of-way
- 72.26 Right-of-way of public safety vehicles
- 72.27 Animal compliance
- 72.28 Pedestrians yield right-of-way to public safety vehicle
- 72.29 Pedestrian on crosswalk has right-of-way
- 72.30 Right-of-way yielded to blind person
- 72.31 Right-of-way yielded by pedestrian
- 72.32 Intoxicated or drugged pedestrian hazard on highway

#### ***Pedestrians***

- 72.35 Pedestrians
- 72.36 Pedestrian walking along highway
- 72.37 Prohibition against soliciting rides; riding on outside of vehicle

72.38 Electric personal assistive mobility devices

### ***Reckless Operation***

72.45 Reckless operation of vehicles

72.46 Reckless operation off streets and highways; competitive operation

72.47 Operator to be in reasonable control

### ***Accidents***

72.50 Stopping after accident; exchange of identity and vehicle registration

72.51 Stopping after accident involving injury to persons or property

72.52 Stopping after accident involving damage to realty

72.53 Failure to report accident

### ***Prohibitions***

72.55 Obstruction and interference affecting view and control of driver

72.56 Occupying travel trailer while in motion

72.57 Vehicles on road only

72.58 Truck prohibitions

72.59 Obstructing passage of other vehicles

72.60 Following an emergency or public vehicle is prohibited

72.61 Slow speed

72.62 Prohibition against placing injurious material on highway

72.63 Transporting child not in child-restraint system prohibited

72.64 Occupant restraining devices

72.65 Street racing defined; prohibited

72.66 Prohibition against driving through safety zone

72.67 Snowmobile prohibition

72.68 Speed limit

72.69 Operating motor vehicles while wearing earphones or earplugs

72.70 Texting while driving prohibited

72.71 Use of electronic wireless communication devices by minors or probationary drivers while driving prohibited

### ***Vehicle Permit***

72.75 Permit required

## **GENERAL PROVISIONS**

(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 park ranger, other official within the park, 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 (C) 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.

(R.C. § 4511.25)

## **§ 72.02 COMPLIANCE WITH POSTED REGULATIONS.**

No person shall drive or propel any vehicle along or over any park road without complying with all traffic signs and all posted traffic regulations.

(Prior by-law § 8F) Penalty, see § 70.99

## **§ 72.03 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.

## **§ 72.04 EMERGENCY VEHICLES TO PROCEED CAUTIOUSLY PAST RED OR STOP SIGNAL.**

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

(B) Except as otherwise provided in this 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.

(R.C. § 4511.03)

## **§ 72.05 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) 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 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.

(R.C. § 4511.12)

## **§ 72.06 SIGNAL LIGHTS.**

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying words or symbols, and these lights shall indicate and apply to drivers of vehicles and pedestrians as follows.

(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 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) *Location other than an intersection.* 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.

## § 72.07 FLASHING TRAFFIC SIGNALS.

### (A) *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.

### (B) *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.

(C) *Railroad grade-crossings*. 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.

(R.C. § 4511.13) Penalty, see § 70.99

## **§ 72.08 PROHIBITION AGAINST ALTERATION, DEFACING, OR REMOVAL.**

(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.

(R.C. § 4511.17)

## **§ 72.09 ONE-WAY HIGHWAYS AND ROTARY TRAFFIC ISLANDS.**

(A) The park district may designate any highway or any separate roadway under its jurisdiction for one-way traffic, and shall erect appropriate signs giving notice thereof.

(B) Upon a roadway designated and posted with signs for one-way traffic, a vehicle shall be driven only in the direction designated.

(C) A vehicle passing around a rotary traffic island shall be driven only to the right of the rotary traffic island.

(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.

(R.C. § 4511.32)

## **§ 72.10 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 park district 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.

(R.C. § 4511.33)

### **§ 72.11 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 (B) 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.

(R.C. § 4511.34)

### **§ 72.12 NO PASSING.**

No person, while operating a vehicle on a park road, except authorized agents in park vehicles, shall pass another moving vehicle on the left, except as defined in § 72.01.

Penalty, see § 70.99

### **§ 72.13 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 park district 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.

(R.C. § 4511.36)

#### **§ 72.14 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.

(R.C. § 4511.37)

#### **§ 72.15 RULES FOR 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.

(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.

(R.C. § 4511.38)

#### **§ 72.16 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.

(R.C. § 4511.39)

## **§ 72.17 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.

(R.C. § 4511.40)

## **§ 72.18 COMPLIANCE WITH ORDER OF POLICE OFFICER.**

(A) No person shall fail to comply with any lawful order or direction of any ranger or 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 ranger or police officer after receiving a visible or audible signal from a ranger or 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, 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.

(R.C. § 2921.331(A) - (C), (E), (F))

## **§ 72.19 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 Title VII. No person shall interfere with any person charged under any provision of this Title VII with the enforcement of the law relative to park roads.

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

(R.C. § 4513.36)

## **RIGHT-OF-WAY**

### **§ 72.20 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.

(R.C. § 4511.41)

### **§ 72.21 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.

(R.C. § 4511.42)

### **§ 72.22 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.

(R.C. § 4511.43)

### **§ 72.23 STOP AT SIDEWALK OR TRAIL AREA.**

(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 trail or onto the sidewalk or trail area extending across the alley, building entrance, road, or driveway, or in the event there is no sidewalk or trail area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

(B) Except as otherwise provided in this 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.

(R.C. § 4511.431)

### **§ 72.24 RIGHT-OF-WAY ON PUBLIC HIGHWAY.**

(A) The operator of a vehicle about to enter or cross a highway from any place other than another roadway shall yield the right-of-way to all traffic approaching on the roadway to be entered or crossed.

(B) Except as otherwise provided in this 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.

(R.C. § 4511.44)

### **§ 72.25 PEDESTRIAN ON SIDEWALK OR TRAIL HAS RIGHT-OF-WAY.**

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

(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.

(R.C. § 4511.441)

### **§ 72.26 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) 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.

(R.C. § 4511.45)

#### **§ 72.27 ANIMAL COMPLIANCE.**

(A) No person, except authorized agents of the Park Board, or persons having specific written permission from the Executive Director, shall ride any horse or other animal within the park, except upon bridle paths designated and established for horseback riders and in accordance with the rules adopted by the Board.

(B) Every person riding, driving, or leading an animal upon a roadway is subject to the provisions of this traffic code, applicable to the driver of a vehicle, except those provisions of this traffic code which by their nature are inapplicable.

(R.C. § 4511.05) (Prior by-law § 86) Penalty, see § 70.99

#### **§ 72.28 PEDESTRIANS YIELD RIGHT-OF-WAY TO PUBLIC SAFETY VEHICLE.**

(A) Upon the immediate approach of a public safety vehicle, as stated in § 72.26, 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.

(R.C. § 4511.452)

#### **§ 72.29 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, 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 § 72.31(B).

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

(E) Except as otherwise provided in this 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.

(R.C. § 4511.46) Penalty, see § 70.99

### **§ 72.30 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.

(R.C. § 4511.47)

### **§ 72.31 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.

(R.C. § 4511.48)

### **§ 72.32 INTOXICATED OR DRUGGED PEDESTRIAN HAZARD ON HIGHWAY.**

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

(B) Except as otherwise provided in this 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.

(R.C. § 4511.481)

## PEDESTRIANS

### § 72.35 PEDESTRIANS.

(A) Pedestrians shall move, whenever practicable, upon the right half of trails or 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.

(R.C. § 4511.49)

### § 72.36 PEDESTRIAN WALKING ALONG HIGHWAY.

(A) Where a sidewalk or trail is provided and its use is practicable, it shall be unlawful for any pedestrian to walk, jog, or run along and upon an adjacent roadway.

(B) Where a sidewalk or trail is not available, any pedestrian walking, jogging, or running along and upon a highway shall walk, jog, or run only on a shoulder, as far as practicable from the edge of the roadway.

(C) Where neither a sidewalk nor a trail nor a shoulder is available, any pedestrian walking, jogging, or running along and upon a highway shall walk, jog, or run as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk, jog, or run only on the left side of the roadway.

(D) Except as otherwise provided, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

(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.

(R.C. § 4511.50)

### § 72.37 PROHIBITION AGAINST SOLICITING RIDES; RIDING ON OUTSIDE OF VEHICLE.

(A) No person while on a roadway outside a safety zone shall solicit a ride from the driver of any vehicle.

(B) No person shall stand on a highway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle.

(C) No person shall hang onto or ride on the outside of any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.

(D) No operator shall knowingly permit any person to hang onto or ride on the outside of any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.

(E) No driver of a truck, trailer, or semitrailer shall knowingly permit any person who has not attained the age of 16 years to ride in the unenclosed or unroofed cargo storage area of the driver's vehicle if the vehicle is traveling faster than 25 mph, unless either of the following applies:

(1) The cargo storage area of the vehicle is equipped with a properly secured seat to which is attached a seat safety belt that is in compliance with federal standards for an occupant restraining device as defined in R.C. § 4513.263(A)(2), the seat and seat safety belt were installed at the time the vehicle was originally assembled, and the person riding in the cargo storage area is in the seat and is wearing the seat safety belt;

(2) An emergency exists that threatens the life of the driver or the person being transported in the cargo storage area of the truck, trailer, or semitrailer.

(F) No driver of a truck, trailer, or semitrailer shall permit any person, except for those workers performing specialized highway or street maintenance or construction under authority of a public agency, to ride in the cargo storage area or on a tailgate of the driver's vehicle while the tailgate is unlatched.

(G) (1) Except as otherwise provided in this division, whoever violates any provision of divisions (A) through (D) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of divisions (A) through (D) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of divisions (A) through (D) of this section is guilty of a misdemeanor of the third degree.

(2) Whoever violates division (E) or (F) of this section is guilty of a minor misdemeanor.

(R.C. § 4511.51)

## **§ 72.38 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.**

(A) No person shall operate an electric personal assistive mobility device on any park road or any trail or path prohibited to motorized vehicles, except devices specifically designed for and being used by a person with disabilities or with specific written permit from the Executive Director.

(By-law 8-05)

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

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

(3) The park district may regulate or prohibit the operation of electric personal assistive mobility devices on public streets, highways, sidewalks, and paths, or portions of roadways set aside for the exclusive use of bicycles, under its jurisdiction.

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

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

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

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

(a) A lamp pointing to the front that emits a white light visible from a distance of not less than 500 feet;

(b) A red reflector facing the rear that is visible from all distances from 100 feet to 600 feet when directly in front of lawful lower beams of head lamps on a motor vehicle.

(4) Operate the device on any portion of a street or highway that has an established speed limit of 55 mph or more;

(5) Operate the device upon any path set aside for the exclusive use of pedestrians or other specialized use when an appropriate sign giving notice of the specialized use is posted on the path;

(6) If under 18 years of age, operate the device unless wearing a protective helmet on the person's head with the chin strap properly fastened;

(7) If under 16 years of age, operate the device unless, during the operation, the person is under the direct visual and audible supervision of another person who is 18 years of age or older and is responsible for the immediate care of the person under 16 years of age.

(D) No person who is under 14 years of age shall operate an electric personal assistive mobility device.

(E) No person shall distribute or sell an electric personal assistive mobility device unless the device is accompanied by a written statement that is substantially equivalent to the following: "WARNING: TO REDUCE THE RISK OF SERIOUS INJURY, USE ONLY WHILE WEARING FULL PROTECTIVE EQUIPMENT - HELMET, WRIST GUARDS, ELBOW PADS, AND KNEE PADS".

(F) Nothing in this section affects or shall be construed to affect any rule of the Director of Natural Resources or a Board of Park District Commissioners governing the operation of vehicles on lands under the control of the Executive Director or Board, as applicable.

(G) Penalty.

(1) Whoever violates division (C) or (D) of this section is guilty of a minor misdemeanor and shall be punished as follows:

(a) The offender shall be fined \$10;

(b) If the offender previously has been convicted of or pleaded guilty to a violation of division (C) or (D) of this section or a substantially equivalent state law or municipal ordinance, the court, in addition to imposing the fine required under division (G)(1)(a) of this section, shall do one of the following:

1. Order the impoundment for not less than one day but not more than 30 days of the electric personal assistive mobility device that was involved in the current violation of that division. The court shall order the device to be impounded at a safe indoor location designated by the court and may assess storage fees of not more than \$5 per day; provided the total storage, processing, and release fees assessed against the offender or the device in connection with the device's impoundment or subsequent release shall not exceed \$50.

2. If the court does not issue an impoundment order pursuant to division (G)(1)(b)1. of this section, issue an order prohibiting the offender from operating any electric personal assistive mobility device on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles for not less than one day but not more than 30 days.

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

(R.C. § 4511.512)

## **RECKLESS OPERATION**

### **§ 72.45 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.

(R.C. § 4511.20)

### **§ 72.46 RECKLESS OPERATION OFF STREETS AND HIGHWAYS; COMPETITIVE OPERATION.**

(A) (1) No person shall operate a vehicle on any public or private property other than streets or highways in willful or wanton

disregard of the safety of persons or property.

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

(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.

(R.C. § 4511.201)

#### **§ 72.47 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.

(R.C. § 4511.202)

### **ACCIDENTS**

#### **§ 72.50 STOPPING AFTER ACCIDENT; 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 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.

(R.C. § 4549.02)

## **§ 72.51 STOPPING AFTER 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 park district 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 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.

(R.C. § 4549.021)

## **§ 72.52 STOPPING AFTER ACCIDENT INVOLVING DAMAGE TO REALTY.**

(A) (1) The driver of any vehicle involved in an accident resulting in damage to real property, or personal property attached to real property, legally upon or adjacent to a public road or highway immediately shall stop and take reasonable steps to locate and notify the owner or person in charge of the property of that fact, of the driver's name and address, and of the registration number of vehicle the driver is driving and, upon request and if available, shall exhibit the driver's driver's or commercial driver's license.

(2) If the owner or person in charge of the property cannot be located after reasonable search, the driver of the vehicle involved in the accident resulting in damage to the property, within 24 hours after accident, shall forward to the park district the same information required to be given to the owner or person in control of the property and give the location of the accident and a description of the damage insofar as it is known.

(B) (1) Whoever violates division (A) of this section is guilty of failure to stop after an accident involving the property of others, a misdemeanor of the first degree.

(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 R.C. § 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.

(R.C. § 4549.03)

## **§ 72.53 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.

(R.C. § 4509.74)

## **PROHIBITIONS**

## **§ 72.55 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.

(R.C. § 4511.70)

## **§ 72.56 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.

(R.C. § 4511.701)

## **§ 72.57 VEHICLES ON ROAD ONLY.**

No portion of the park shall be used for purpose of way except roads. Roadways, paths, walks, and trails established for pedestrian travel, shall not be used for vehicular travel.

(Prior by-law § 8C) Penalty, see § 70.99

## **§ 72.58 TRUCK PROHIBITIONS.**

No person shall drive or propel or cause to be driven or propelled along or over any park road, any truck, commercial car, trailer, semi-trailer, pole trailer, bus or commercial tractor, unless authorized by the Board to make deliveries within the park, or unless

engaged in work in the park that has been contracted for with the Board, or unless delivering or picking up persons using a truck or trailer as transportation or to or from the park area. No vehicle in excess of five tons gross vehicular weight will be used to transport people to or from a park area without prior written permit from the Executive Director.

(Prior by-law § 8E) Penalty, see § 70.99

### **§ 72.59 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.

(R.C. § 4511.712)

### **§ 72.60 FOLLOWING AN EMERGENCY OR PUBLIC VEHICLE IS PROHIBITED.**

(A) The driver of any vehicle, other than an emergency vehicle or public safety vehicle on official business, shall not follow any emergency vehicle or public safety vehicle traveling in response to an alarm closer than 500 feet, or drive into or park 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) 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.

(R.C. § 4511.72)

### **§ 72.61 SLOW SPEED.**

(A) No person shall stop or operate a vehicle at such an unreasonably slow speed as to impede or block the normal and reasonable movement of traffic, except when stopping or reduced speed is necessary for safe operation or to comply with law.

(B) 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.

(R.C. § 4511.22(A), (D))

### **§ 72.62 PROHIBITION AGAINST PLACING INJURIOUS MATERIAL ON HIGHWAY.**

(A) (1) No person shall place or knowingly drop upon any part of a highway, lane, road, street, or alley any tacks, bottles, wire, glass, nails, or other articles which may damage or injure any person, vehicle, or animal traveling along or upon the highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

(2) Any person who drops or permits to be dropped or thrown upon any highway any destructive or injurious material shall immediately remove the same.

(3) Any person authorized to remove a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

(4) No person shall place any obstruction in or upon a highway without proper authority.

(B) No person, with intent to cause physical harm to a person or a vehicle, shall place or knowingly drop upon any part of a highway, lane, road, street, or alley any tacks, bottles, wire, glass, nails, or other articles which may damage or injure any person, vehicle, or animal traveling along or upon such highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

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

(R.C. § 4511.74) Penalty, see § 70.99

## **§ 72.63 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, 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, 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.

(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 or a chiropractor licensed to practice in this state 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).

(R.C. § 4511.81(A) - (H), (K), (L))

## § 72.64 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 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 the penalty set forth in § 70.99.

(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.

(R.C. § 4513.263)

***Cross-reference:***

*Child restraint systems, see § 72.63*

**§ 72.65 STREET RACING DEFINED; PROHIBITED.**

(A) As used in this section, ***STREET RACING*** means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds. Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants. The operation of two or more vehicles side by side either at speeds in excess of prima facie lawful speeds established by § 72.68, or rapidly accelerating from a common starting point to a speed in excess of such prima facie lawful speeds shall be prima facie evidence of street racing.

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

(C) Whoever violates this section is guilty of street racing, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privileges for not less than 30 days or more than three years. No judge shall suspend the first 30 days of any suspension of an offender's license, permit, or privilege imposed under this division.

(R.C. § 4511.251)

**§ 72.66 PROHIBITION AGAINST 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.

(R.C. § 4511.60)

**§ 72.67 SNOWMOBILE PROHIBITION.**

No person shall operate a snowmobile or "all-purpose vehicle" within the park unless authorized by the Executive Director.

Penalty, see § 70.99

**§ 72.68 SPEED LIMIT.**

(A) No person shall drive or propel or cause to be driven or propelled along or over any road within the park, any vehicle at a greater rate of speed than the posted speed limit. The speed limit shall be 25 mph except where otherwise posted.

(B) No person shall drive or propel or cause to be driven or propelled along or over any road within the park, any vehicle at a speed greater than 50 mph.

(C) No person shall violate division (A) of this section who has been convicted of a moving traffic violation within one year previous to the present offense.

(Prior by-law § 8) Penalty, see § 70.99

## **§ 72.69 OPERATING MOTOR VEHICLES 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.

(R.C. § 4511.84)

## **§ 72.70 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 by-law 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 by-law 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.

(R.C. § 4511.204)

## **§ 72.71 USE OF ELECTRONIC WIRELESS COMMUNICATION DEVICES BY MINORS OR PROBATIONARY DRIVERS WHILE DRIVING PROHIBITED.**

(A) No holder of a temporary instruction permit who has not attained the age of 18 years and no holder of a probationary driver's license shall drive a motor vehicle on any street, highway, or property used by the public for purposes of vehicular traffic or parking while using in any manner an electronic wireless communications device.

(B) Division (A) of this section does not apply to either of the following:

(1) A person using an electronic wireless communications device for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor

vehicle is outside a lane of travel;

(3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.

(C) (1) Except as provided in division (C)(2) of this section, whoever violates division (A) of this section shall be fined \$150. In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of 60 days.

(2) If the person previously has been adjudicated a delinquent child or a juvenile traffic offender for a violation of this section, whoever violates this section shall be fined \$300. In addition, the court shall impose a class seven suspension of the person's driver's license or permit for a definite period of one year.

(D) The filing of a sworn complaint against a person for a violation of R.C. § 4511.205 does not preclude the filing of a sworn complaint for a violation of a substantially equivalent by-law for the same conduct. However, if a person is adjudicated a delinquent child or a juvenile traffic offender for a violation of R.C. § 4511.205 and is also adjudicated a delinquent child or a juvenile traffic offender for a violation of a substantially equivalent by-law for the same conduct, the two offenses are allied offenses of similar import under R.C. § 2941.25.

(E) As used in this section, ***ELECTRONIC WIRELESS COMMUNICATIONS DEVICE*** includes any of the following:

(1) A wireless telephone;

(2) A personal digital assistant;

(3) A computer, including a laptop computer and a computer tablet;

(4) A text-messaging device;

(5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.

(R.C. § 4511.205)

## **VEHICLE PERMIT**

### **§ 72.75 PERMIT REQUIRED.**

(A) No person shall drive or propel or cause to be driven or propelled, a motor vehicle along or over any park road or any other portion of the park, unless an annual motor vehicle permit or a daily motor vehicle permit, valid under the provisions of this section, has been procured and affixed to the windshield in accordance with instruction on the decal. An annual permit may not be affixed in a temporary manner.

(B) The fee for the annual motor vehicle permit shall be determined by the Board of Park Commissioners. The annual motor vehicle permit will admit the motor vehicle to any park, as often as desired, during the calendar year for which the permit is issued. All permits expire on December 31 of the year for which they are dated.

(C) The fee for the daily motor vehicle permit shall be determined by the Board of Park Commissioners. The daily motor vehicle permit will admit a motor vehicle to any park on the day for which the permit has been issued as often as desired during the hours the park is open.

(D) No annual or daily motor vehicle permit shall be required for emergency vehicles, governmentally owned and operated vehicles, privately owned vehicles used on park business, or others with written permission from the Board. Certain areas of the park may be declared exempt from the requirement of this law by official action of the Board for a specified day or days or portion of a day or days for park-sponsored events provided for and open to the public.

(E) An annual or daily motor vehicle permit is not transferable. A replacement permit may be issued for an annual motor vehicle permit which needs replacing because of damage due to an accident. When a motor vehicle is exchanged, a replacement permit may be purchased for display on the newly acquired vehicle. In either of these cases, satisfactory proof of possession of previous valid permit must be shown by presenting the scraped off portion or portions of the old permit. The permit is not valid unless affixed to the windshield in accordance with the instructions on the permit. The fee for the replacement permit shall be determined by the Board of

Park Commissioners.

(F) The requirements of this section apply only to the entry of motor vehicles into the park and do not obviate the necessity of obtaining additional permits for services or facilities as are otherwise required by the Board.

(G) A permit does not assure entry to any park or portion thereof that may be temporarily closed by the Board for any reason or where motor vehicles are otherwise prohibited.

(H) Where a motor vehicle is found parked within the confines of the park without the required annual or daily motor vehicle permit affixed to the windshield, the registration plate displayed on the vehicle shall constitute prima facie evidence that the owner of the vehicle was the person who parked or placed it at the location where found.

(Prior by-law § 8H) (Amended 10- -2004) Penalty, see § 70.99

***Cross-reference:***

*Value of district permits, see § 137.11*

## **CHAPTER 73: PARKING REGULATIONS**

---

Section

- 73.01 Prohibition against parking on highways
- 73.02 Condition when motor vehicle left unattended
- 73.03 Parking near curb; privileges for persons with disabilities
- 73.04 Parking areas
- 73.05 No parking in closed areas
- 73.06 Removal of illegally parked vehicle
- 73.07 Officer may remove ignition key

### **§ 73.01 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.

(R.C. § 4511.66)

### **§ 73.02 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.

(R.C. § 4511.661)

### **§ 73.03 PARKING NEAR CURB; PRIVILEGES FOR PERSONS WITH DISABILITIES.**

(A) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with and not more than 12 inches from the right-hand curb, unless it is impossible to approach so close to the curb; in such case the stop shall be made as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.

(B) The park district may permit parking of vehicles with the left-hand wheels adjacent to and within 12 inches of the left-hand curb of a one-way roadway.

(C) (1) (a) Except as provided in division (C)(1)(b) of this section, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.

(b) The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.

(2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in division (C)(2) of this section irrespective of whether or not the space is metered.

(D) Notwithstanding any statute or any rule, regulation, or by-law air compressors, tractors, trucks, and other equipment, while being used in the construction, reconstruction, installation, repair, or removal of facilities near, on, over, or under a street or highway, may stop, stand, or park where necessary in order to perform such work, provided a flagperson is on duty or warning signs or lights are displayed as may be prescribed by the Director of Transportation.

(E) Special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces, shall be provided and designated by all political subdivisions and by the state and all agencies and instrumentalities thereof at all offices and facilities where parking is provided, whether owned, rented, or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators, and ramps. All elevated signs posted in accordance with this division (E) and R.C. § 3781.111(C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.

(F) (1) (a) No person shall stop, stand, or park any motor vehicle at special parking locations provided under division (E) of this section, or at special clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with that division, unless one of the following applies:

1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates;

2. The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.

(b) Any motor vehicle that is parked in a special marked parking location in violation of division (F)(1)(a)1. or (F)(1)(a)2. of this

section may be towed or otherwise removed from the parking location by the law enforcement agency of the park district. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the park district for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the park district for towing and storing motor vehicles.

(c) If a person is charged with a violation of division (F)(1)(a)1. or (F)(1)(a)2. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than 72 hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in R.C. § 4503.44(A)(1).

(2) No person shall stop, stand, or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal stripes and is located immediately adjacent to a special parking location provided under division (E) of this section or at a special clearly marked parking location provided in or on a privately owned parking lot, parking garage, or other parking area and designated in accordance with that division.

(G) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or special license plates, or when a motor vehicle is being operated by or for the transport of a handicapped person, and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where by-laws or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

(H) No owner of an office, facility, or parking garage where special parking locations are required to be designated in accordance with division (E) of this section shall fail to properly mark the special parking locations in accordance with that division or fail to maintain the markings of the special locations, including the erection and maintenance of the fixed or movable signs.

(I) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special license plates if the parking card or special license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(J) As used in this section:

**HANDICAPPED PERSON.** Means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or so severely handicapped as to be unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other handicapping condition.

**PERSON WITH A DISABILITY THAT LIMITS OR IMPAIRS THE ABILITY TO WALK.** Has the same meaning as in R.C. § 4503.44.

**SPECIAL LICENSE PLATES** and **REMOVABLE WINDSHIELD PLACARD.** Mean any license plates or removable windshield placard or temporary removable windshield placard issued under R.C. § 4503.41 or 4503.44, and also mean any substantially equivalent license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country, or sovereignty.

(K) Penalty.

(1) Whoever violates division (A) or (C) of this section is guilty of a minor misdemeanor.

(2) (a) Whoever violates division (F)(1)(a)1. or (F)(1)(a)2. of this section is guilty of a misdemeanor and shall be punished as provided in division (K)(2)(a) and (K)(2)(b) of this section. Except as otherwise provided in division (K)(2)(a) of this section, an offender who violates division (F)(1)(a)1. or (F)(1)(a)2. of this section shall be fined not less than \$250 nor more than \$500. An offender who violates division (F)(1)(a)1. or (F)(1)(a)2. of this section shall be fined not more than \$100 if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:

1. At the time of the violation of division (F)(1)(a)1. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or special license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in division (F)(1)(a)1. of this section.

2. At the time of the violation of division (F)(1)(a)2. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or special handicapped license plates that then were valid but the offender or the person neglected to display the card or license plates as described in division (F)(1)(a)2. of this section.

(b) In no case shall an offender who violates division (F)(1)(a)1. or (F)(1)(a)2. be sentenced to any term of imprisonment.

(c) An arrest or conviction for a violation of division (F)(1)(a)1. or (F)(1)(a)2. of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(d) The clerk of the court shall pay every fine collected under divisions (K)(2) and (K)(3) of this section to the park district. Except as provided in division (K)(2) of this section, the park district shall use the fine moneys it receives under divisions (K)(2) and (K)(3) of this section to pay the expenses it incurs in complying with the signage and notice requirements contained in division (E) of this section. The park district may use up to 50% of each fine it receives under divisions (K)(2) and (K)(3) of this section to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the park district that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs.

(3) Whoever violates division (F)(2) of this section shall be fined not less than \$250 nor more than \$500. In no case shall an offender who violates division (F)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of division (F)(2) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(4) Whoever violates division (H) of this section shall be punished as follows:

(a) Except as otherwise provided in division (K)(4) of this section, the offender shall be issued a warning.

(b) If the offender previously has been convicted of or pleaded guilty to a violation of division (H) of this section the offender shall not be issued a warning but shall be fined not more than \$25 for each parking location that is not properly marked or whose markings are not properly maintained.

(R.C. § 4511.69)

***Statutory reference:***

*Buildings, access for disabled persons, see R.C. § 3781.111*

**§ 73.04 PARKING AREAS.**

Parking of any motor car, motor vehicle, motorcycle, or motorized bicycle is restricted to designated areas maintained as parking areas, unless obeying the directions of park personnel or a traffic-control device.

Penalty, see § 70.99

**§ 73.05 NO PARKING IN CLOSED AREAS.**

No motor car, motor vehicle, motorcycle, motorized bicycle, or bicycle shall be parked or stored on any area of the park closed to vehicular access or after park closing as set forth in § 132.10.

Penalty, see § 70.99

**§ 73.06 REMOVAL OF ILLEGALLY PARKED VEHICLE.**

(A) Whenever any police officer finds a vehicle standing upon a highway in violation of R.C. § 4511.66, such officer may move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or improved or main traveled part of such highway.

(B) Whenever any police officer finds a vehicle unattended upon any highway, bridge, or causeway, or in any tunnel, where such vehicle constitutes an obstruction to traffic, such officer may provide for the removal of such vehicle to the nearest garage or other place of safety.

(R.C. § 4511.67)

## § 73.07 OFFICER MAY REMOVE IGNITION KEY.

A law enforcement officer may remove the ignition key left in the ignition switch of an unlocked and unattended motor vehicle parked on a street or highway. The officer removing the key shall place notification upon the vehicle detailing his or her name and badge number, the place where the key may be reclaimed, and the procedure for reclaiming the key. The key shall be returned to the owner of the motor vehicle upon presentation of proof of ownership.

(R.C. § 4549.05)

## CHAPTER 74: EQUIPMENT AND LOADS

---

### Section

#### *Equipment*

- 74.01 Unsafe vehicles, prohibition against operation
- 74.02 Bumpers on motor vehicles; suspension systems
- 74.03 Lighted lights required
- 74.04 Headlights
- 74.05 Taillights and illumination of rear license plate
- 74.06 Red reflectors required
- 74.07 Studded tires
- 74.08 Stoplight regulations
- 74.09 Red light or flag required
- 74.10 Lights on parked vehicles
- 74.11 Lights on slow-moving vehicles; slow-moving vehicle emblem
- 74.12 Spotlight and auxiliary driving lights
- 74.13 Cowl, fender, and back-up lights
- 74.14 Two lights displayed
- 74.15 Headlights required
- 74.16 Number of lights permitted; red and flashing lights
- 74.17 Focus and aim of headlights
- 74.18 Brake equipment; specifications
- 74.19 Horns, sirens, and warning devices
- 74.20 Mufflers; excessive smoke or gas
- 74.21 Rearview mirrors
- 74.22 Windshields and wipers
- 74.23 Wheel protectors required on heavy commercial vehicles
- 74.24 Tinted glass; other vision obscuring material

## *Loads*

74.40 Limitation of load extension on left side of vehicle

74.41 All loads shall be properly secured

## **EQUIPMENT**

### **§ 74.01 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.

(R.C. § 4513.02(A), (H))

### **§ 74.02 BUMPERS ON MOTOR VEHICLES; SUSPENSION SYSTEMS.**

(A) As used in this section:

**GROSS VEHICLE WEIGHT RATING.** Means the manufacturer's gross vehicle weight rating established for that vehicle.

**MANUFACTURER.** Has the same meaning as in R.C. § 4501.01.

**MULTIPURPOSE PASSENGER VEHICLE.** Means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.

**PASSENGER CAR.** Means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.

**TRUCK.** Means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.

(B) Rules adopted by the Director of Public Safety, in accordance with R.C. Chapter 119, shall govern the maximum bumper height or, in the absence of bumpers and in cases where bumper height have been lowered or modified, the maximum height to the bottom of the frame rail of any passenger car, multipurpose passenger vehicle or truck.

(C) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this state that does not conform to the requirements of this section or any applicable rule adopted pursuant to R.C. § 4513.021.

(D) No person shall modify any motor vehicle registered in this state in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system.

(E) Nothing contained in this section or in the rules adopted pursuant to R.C. § 4513.021 shall be construed to prohibit either of the following:

(1) The installation upon a passenger car, multipurpose passenger vehicle or truck registered in this state of heavy duty equipment, including shock absorbers and overload springs;

(2) The operation on a street or highway of a passenger car, multipurpose passenger vehicle, or truck registered in this state with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.

(F) This section and the rules adopted pursuant to R.C. § 4513.021 do not apply to any specially designed or modified passenger car, multipurpose passenger vehicle, or truck when operated off a street or highway in races and similar events.

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

### **§ 74.03 LIGHTED LIGHTS REQUIRED.**

(A) Every vehicle, other than a motorized bicycle, operated upon a street or highway within this park district 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 park district 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 park district 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.

### **§ 74.04 HEADLIGHTS.**

(A) (1) Every motor vehicle, other than a motorcycle, shall be equipped with at least two headlights with at least one near each side of the front of the motor vehicle.

(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.

### **§ 74.05 TAILLIGHTS 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.

(R.C. § 4513.05)

#### **§ 74.06 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 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.

(R.C. § 4513.06)

#### **§ 74.07 STUDED TIRES.**

(A) For the purposes of this section, **STUDED 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 park district, 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.

(R.C. § 5589.081)

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

(R.C. § 5589.99(B))

#### **§ 74.08 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.

(R.C. § 4513.071)

## § 74.09 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, 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.

(R.C. § 4513.09)

## § 74.10 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, 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 park district 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.

(R.C. § 4513.10)

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

(R.C. § 4513.99)

## § 74.11 LIGHTS ON SLOW-MOVING VEHICLES; SLOW-MOVING VEHICLE EMBLEM.

(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, shall, at the times specified in R.C. § 4513.03, 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 Executive 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 mph or less, shall be operated at a speed not exceeding 25 mph, 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 mph may be operated on a street or highway at a speed greater than 25 mph provided it is operated in accordance with this section. As used in this division (B), **MACHINERY** does not include any vehicle designed to be drawn by an animal.

(C) The use of the SMV emblem shall be restricted to animal-drawn vehicles and to the slow-moving vehicles specified in 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 mph 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 mph, 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. 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 (E), farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating, or rotating amber light, as permitted by R.C. § 4513.17, 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 (F), 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, 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 mph 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 in the park district, 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 (G).

(2) If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 mph is being operated on a street or highway in the park district at a speed greater than 25 mph 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 mph is being operated on a street or highway at a speed greater than 25 mph, 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 mph or less.

(R.C. § 4513.11)

(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, 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/ASAE 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, 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/ASAE 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, 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.

(R.C. § 4513.111)

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

(R.C. §§ 4513.11(I), 4513.111(E))

#### **§ 74.12 SPOTLIGHT AND AUXILIARY DRIVING LIGHTS.**

(A) (1) Any motor vehicle may be equipped with not more than one spotlight and every lighted spotlight shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle, nor more than 100 feet ahead of the vehicle.

(2) Any motor vehicle may be equipped with not more than three auxiliary driving lights mounted on the front of the vehicle. Any such lights which do not conform to the specifications for auxiliary driving lights and the regulations for their use prescribed by the Director of Public Safety shall not be used.

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

(R.C. § 4513.12)

#### **§ 74.13 COWL, FENDER, AND BACK-UP LIGHTS.**

(A) (1) Any motor vehicle may be equipped with side cowl or fender lights which shall emit a white or amber light without glare.

(2) Any motor vehicle may be equipped with lights on each side thereof which shall emit a white or amber light without glare.

(3) Any motor vehicle may be equipped with back-up lights, either separately or in combination with another light. No back-up lights shall be continuously lighted when the motor vehicle is in forward motion.

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

(R.C. § 4513.13)

#### **§ 74.14 TWO LIGHTS DISPLAYED.**

(A) At all times mentioned in R.C. § 4513.03, 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 subject to the regulations governing lights on parked vehicles.

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

(R.C. § 4513.14)

## **§ 74.15 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, 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.

(R.C. § 4513.15)

## **§ 74.16 NUMBER OF LIGHTS PERMITTED; RED AND FLASHING LIGHTS.**

(A) Whenever a motor vehicle equipped with headlights is also equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candlepower, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(B) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights, or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(C) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, rural mail delivery vehicles, vehicles as provided in R.C. § 4513.182, highway maintenance vehicles, funeral hearses, funeral escort vehicles, and similar equipment operated by the Department or local authorities, which shall be equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light, but shall not display a flashing, oscillating or rotating light of any other color, nor to vehicles or machinery permitted by R.C. § 4513.11 to have a flashing red light.

(2) When used on a street or highway, farm machinery and vehicles escorting farm machinery may be equipped with and display a flashing, oscillating or rotating amber light, and the prohibition contained in division (C)(1) of this section does not apply to such machinery or vehicles. Farm machinery may also display the lights described in R.C. § 4513.11.

(D) Except a person operating a public safety vehicle, as defined in R.C. § 4511.01(E), or a school bus, no person shall operate, move, or park upon or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light; and except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, operating a public safety vehicle when on duty, no person shall operate, move, or park upon or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

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

(R.C. § 4513.17)

(F) (1) Notwithstanding any other provision of law, a motor vehicle operated by a coroner, deputy coroner or coroner's investigator may be equipped with a flashing, oscillating or rotating red or blue light and siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet. Such a vehicle may display the flashing, oscillating or rotating red or blue light and may give the audible signal of the siren, whistle or bell only when responding to a fatality or a fatal motor vehicle

accident on a street or highway and only at those locations where the stoppage of traffic impedes the ability of the coroner, deputy coroner or coroner's investigator to arrive at the site of the fatality.

(2) This division (F) does not relieve the coroner, deputy coroner or coroner's investigator operating a motor vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(R.C. § 4513.171)

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

(R.C. §§ 4513.17(F), 4513.171(B))

#### **§ 74.17 FOCUS AND AIM OF HEADLIGHTS.**

(A) No person shall use any lights mentioned in R.C. §§ 4513.03 through 4513.18 upon any motor vehicle, trailer, or semitrailer unless these lights are equipped, mounted, and adjusted as to focus and aim in accordance with regulations which are prescribed by the Director of Public Safety.

(B) The headlights on any motor vehicle shall comply with the headlamp color requirements contained in Federal Motor Vehicle Safety Standard Number 108, 49 C.F.R. § 571.108. No person shall operate a motor vehicle in violation of this division (B).

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

(R.C. § 4513.19)

#### **§ 74.18 BRAKE EQUIPMENT; SPECIFICATIONS.**

(A) The following requirements govern as to brake equipment on vehicles.

(1) Every motor vehicle, other than a motorcycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, then on such motor vehicles, manufactured or assembled after January 1, 1942, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

(2) Every motorcycle, when operated upon a highway shall be equipped with at least one adequate brake, which may be operated by hand or by foot.

(3) Every motorized bicycle shall be equipped with brakes meeting the rules adopted by the Director of Public Safety under R.C. § 4511.521.

(4) When operated upon the highways, the following vehicles shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle, designed to be applied by the driver of the towing motor vehicle from its cab, and also designed and connected so that, in case of a breakaway of the towed vehicle, the brakes shall be automatically applied:

(a) Except as otherwise provided in this section, every trailer or semitrailer, except a pole trailer, with an empty weight of 2,000 pounds or more, manufactured or assembled on or after January 1, 1942;

(b) Every manufactured home or travel trailer with an empty weight of 2,000 pounds or more, manufactured or assembled on or after January 1, 2001.

(5) Every watercraft trailer with a gross weight or manufacturer's gross vehicle weight rating of 3,000 pounds or more that is manufactured or assembled on or after January 1, 2008, shall have separate brakes equipped with hydraulic surge or electrically operated brakes on two wheels.

(6) In any combination of motor-drawn trailers or semitrailers equipped with brakes, means shall be provided for applying the rearmost brakes in approximate synchronism with the brakes on the towing vehicle, and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost brakes; or both of the above means, capable of being used alternatively, may be employed.

(7) Every vehicle and combination of vehicles, except motorcycles and motorized bicycles, and except trailers and semitrailers of

a gross weight of less than 2,000 pounds, and pole trailers, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.

(8) The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(9) Every motor vehicle or combination of motor-drawn vehicles shall, at all times and under all conditions of loading, be capable of being stopped on a dry, smooth, level road free from loose material, upon application of the service or foot brake, within the following specified distances, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

(a) Vehicles or combinations of vehicles having brakes on all wheels shall come to a stop in 30 feet or less from a speed of 20 mph;

(b) Vehicles or combinations of vehicles not having brakes on all wheels shall come to a stop in 40 feet or less from a speed of 20 mph.

(10) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

(R.C. § 4513.20)

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

(R.C. § 4513.99)

#### **§ 74.19 HORNS, SIRENS, AND WARNING DEVICES.**

(A) (1) Every motor vehicle when operated upon a highway shall be equipped with a horn which is in good working order and capable of emitting sound audible, under normal conditions, from a distance of not less than 200 feet.

(2) No motor vehicle shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle, or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal. Every emergency vehicle shall be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Director of Public Safety. Such equipment shall not be used except when such vehicle is operated in response to an emergency call or is in the immediate pursuit of an actual or suspected violator of the law, in which case the driver of the emergency vehicle shall sound such equipment when it is necessary to warn pedestrians and other drivers of the approach thereof.

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

(R.C. § 4513.21)

#### **§ 74.20 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.

(R.C. § 4513.22)

#### **§ 74.21 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.

(R.C. § 4513.23)

#### **§ 74.22 WINDSHIELDS AND WIPERS.**

(A) No person shall drive any motor vehicle on a street or highway in this park district, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.

(B) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster, or other nontransparent material upon the front windshield, sidewings, side, or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster, or decal not to exceed four inches in height by six inches in width. No sign, poster, or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when, in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.

(2) Division (B)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:

- (a) It does not restrict the vehicle operator's sight lines to the road and highway signs and signals;
- (b) It does not conceal the vehicle identification number.

(3) Division (B)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:

- (a) It does not restrict the vehicle operator's sight lines to the road and highway signs and signals;

(b) It is mounted not more than six inches below the upper edge of the windshield and is outside the area swept by the vehicle's windshield wipers.

(C) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

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

(R.C. § 4513.24)

#### **§ 74.23 WHEEL PROTECTORS REQUIRED ON HEAVY COMMERCIAL VEHICLES.**

(A) No person shall drive or operate, or cause to be driven or operated, any commercial car, trailer, or semitrailer, used for the transportation of goods or property, the gross weight of which, with load, exceeds three tons, upon the public highways, streets, bridges, and culverts within the park district, unless such vehicle is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels of such vehicle or combination of vehicles to prevent, as far as practicable, the wheels from throwing dirt, water, or other materials on the windshields of following vehicles. Such protectors or flaps shall have a ground clearance of not more

than one-third of the distance from the center of the rearmost axle to the center of the flaps under any conditions of loading of the vehicle, and they shall be at least as wide as the tires they are protecting. If the vehicle is so designed and constructed that such requirements are accomplished by means of fenders, body construction, or other means of enclosure, then no such protectors or flaps are required. Rear wheels not covered at the top by fenders, bodies, or other parts of the vehicle shall be covered at the top by protective means extending at least to the center line of the rearmost axle.

(R.C. § 5577.11)

(B) Whoever violates this section shall be fined not more than \$25.

(R.C. § 5577.99(E))

#### **§ 74.24 TINTED GLASS; OTHER VISION OBSCURING MATERIAL.**

(A) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is registered in this state unless the motor vehicle conforms to the requirements concerning tinted glass and reflectorized material of R.C. § 4513.241 and of any applicable rule adopted under that section.

(B) No person shall install in or on any motor vehicle, any glass or other material that fails to conform to the requirements of R.C. § 4513.241 or of any rule adopted under that section.

(C) (1) No used motor vehicle dealer or new motor vehicle dealer, as defined in R.C. § 4517.01, shall sell any motor vehicle that fails to conform to the requirements of R.C. § 4513.241 or of any rule adopted under that section.

(2) No manufacturer, remanufacturer, or distributor, as defined in R.C. § 4517.01, shall provide to a motor vehicle dealer licensed under R.C. Chapter 4517 or to any other person, a motor vehicle that fails to conform to the requirements of R.C. § 4513.241 or of any rule adopted under that section.

(D) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings, or rear window.

(E) This section does not apply to the manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by Federal Motor Vehicle Safety Standard #205.

(F) With regard to any side window behind a driver's seat or any rear window other than any window on an emergency door, this section does not apply to any school bus used to transport a child with disabilities pursuant to R.C. Chapter 3323, whom it is impossible or impractical to transport by regular school bus in the course of regular route transportation provided by a school district. As used in this division (F), **CHILD WITH DISABILITIES** has the same meaning as in R.C. § 3323.01.

(G) This section does not apply to any school bus that is to be sold and operated outside the park district.

(H) (1) This section does not apply to a motor vehicle used by a law enforcement agency under either of the following circumstances:

(a) The vehicle does not have distinctive markings of a law enforcement vehicle but is operated by or on behalf of the law enforcement agency in an authorized investigation or other activity requiring that the presence and identity of the vehicle occupants be undisclosed.

(b) The vehicle primarily is used by the law enforcement canine unit for transporting a police dog.

(2) As used in this division, **LAW ENFORCEMENT AGENCY** means a police department, the office of a sheriff, the State Highway Patrol, a county prosecuting attorney, or a federal, state, or local governmental body that enforces criminal laws and that has employees who have a statutory power of arrest.

(R.C. § 4513.241(C) - (J))

(I) (1) Whoever violates division (A), (C)(2) or (D) of this section is guilty of a minor misdemeanor.

(2) Whoever violates division (C)(1) of this section is guilty of a minor misdemeanor if the dealer or the dealer's agent knew of the nonconformity at the time of sale.

(3) (a) Whoever violates division (B) of this section is guilty of a misdemeanor of the fourth degree, except that an organization may not be convicted unless the act of installation was authorized by the board of directors, trustees, partners, or by a high managerial

officer acting on behalf of the organization, and installation was performed by an employee of the organization acting within the scope of the person's employment.

(b) In addition to any other penalty imposed under this section, whoever violates division (B) of this section is liable in a civil action to the owner of a motor vehicle on which was installed the nonconforming glass or material for any damages incurred by that person as a result of the installation of the nonconforming glass or material, costs of maintaining the civil action, and attorney fees.

(c) In addition to any other penalty imposed under this section, if the offender previously has been convicted of or pleaded guilty to a violation of division (B) of this section and the offender is a motor vehicle repair operator registered under R.C. Chapter 4775 or a motor vehicle dealer licensed under R.C. Chapter 4517, whoever violates division (B) of this section is subject to a registration or license suspension, as applicable, for a period of not more than 180 days.

(R.C. § 4513.241(K))

## LOADS

### § 74.40 LIMITATION OF LOAD EXTENSION ON LEFT SIDE OF VEHICLE.

(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.

(R.C. § 4513.30)

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

(R.C. § 4513.99)

### § 74.41 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.

(R.C. § 4513.99)

## CHAPTER 75: BICYCLES AND MOTORCYCLES

---

### Section

75.01 Bicycles

75.02 Operation of motorized bicycle

75.03 Rules for bicycles, motorcycles, and snowmobiles

75.04 Prohibition against attaching bicycles and sleds to vehicles

75.05 Riding bicycles; motorcycles abreast

75.06 Signal devices on bicycle

## **§ 75.01 BICYCLES.**

(A) The provisions of this title that are applicable to bicycles apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles.

(B) Except as provided in division (D) of this section, a bicycle operator who violates any provisions of this title described in division (A) of this section that is applicable to bicycles may be issued a ticket, citation, or summons by a law enforcement officer for the violation in the same manner as the operator of a motor vehicle would be cited for the same violation. A person who commits any such violation while operating a bicycle shall not have any points assessed against the person's driver's license, commercial driver's license, temporary instruction permit, or probationary license under R.C. § 4510.036.

(C) Except as provided in division (D) of this section, in the case of a violation of any provision of this title described in division (A) of this section by a bicycle operator or by a motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of bicycle riders at the time of the violation, the court, notwithstanding any provision of the Ohio Revised Code to the contrary, may require the bicycle operator or motor vehicle operator to take and successfully complete a bicycling skills course approved by the court in addition to or in lieu of any penalty otherwise prescribed by this traffic code or the Ohio Revised Code for that violation.

(D) Divisions (B) and (C) of this section do not apply to violations of R.C. § 4511.19.

(R.C. § 4511.52)

## **§ 75.02 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 Executive 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.

(R.C. § 4511.521)

***Statutory reference:***

*Suspension of probationary motorized bicycle license by the state, see R.C. § 4510.34*

**§ 75.03 RULES FOR BICYCLES, MOTORCYCLES, AND SNOWMOBILES.**

(A) As used in this section, ***SNOWMOBILE*** has the same meaning as given that term in R.C. § 4519.01.

(B) (1) No person operating a bicycle shall ride other than upon or astride the permanent and regular seat attached thereto or carry any other person upon such bicycle other than upon a firmly attached and regular seat thereon, and no person shall ride upon a bicycle other than upon such a firmly attached and regular seat.

(2) 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.

(3) 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.

(4) No person shall ride upon a motorcycle that is equipped with a seat other than while sitting upon the seat.

(5) No person operating a bicycle shall carry any package, bundle, or article that prevents the driver from keeping at least one hand upon the handlebars.

(6) No bicycle or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped. No motorcycle shall be operated on a highway when the handlebars rise higher than the shoulders of the operator when the operator is seated in the operator's seat or saddle.

(C) (1) Except as provided in division (C)(3) of this section, no person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. Except as provided in division (C)(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 (C)(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 (C)(1) and (C)(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.

(D) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle.

(E) Except as otherwise provided in this division, whoever violates division (B) or (C)(1) or (C)(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 (B) or (C)(1) or (C)(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 (B) or (C)(1) or (C)(2) of this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.53)

#### **§ 75.04 PROHIBITION AGAINST ATTACHING BICYCLES AND SLEDS TO VEHICLES.**

(A) (1) No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or self to any vehicle upon a roadway.

(2) No operator shall knowingly permit any person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle to attach the same or self to any vehicle while it is moving upon a roadway.

(3) This section does not apply to towing a disabled 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.

(R.C. § 4511.54)

#### **§ 75.05 RIDING BICYCLES; MOTORCYCLES ABREAST.**

(A) Every person operating a bicycle upon a roadway or a trail shall ride as near to the right side of the roadway as practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction. Where a walking or bicycle trail has been provided adjacent to any road or highway, all pedestrians, equestrians and bicyclists shall use said path.

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

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

(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.

(R.C. § 4511.55)

#### **§ 75.06 SIGNAL DEVICES ON BICYCLE.**

(A) Every bicycle when in use at the times specified in R.C. § 4513.03 shall be equipped with the following:

(1) A lamp mounted on the front of either the bicycle or the operator that shall emit a white light visible from a distance of at least 500 feet to the front and 300 feet to the sides. A generator-powered lamp that emits light only when the bicycle is moving may be used to meet this requirement;

(2) A red reflector on the rear that shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front

of lawful lower beams of head lamps on a motor vehicle;

(3) A lamp emitting either flashing or steady red light visible from a distance of 500 feet to the rear shall be used in addition to the red reflector. If the red lamp performs as a reflector in that it is visible as specified in division (A)(2) of this section, the red lamp may serve as the reflector and a separate reflector is not required.

(B) Additional lamps and reflectors may be used in addition to those required under division (A) of this section, except that red lamps and red reflectors shall not be used on the front of the bicycle and white lamps and white reflectors shall not be used on the rear of the bicycle.

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

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

(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.

(R.C. § 4511.56)

## TITLE IX: GENERAL REGULATIONS

### Chapter

#### 90. ANIMALS

#### 91. ALCOHOLIC BEVERAGES

#### 92. FIREARMS, FIREWORKS, FIRE PREVENTION

### CHAPTER 90: ANIMALS

### Section

- 90.01 Hunting and molesting wildlife
- 90.02 Domestic animals prohibited
- 90.03 Certain pets permitted; supervision; removal of fecal matter
- 90.04 Pets in play areas
- 90.05 Jacklighting prohibited
- 90.06 Wild animals; ownership by state
- 90.07 Fishing license required
- 90.08 Fishing regulations
  
- 90.99 Penalty

### ***Cross-reference:***

*Animal compliance with traffic regulations, see § 72.27*

### **§ 90.01 HUNTING AND MOLESTING WILDLIFE.**

(A) No person in the confines of the park shall hunt, pursue with dogs, trap, molest, harm, harass, injure, or disturb wild animals or take wild birds or animals, or therein rob or molest any bird nest or take the eggs of any bird found in the confines of the park.

(B) Special exceptions to trapping, hunting, or other control measures for a population of wild animal species may be permitted for purposes of scientific research or wildlife management. These measures must be conducted in accordance with established park district policies and procedures and with written authorization from the Executive Director.

(C) Trapping and removal of non-native animals to preserve native wildlife and habitats may be accomplished by park personnel.

(Prior by-law § 3) (Amended 8- -2005) Penalty, see § 90.99

### **§ 90.02 DOMESTIC ANIMALS PROHIBITED.**

No person shall herd, graze, drive, or permit to run at large within the park, any cattle, horse, mule, donkey, goat, swine, sheep, or other animals, or any poultry or other fowl, without specific written permission from the Executive Director.

(Prior by-law § 15) Penalty, see § 90.99

### **§ 90.03 CERTAIN PETS PERMITTED; SUPERVISION; REMOVAL OF FECAL MATTER.**

(A) For the purpose of this chapter, *PET* shall mean any privately owned animal, whether domestic or wild.

(B) Without specific written permission from the Executive Director, or in designated authorized off-leash area, no person shall bring into, have, or keep in the park, any animal destructive of wildlife, nor bring into or permit within the park a domestic dog, or a domestic cat unless such is under constant control and supervision, and held on a leash no longer than six feet in length.

(C) No pets or other animals shall be allowed to disturb or become a nuisance to other users of the park.

(D) No person shall release, abandon, or deposit any animal, domestic or wild, without permission from the Executive Director.

(E) No person, while in or on a moving motor vehicle, motorized bicycle, or bicycle, shall lead or permit to be led, any leashed pet or animal.

(F) It shall be the duty and responsibility of the owner, keeper, or person in control of any pet which has deposited any fecal matter on park district trails or in park district recreation areas, to immediately cause said fecal matter to be removed and deposited in a suitable container or receptacle under the immediate control of the owner, keeper, or person in control of the pet.

(G) This section does not assure admittance of park visitors with their pets to such locations and at such times as may conflict with Board of Health requirements or preservation of public safety and order within the park.

(Prior by-law § 15A) (Amended 4-19-2006) Penalty, see § 90.99

### **§ 90.04 PETS IN PLAY AREAS.**

Pets are not permitted in play equipment areas in the park.

Penalty, see § 90.99

### **§ 90.05 JACKLIGHTING PROHIBITED.**

(A) No person shall throw or cast the rays of a spotlight or other artificial light from any vehicle into any field, woodland, or forest while having in his or her possession a hunting device, or throw or cast the rays of a spotlight or other artificial light from any vehicle into any field, woodland, or forest for the purpose of locating a wild animal.

(B) This section does not apply to law enforcement officers, wildlife officers, military personnel, and officers or employees of the

Department of Natural Resources while in the performance of their duties, or to any landowner or lessee having a reason to use a light while engaged in surveillance or protection of his or her property.

(C) An officer whose duty it is to enforce this chapter may arrest a person whom he or she has reasonable grounds to believe is violating this section, search the vehicle for firearms or other hunting implements in the possession or under the control of that person, and seize the same.

(R.C. § 1533.161) Penalty, see § 90.99

## **§ 90.06 WILD ANIMALS; OWNERSHIP BY STATE.**

(A) The ownership of and the title to all wild animals in this state, not legally confined or held by private ownership legally acquired, is in the state, which holds such title in trust for the benefit of all the people. Individual possession shall be obtained only in accordance with the Revised Code or division rules. No person at any time of the year shall take in any manner or possess any number or quantity of wild animals, except wild animals that the Revised Code or division rules permit to be taken, hunted, killed, or had in possession, and only at the time and place and in the manner that the Revised Code or division rules prescribe. No person shall buy, sell, or offer any part of wild animals for sale, or transport any part of wild animals, except as permitted by the Revised Code or division rules. No person shall possess or transport a wild animal that has been taken or possessed unlawfully outside the state.

(B) A person doing anything prohibited or neglecting to do anything required by this chapter or R.C. Chapter 1533 or contrary to any division rule violates this section. A person who counsels, aids, shields, or harbors an offender under those chapters or any division rule, or who knowingly shares in the proceeds of such a violation, or receives or possesses any wild animal in violation of the Revised Code or division rule, violates this section.

(R.C. § 1531.02) Penalty, see § 90.99

## **§ 90.07 FISHING LICENSE REQUIRED.**

(A) Except as provided in this section or R.C. § 1533.12(A)(2) or (C), no person, including nonresidents, shall take or catch any fish by angling in any of the waters in the state or engage in fishing in those waters without a license. No person shall take or catch frogs or turtles without a valid fishing license, except as provided in this section. Persons fishing in privately owned ponds, lakes, or reservoirs to or from which fish are not accustomed to migrate are exempt from the license requirements set forth in this section. Persons fishing in privately owned ponds, lakes, or reservoirs that are open to public fishing through an agreement or lease with the Division of Wildlife shall comply with the license requirements set forth in this section.

(B) The fee for an annual license for a resident of a state that is not a party to an agreement under R.C. § 1533.91 shall be as set by this state. The fee for an annual license for a resident of a state that is a party to such an agreement shall be as set by this state. The fee for an annual license for residents of this state shall be as set by this state unless the rules adopted under R.C. § 1533.12(B) provide for issuance of a resident fishing license to the applicant free of charge. Except as provided in rules adopted under R.C. § 1533.12(B)(2), each applicant who is a resident of this state and who at the time of application is 66 years of age or older shall procure a special senior fishing license, the fee for which shall be one-half of the annual resident fishing license fee.

(C) Any person under the age of 16 years may take or catch frogs and turtles and take or catch fish by angling without a license.

(D) The Chief of the Division of Wildlife may issue a tourist's license expiring three days from the effective date of the license to a resident of a state that is not a party to an agreement under R.C. § 1533.91. The fee for a tourist's license shall be as set by this state.

(E) The Chief shall adopt rules under R.C. § 1531.10 providing for the issuance of a one-day fishing license to a resident of this state or of any other state. The fee for such a license shall be 55% of the amount established under this section for a tourist's license, rounded up to the nearest whole dollar. A one-day fishing license shall allow the holder to take or catch fish by angling in the waters in the state, engage in fishing in those waters, or take or catch frogs or turtles in those waters for one day without obtaining an annual license or a tourist's license under this section. At the request of a holder of a one-day fishing license who wishes to obtain an annual license, a clerk or agent authorized to issue licenses under R.C. § 1533.13, not later than the last day on which the one-day license would be valid if it were an annual license, shall credit the amount of the fee paid for the one-day license toward the fee charged for the annual license if so authorized by the Chief. The clerk or agent shall issue the annual license upon presentation of the one-day license and payment of a fee in an amount equal to the difference between the fee for the annual license and the fee for the one-day license.

(F) Unless otherwise provided by division rule, each annual license shall begin on the first day of March of the current year and expire on the last day of February of the following year.

(G) No person shall alter a fishing license or possess a fishing license that has been altered.

(H) No person shall procure or attempt to procure a fishing license by fraud, deceit, misrepresentation, or any false statement.

(I) A resident of this state who owns land over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, together with the members of the immediate families of such owners, may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. This exemption extends to tenants actually residing upon such lands and to the members of the immediate families of the tenants. A resident of any other state who owns land in this state over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, and the spouse and children living with the owner, may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught from that water without obtaining a license under this section, provided that the state of residence of the owner allows residents of this state owning real property in that state, and the spouse and children living with such a property owner, to take frogs and turtles and take or catch fish without a license. If the owner of such land in this state is a limited liability company or a limited liability partnership that consists of three or fewer individual members or partners, as applicable, an individual member or partner who is a resident of this state and the member's or partner's children of any age may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. In addition, if the owner of such land in this state is a trust that has a total of three or fewer trustees and beneficiaries, an individual who is a trustee or beneficiary and who is a resident of this state and the individual's children of any age may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. Residents of state or county institutions, charitable institutions, and military homes in this state may take frogs and turtles without procuring the required license, provided that a member of the institution or home has an identification card, which shall be carried on that person when fishing.

(J) Every fisher required to be licensed, while fishing or taking or attempting to take frogs or turtles, shall carry the license and exhibit it to any person. Failure to so carry and exhibit the license constitutes an offense under this section.

(R.C. § 1533.32) Penalty, see § 90.99

## **§ 90.08 FISHING REGULATIONS.**

(A) In permitted areas and waters within the park, fishing is subject to the statutes of the State of Ohio, except that the use of hooks left unattended, traps, spears, gigs, or bows and arrows for fishing are prohibited, and fishing shall not be permitted during the hours the park is closed. Fishing is only permitted in park waters or from park areas designated by the Executive Director. No person shall fish in park waters or from park areas not designated for fishing by the Executive Director.

(B) Seining, netting, or trapping of fish or other animals from park streams and waters is prohibited unless for authorized research or control.

(C) Ice fishing is permitted at designated areas and times only.

(Amended 8- -2005) Penalty, see § 90.99

## **§ 90.99 PENALTY.**

Whoever violates any provision of this chapter shall be fined not more than \$150 for a first offense and not more than \$1,000 for each subsequent offense.

(R.C. § 1545.99)

# **CHAPTER 91: ALCOHOLIC BEVERAGES**

---

## Section

### 91.01 Definitions

- 91.02 Activities prohibited without permit
- 91.03 Misrepresentation to obtain alcoholic beverage for a minor prohibited
- 91.04 Misrepresentation by a minor under 21 years
- 91.041 Prohibitions; minors under 18 years; low alcohol beverages
- 91.05 Prohibition against consumption in motor vehicle
- 91.06 Open container prohibited in park
- 91.07 Open container near roadway
- 91.08 Bringing alcohol onto permit premises
- 91.09 Furnishing alcohol to minors
  
- 91.99 Penalty

***Cross-reference:***

*Public intoxication, see § 132.12*

**§ 91.01 DEFINITIONS.**

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

***ALCOHOL.*** Ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. The term does not include denatured alcohol and wood alcohol.

***AT RETAIL.*** For use or consumption by the purchaser and not for resale.

***BEER.*** Includes all beverages brewed or fermented wholly or in part from malt products and containing 0.5% or more, but not more than 12%, of alcohol by volume.

***CIDER.*** All liquids that are fit to use for beverage purposes that contain 0.5% of alcohol by volume, but not more than 6% of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.

***CLUB.*** A corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for such purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.

***COMMUNITY FACILITY.*** Means either of the following:

(1) Any convention, sports, or entertainment facility or complex, or any combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a convention facilities authority created pursuant to R.C. § 351.02;

(2) An area designated as a community entertainment district pursuant to R.C. § 4301.80.

***CONTROLLED ACCESS ALCOHOL AND BEVERAGE CABINET.*** A closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device that requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages, or food may be sold.

***HOTEL.*** The same meaning as in R.C. § 3731.01, subject to the exceptions mentioned in R.C. § 3731.03.

***INTOXICATING LIQUOR*** and ***LIQUOR.*** All liquids and compounds, other than beer, containing 0.5% or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name

called, and whether they are medicated, proprietary, or patented. The terms include cider and alcohol, and all solids and confections which contain 0.5% or more of alcohol by volume.

**LOW-ALCOHOL BEVERAGE.** Any brewed or fermented malt product or any product made from the fermented juices of grapes, fruits, or other agricultural products that contains either no alcohol or less than 0.5% of alcohol by volume. The beverages described in this definition do not include a soft drink such as root beer, birch beer, or ginger beer.

**MANUFACTURE.** All processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner.

**MANUFACTURER.** Any person engaged in the business of manufacturing beer or intoxicating liquor.

**MIXED BEVERAGES.** Include bottled and prepared cordials, cocktails, highballs, and solids and confections that are obtained by mixing any type of whiskey, neutral spirits, brandy, gin, or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than 0.5% of alcohol by volume and not more than 21% of alcohol by volume.

**NIGHTCLUB.** A place habitually operated for profit, where food is served for consumption on the premises, and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons.

**PERSON.** Includes firms and corporations.

**PHARMACY.** An establishment as defined in R.C. § 4729.01, that is under the management or control of a licensed pharmacist in accordance with R.C. § 4729.27.

**RESTAURANT.** A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. The term does not include pharmacies, confectionery stores, lunch stands, nightclubs, and filling stations.

**SALE and SELL.** The exchange, barter, gift, offer for sale, sale, distribution, and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to R.C. § 4301.21. Such terms do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the Division of Liquor Control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any orders until the solicitor has been registered with the Division pursuant to R.C. § 4303.25.

**SALES AREA OR TERRITORY.** An exclusive geographic area or territory that is assigned to a particular A or B permit holder and that either has one or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. The term does not include, however, any particular retail location in an exclusive geographic area or territory that had been assigned to another A or B permit holder before April 9, 2001.

**SEALED CONTAINER.** Any container having a capacity of not more than 128 fluid ounces, the opening of which is closed to prevent the entrance of air.

**SPIRITUOUS LIQUOR.** All intoxicating liquors containing more than 21% of alcohol by volume.

**VEHICLE.** All means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.

**WHOLESALE DISTRIBUTOR and DISTRIBUTOR.** A person engaged in the business of selling to retail dealers for purposes of resale.

**WINE.** All liquids fit to use for beverage purposes containing not less than 0.5% of alcohol by volume and not more than 21% of alcohol by volume, which is made from the fermented juices of grapes, fruits, or other agricultural products. Except as provided in R.C. § 4301.01(B)(3), the term does not include cider.

(R.C. § 4301.01)

## **§ 91.02 ACTIVITIES PROHIBITED WITHOUT PERMIT.**

(A) (1) No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A permit issued by the

Division of Liquor Control, in force at the time, and authorizing the manufacture of beer or intoxicating liquor, or who is not an agent or employee of the Department authorized to manufacture beer or intoxicating liquor, shall manufacture any beer or intoxicating liquor for sale, or shall manufacture spirituous liquor.

(2) No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A, B, C, D, E, F, G, I, or S permit issued by the Department, in force at the time, and authorizing the sale of beer, intoxicating liquor, or alcohol, or who is not an agent or employee of the Department or the Tax Commissioner authorized to sell beer, intoxicating liquor, or alcohol, shall sell, keep, or possess beer, intoxicating liquor, or alcohol for sale to any persons other than those authorized by this chapter and R.C. Chapters 4301 and 4303 to purchase any beer or intoxicating liquor, or sell any alcohol at retail. This division(A)(2) does not apply to or affect the sale or possession for sale of any low-alcohol beverage.

(3) No person, personally or by the person's clerk, agent, or employee, who is the holder of a permit issued by the Department, shall sell, keep, or possess for sale any intoxicating liquor not purchased from the Department or from the holder of a permit issued by the Department authorizing the sale of intoxicating liquor, unless the same has been purchased with the special consent of the Department. The Department shall revoke the permit of any person convicted of a violation of this division(A)(3).

(R.C. § 4301.58)

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

(R.C. § 4301.99(C))

### **§ 91.03 MISREPRESENTATION TO OBTAIN ALCOHOLIC BEVERAGE FOR A MINOR PROHIBITED.**

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person shall knowingly furnish any false information as to the name, age, or other identification of any person under 21 years of age, for the purpose of obtaining, or with the intent to obtain, beer or intoxicating liquor for a person under 21 years of age, by purchase, or as a gift.

(R.C. § 4301.633)

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

(R.C. § 4301.99(C))

### **§ 91.04 MISREPRESENTATION BY A MINOR UNDER 21 YEARS.**

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person under the age of 21 years shall knowingly show or give false information concerning his or her name, age, or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place in this park district where beer or intoxicating liquor is sold under a permit issued by the Division of Liquor Control, or sold by the Division of Liquor Control.

(R.C. § 4301.634)

(B) (1) Whoever violates division (A) of this section is guilty of a misdemeanor of the first degree. If, in committing a first violation of division (A), the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$250 and not more than \$1,000, and may be sentenced to a term of imprisonment of not more than six months.

(2) On a second violation in which, for the second time, the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$500 nor more than \$1,000, and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operation privilege from the range specified in R.C. § 4510.02(A)(7).

(3) On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and

shall be fined not less than \$500 nor more than \$1,000, and may be sentenced to a term of imprisonment of not more than six months. Except as provided in this division, the court also may impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of 21 years. The court, in lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

(R.C. § 4301.99(F))

## **§ 91.041 PROHIBITIONS; MINORS UNDER 18 YEARS; LOW ALCOHOL BEVERAGES.**

- (A) As used in this section, **UNDERAGE PERSON** means a person under 18 years of age.
- (B) No underage person shall purchase any low-alcohol beverage.
- (C) No underage person shall order, pay for, share the cost of, or attempt to purchase any low- alcohol beverage.
- (D) No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low- alcohol beverage for an underage person, by purchase or as a gift.
- (E) No underage person shall knowingly show or give false information concerning his or her name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this state.
- (F) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his or her practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.
- (G) (1) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low- alcohol beverage.
- (2) An owner of a public or private place is not liable for acts or omissions in violation of division (G)(1) that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.
- (H) No permit issued by the Division of Liquor Control shall be suspended, revoked, or cancelled because of a violation of either division (F) or (G).
- (I) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless he or she is accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of his or her practice or given for established religious purposes.
- (J) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section.

(R.C. § 4301.631)

(K) (1) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the fourth degree.

(R.C. § 4301.99(B))

(2) Whoever violates division (B) of this section shall be fined not less than \$25 nor more than \$100. The court imposing a fine for a violation of division (B) of this section may order that the fine be paid by the performance of public work at a reasonable hour rate established by the court. The court shall designate the time within which the public work shall be completed.

(R.C. § 4301.99(E))

## **§ 91.05 PROHIBITION AGAINST CONSUMPTION IN MOTOR VEHICLE.**

(A) No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in R.C. § 4301.62(D).

(R.C. § 4301.64)

(B) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If an offender who violates this section was under the age of 18 years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, may suspend the offender's temporary instruction permit, probationary driver's license or driver's license for a period of not less than six months and not more than one year. In lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, the court instead may require the offender to perform community service for a number of hours determined by the court. If the offender is 15 years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of 15 years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.

(R.C. § 4301.99(B))

### **§ 91.06 OPEN CONTAINER PROHIBITED IN PARK.**

(A) No person shall possess an open container of beer or intoxicating liquor, as defined by R.C. § 4301.01, within any park, except within the confines and privacy afforded in a cabin, tent, camping vehicle, permit premises, or other non-public areas reserved or leased from the Board.

(B) No person under the age of 21 years shall possess a container of beer or intoxicating liquor.

(Prior by-law § 9) Penalty, see § 91.99

### **§ 91.07 OPEN CONTAINER NEAR ROADWAY.**

No person shall possess nor consume an open container of beer or intoxicating liquor within 20 feet of a parking area or roadway.

(Prior by-law § 9C) Penalty, see § 91.99

### **§ 91.08 BRINGING ALCOHOL ONTO PERMIT PREMISES.**

No person shall have in his or her possession an opened container of beer or intoxicating liquor on the premises of the holder of any permit issued by the Department of Liquor Control as defined in R.C. § 4301.62. This section does not apply to beer or intoxicating liquor which has been lawfully purchased from the permit holder for consumption on the premises.

(Prior by-law § 9D) Penalty, see § 91.99

### **§ 91.09 FURNISHING ALCOHOL TO MINORS.**

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, shall buy beer or intoxicating liquor for an underage person, or shall furnish it to an underage person unless given by a physician in the regular line of the physician's practice or given for established religious purposes or unless the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian. In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a permit holder, charged with a violation of this division (A) shall be charged, for the same offense, with a violation of R.C. § 4301.22(A)(1).

(B) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian and the parent, spouse who is not an underage person, or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor. An owner of a public or private place is not liable for acts or omissions in violation of this division (B) that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(C) No person shall engage or use accommodations at a hotel, inn, cabin, campground, or restaurant when the person knows or has reason to know either of the following:

(1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and who is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;

(2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a licensed health professionals authorized to prescribe drugs and has the drug of abuse in the original container in which it was dispensed to the person.

(D) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin, or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person, or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.

(2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin, or campground by presenting identification that falsely indicates that the underage person is 21 years of age or older for the purpose of violating this section.

(E) (1) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in this division (E) against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(2) (a) If a person is charged with violating division (E)(1) of this section in a complaint filed under R.C. § 2151.27, the court may order the child into a diversion program specified by the court and hold the complaint in abeyance pending successful completion of the diversion program. A child is ineligible to enter into a diversion program under this division (E)(2) if the child previously has been diverted pursuant to this division (E)(2). If the child completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the child's record in the case sealed under R.C. §§ 2151.356 through 2151.358. If the child fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(b) If a person is charged in a criminal complaint with violating division (E)(1) of this section, R.C. § 2935.36 shall apply to the offense, except that a person is ineligible for diversion under that section if the person previously has been diverted pursuant to divisions (E)(2)(a) or (E)(2)(b) of this section. If the person completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the record in the case sealed under R.C. § 2953.52. If the person fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(F) No parent, spouse who is not an underage person, or legal guardian of a minor shall knowingly permit the minor to violate this section or R.C. § 4301.63, 4301.633, or 4301.634.

(G) The operator of any hotel, inn, cabin, or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin, or campground.

(H) As used in this section:

**DRUG OF ABUSE.** Has the same meaning as in R.C. § 3719.011.

**HOTEL.** Has the same meaning as in R.C. § 3731.01.

**LICENSED HEALTH PROFESSIONAL AUTHORIZED TO PRESCRIBE DRUGS.** Has the same meaning as in R.C. § 4729.01.

**MINOR.** Means a person under the age of 18 years.

**PRESCRIPTION.** Has the same meaning as in R.C. § 4729.01.

**UNDERAGE PERSON.** Means a person under the age of 21 years.

(R.C. § 4301.69) (Prior by-law § 9B)

(I) The provisions of R.C. §§ 4301.633 through 4301.637 shall not be deemed to modify or affect divisions (A) through (H) of this section or R.C. § 4301.69.

(R.C. § 4301.638)

(J) (1) Except as provided in division (J)(2) of this section, whoever violates this section is guilty of a misdemeanor of the first degree. If an offender who violates division (E)(1) of this section was under the age of 18 years at the time of the offense and the offense occurred while the offender was the operator of or a passenger in a motor vehicle, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit or probationary driver's license for a period of six months. If the offender is 15 years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of 15 years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.

(R.C. § 4301.99(C))

(2) Whoever violates division (A) of this section is guilty of a misdemeanor, shall be fined not less than \$500 nor more than \$1,000, and in addition to the fine, may be imprisoned for a definite term of not more than six months.

(R.C. § 4301.99(I))

## § 91.99 PENALTY.

Whoever violates any provision of this chapter for which no specific penalty is otherwise provided, shall be fined not more than \$150 for a first offense and not more than \$1,000 for each subsequent offense.

(R.C. § 1545.99)

## CHAPTER 92: FIREARMS, FIREWORKS, FIRE PREVENTION

---

Section

### *Firearms*

- 92.01 Carrying concealed weapons
- 92.02 Using weapons while intoxicated
- 92.03 Improperly handling firearms in a motor vehicle
- 92.04 Underage purchase of firearms or handguns
- 92.05 Discharging firearms
- 92.06 Possession in park prohibited
- 92.07 Definitions

### *Fireworks*

- 92.10 Restrictions
- 92.11 Permit for possession in park

### *Fire Prevention*

- 92.20 Fires

## FIREARMS

### § 92.01 CARRYING CONCEALED WEAPONS.

(A) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:

- (1) A deadly weapon other than a handgun;
- (2) A handgun other than a dangerous ordnance;
- (3) A dangerous ordnance.

(B) No person who has been issued a concealed handgun license shall do any of the following:

- (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;
- (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
- (3) If the person is stopped for a law enforcement purpose, if the person is carrying a concealed handgun, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the holster, pocket, or other place in which the person is carrying it, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;
- (4) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including but not limited to a specific order to the person to keep the person's hands in plain sight.

(C) (1) This section does not apply to any of the following:

- (a) An officer, agent, or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns and is acting within the scope of the officer's, agent's, or employee's duties;
- (b) Any person who is employed in this state, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (C)(1)(b) does not apply to the person;
- (c) A person's transportation or storage of a firearm, other than a firearm described in R.C. § 2923.11(G) to (M), in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;
- (d) A person's storage or possession of a firearm, other than a firearm described in R.C. § 2923.11(G) to (M), in the actor's own home for any lawful purpose.

(2) Division (A)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid concealed handgun license, unless the person knowingly is in a place described in R.C. § 2923.126(B).

(D) It is an affirmative defense to a charge under division (A)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:

- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent

person in going armed;

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed;

(3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(E) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(F) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this division (F)(1) or division (F)(2) of this section, carrying concealed weapons in violation of division (A) of this section is a misdemeanor of the first degree. Except as otherwise provided in this division (F)(1) or division (F)(2) of this section, if the offender previously has been convicted of a violation of this section or any substantially equivalent state law or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of division (A) of this section is a felony to be prosecuted under appropriate state law. Except as otherwise provided in division (F)(2) of this section, if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of division (A) of this section is a felony to be prosecuted under appropriate state law.

(2) If a person being arrested for a violation of division (A)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in R.C. § 2923.126(B), the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that division, and the offender shall be punished as follows:

(a) The offender shall be guilty of a minor misdemeanor if both of the following apply:

1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer;

2. At the time of the arrest, the offender was not knowingly in a place described in R.C. § 2923.126(B).

(b) The offender shall be guilty of a misdemeanor and shall be fined \$500 if all of the following apply:

1. The offender previously had been issued a concealed handgun license, and that license expired within the two years immediately preceding the arrest;

2. Within 45 days after the arrest, the offender presents a concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in R.C. § 2945.71;

3. At the time of the commission of the offense, the offender was not knowingly in a place described in R.C. § 2923.126(B).

(c) If neither division (F)(2)(a) nor (F)(2)(b) of this section applies, the offender shall be punished under division (F)(1) of this section.

(3) Except as otherwise provided in this division (F)(3), carrying concealed weapons in violation of division (B)(1) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of division (B)(1) of this section, the offender's concealed handgun license shall be suspended pursuant to R.C. § 2923.128(A)(2). If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (B)(1) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to R.C. § 2923.128(A)(2).

(4) Carrying concealed weapons in violation of division (B)(2) or (B)(4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (B)(2) or (B)(4) of this section or any substantially equivalent state law, a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (B)(2) or (B)(4) of this section, the offender's concealed handgun license shall be suspended pursuant to R.C. § 2923.128(A)(2).

(5) Carrying concealed weapons in violation of division (B)(3) of this section is a felony to be prosecuted under appropriate state

law.

(G) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division (G), R.C. § 2923.163(B) applies.

(R.C. § 2923.12)

## **§ 92.02 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.

(R.C. § 2923.15)

## **§ 92.03 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.**

(A) No person shall knowingly discharge a firearm while in or on a motor vehicle.

(B) No person shall knowingly transport or have a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.

(C) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

- (1) In a closed package, box, or case;
- (2) In a compartment that can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;

(4) If the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(D) No person shall knowingly transport or have a loaded handgun in a motor vehicle if, at the time of that transportation or possession, any of the following applies:

(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 a concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance prohibited for persons operating a vehicle, as specified in R.C. § 4511.19(A), regardless of whether the person at the time of the transportation or possession as described in this division (D)(2) is the operator of or a passenger in the motor vehicle.

(E) No person who has been issued a concealed handgun license, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in R.C. § 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

(1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the motor vehicle;

(2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the commercial motor vehicle;

(3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

(4) Knowingly have contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;

(5) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including but not limited to a specific order to the person to keep the person's hands in plain sight.

(F) (1) Divisions (A), (B), (C), and (E) of this section do not apply to any of the following:

(a) An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's, or employee's duties;

(b) Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (F)(1)(b) does not apply to the person.

(2) Division (A) of this section does not apply to a person if all of the following circumstances apply:

(a) The person discharges a firearm from a motor vehicle at a coyote or groundhog, the discharge is not during the deer gun hunting season as set by the Chief of the Division of Wildlife of the Department of Natural Resources, and the discharge at the coyote or groundhog, but for the operation of this section, is lawful;

(b) The motor vehicle from which the person discharges the firearm is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture;

(c) The person owns the real property described in division (F)(2)(b) of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property;

(d) The person does not discharge the firearm in any of the following manners:

1. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

2. In the direction of a street, highway, or other public or private property used by the public for vehicular traffic or parking;

3. At or into an occupied structure that is a permanent or temporary habitation;

4. In the commission of any violation of law, including but not limited to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

(3) Division (A) of this section does not apply to a person if all of the following apply:

(a) The person possesses a valid electric-powered all-purpose vehicle permit issued under R.C. § 1533.103 by the Chief of the Division of Wildlife;

(b) The person discharges a firearm at a wild quadruped or game bird as defined in R.C. § 1531.01 during the open hunting season for the applicable wild quadruped or game bird;

(c) The person discharges a firearm from a stationary electric-powered all-purpose vehicle as defined in R.C. § 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign;

(d) The person does not discharge the firearm in any of the following manners:

1. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

2. In the direction of a street, a highway, or other public or private property that is used by the public for vehicular traffic or parking;

3. At or into an occupied structure that is a permanent or temporary habitation;

4. In the commission of any violation of law, including but not limited to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

(4) Divisions (B) and (C) of this section do not apply to a person if all of the following circumstances apply:

(a) At the time of the alleged violation of either of those divisions, the person is the operator of or a passenger in a motor vehicle;

(b) The motor vehicle is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture;

(c) The person owns the real property described in division (F)(4)(b) of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property;

(d) The person, prior to arriving at the real property described in division (F)(4)(b) of this section, did not transport or possess a firearm in the motor vehicle in a manner prohibited by division (B) or (C) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic or parking.

(5) Divisions (B) and (C) of this section do not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

(a) The person transporting or possessing the handgun is carrying a valid concealed handgun license;

(b) The person transporting or possessing the handgun is not knowingly in a place described in R.C. § 2923.126(B).

(6) Divisions (B) and (C) of this section do not apply to a person if all of the following apply:

(a) The person possesses a valid electric-powered all-purpose vehicle permit issued under R.C. § 1533.103 by the Chief of the Division of Wildlife;

(b) The person is on or in an electric-powered all-purpose vehicle as defined in R.C. § 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird;

(c) The person is on or in an electric-powered all-purpose vehicle as defined in R.C. § 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

(G) (1) The affirmative defenses authorized in R.C. § 2923.12(D)(1) and (D)(2) are affirmative defenses to a charge under division (B) or (C) of this section that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under division (B) or (C) of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division (B) or (C) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

(H) (1) No person who is charged with a violation of division (B), (C), or (D) of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(2) (a) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (E) of this section as it existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of division (E) of this section on or after September 30, 2011, the person may file an application under R.C. § 2953.37 requesting the expungement of the record of conviction.

(b) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B) or (C) of this section as the division existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of division (B) or (C) of this section on or after September 30, 2011, due to the application of division (F)(5) of this section as it exists on and after September 30, 2011, the person may file an application under R.C. § 2953.37 requesting the expungement of the record of conviction.

(I) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of division (A) of this section is a felony to be prosecuted under appropriate state law. Violation of division (C) of this section is a misdemeanor of the fourth degree. A violation of division (D) of this section is a felony to be prosecuted under appropriate state law and, if the loaded handgun is concealed on the person's person, it is also a felony to be prosecuted under appropriate state law. Except as otherwise provided in this division (I), a violation of division (E)(1) or (E)(2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to R.C. § 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in R.C. § 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of division (E)(1) or (E)(2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to R.C. § 2923.128(A)(2). A violation of division (E)(4) of this section is a felony to be prosecuted under appropriate state law. A violation of division (E)(3) or (E)(5) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (E)(3) or (E)(5) of this section or any substantially equivalent state law, a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (E)(3) or (E)(5) of this section, the offender's concealed handgun license shall be suspended pursuant to R.C. § 2923.128(A)(2). A violation of division (B) of this section is a felony to be prosecuted under appropriate state law.

(J) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division (J), R.C. § 2923.163(B) applies.

(K) As used in this section:

**AGRICULTURE.** Has the same meaning as in R.C. § 519.01.

**COMMERCIAL MOTOR VEHICLE.** Has the same meaning as in R.C. § 4506.25(A).

**HIGHWAY.** Has the same meaning as in R.C. § 4511.01.

**MOTOR CARRIER ENFORCEMENT UNIT.** Means the Motor Carrier Enforcement Unit in the Department of Public Safety, Division of State Highway Patrol, that is created by R.C. § 5503.34.

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

**OCCUPIED STRUCTURE.** Has the same meaning as in R.C. § 2909.01.

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

**TENANT.** Has the same meaning as in R.C. § 1531.01.

**UNLOADED.**

(a) With respect to a firearm other than a firearm described in division (d) of this definition, means that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm, and one of the following applies:

1. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.
2. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.

(b) For the purposes of division (a)2. of this definition, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

1. A package, box, or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the

firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;

2. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.

(c) For the purposes of divisions (a) and (b) of this definition, ammunition held in stripper- clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

(d) "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(L) Divisions (a) and (b) of the definition of "unloaded" in division (K) of this section do not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in those divisions, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter.

(R.C. § 2923.16) Penalty, see § 92.99

#### **§ 92.04 UNDERAGE PURCHASE OF FIREARMS OR HANDGUNS.**

(A) No person under 18 years of age shall purchase or attempt to purchase a firearm.

(B) No person under 21 years of age shall purchase or attempt to purchase a handgun; provided, that this division (B) does not apply to the purchase or attempted purchase of a handgun by a person 18 years of age or older and under 21 years of age if either of the following applies:

(1) The person is a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training;

(2) The person is an active or reserve member of the armed services of the United States or the Ohio National Guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio National Guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

(C) Whoever violates division (A) of this section is guilty of underage purchase of a firearm, a delinquent act. Whoever violates division (B) of this section is guilty of underage purchase of a handgun.

(R.C. § 2923.211) Penalty, see § 92.99

#### **§ 92.05 DISCHARGING FIREARMS.**

It shall be unlawful to discharge any cannon, pistol, or other firearm of any kind whatsoever within the park district without permission from the Executive Director. This section shall not prohibit the firing of a military salute or the firing of weapons by men of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law or officers, agents, or employees of the park district in the execution of their duties or to any person in the proper exercise of the right of self-defense.

Penalty, see § 92.99

#### **§ 92.06 POSSESSION IN PARK PROHIBITED.**

(A) No person, except authorized employees or agents of the Board, licensed concealed carry permit holders in full compliance with R.C. § 2923.125 or 2923.1213, or motor vehicle operators in full compliance with R.C. § 2923.16 and those individuals who are legally permitted to openly carry a firearm shall possess a firearm within Great Parks of Hamilton County.

(B) No person shall have a deadly weapon, dangerous ordnance, pellet gun, air rifle, slingshot or missile-propelling device within Great Parks of Hamilton County without permission from the Executive Director.

## § 92.07 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.

**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 HANDGUN.** 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.

(R.C. § 2923.11)

## **FIREWORKS**

### **§ 92.10 RESTRICTIONS.**

(A) No person shall possess fireworks in the park district or shall possess for sale or sell fireworks in the park district, except a licensed manufacturer of fireworks as authorized by R.C. §§ 3743.02 through 3743.08, a licensed wholesaler of fireworks as authorized by R.C. §§ 3743.15 through 3743.21, a shipping permit holder as authorized by R.C. § 3743.40, an out-of-state resident as authorized by R.C. § 3743.44, a resident of this state as authorized by R.C. § 3743.45, or a licensed exhibitor of fireworks as authorized by R.C. §§ 3743.50 through 3743.55, and except as provided in R.C. § 3743.80.

(B) Except as provided in R.C. § 3743.80, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to R.C. §§ 3743.50 through 3743.55, no person shall discharge, ignite, or explode any fireworks in the park district.

(C) No person shall use in a theater or public hall what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(D) No person shall sell fireworks of any kind to a person under 18 years of age.

(E) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder shall possess 1.3G fireworks in the park district.

(R.C. § 3743.65) Penalty, see § 92.99

(F) Whoever violates any provisions of is guilty of a misdemeanor of the first degree.

(R.C. § 3743.99(C))

### **§ 92.11 PERMIT FOR POSSESSION IN PARK.**

No person, except authorized employees or agents of the Board shall possess fireworks within the park without a specific written permit from the Executive Director.

(Prior by-law § 5) Penalty, see § 92.99

## **FIRE PREVENTION**

### **§ 92.20 FIRES.**

No person shall start, maintain, or assist in maintaining a fire in the park, except small fires in grills for cooking purposes or fires in places or designated areas approved for such purpose, without written permit from the Executive Director. The Executive Director may at his or her discretion prohibit fires or smoking for limited periods at any location or for any purpose when necessary for the protection of park property. All fires shall be put out by the person or persons starting or using the same before leaving the immediate vicinity of the fire.

(Prior by-law § 4) Penalty, see § 92.99

***Cross-reference:***

*Burning material, see § 131.15*

*Pollution from fires, see § 131.13*

## **§ 92.99 PENALTY.**

Whoever violates any provision of this chapter for which no other penalty has been provided shall be fined not more than \$150 for a first offense and not more than \$1,000 for each subsequent offense.

(R.C. § 1545.99)

## **TITLE XI: BUSINESS REGULATIONS**

Chapter

### **110. GENERAL PROVISIONS**

#### **CHAPTER 110: GENERAL PROVISIONS**

Section

110.01 Commercial enterprises

110.02 Soliciting

110.99 Penalty

### **§ 110.01 COMMERCIAL ENTERPRISES.**

Engaging in or soliciting any business in any area owned or controlled by Great Parks of Hamilton County, except in accordance with the provisions of a permit, contract or other written agreement with the Great Parks of Hamilton County is prohibited.

(Prior by-law § 13) (Amended 8- -2005; amended 12-5-2014) Penalty, see § 110.99

### **§ 110.02 SOLICITING.**

(A) It is unlawful for any person to solicit in the following places or under the following conditions:

- (1) Within 20 feet of an automatic teller machine;
- (2) From any operator or occupant of a motor vehicle or from any person entering or exiting a motor vehicle.

(B) It is unlawful for any person to solicit in an aggressive manner, including any of the following actions:

- (1) Soliciting in a manner that impedes access to or from, or use of a building or vehicle;
- (2) Soliciting in a manner that would alarm, intimidate, threaten, menace, harass, or coerce a reasonable person;
- (3) By following behind, ahead or alongside, blocking the path of, or continuing to solicit a person who walks or drives away from the person soliciting or who gives notice or demonstrates verbally or physically that such solicitation is offensive, unwelcome or that the solicitation should cease;
- (4) By using profane or abusive language or gestures either during the solicitation or following a refusal, or making any statement,

gesture, or other communication that would cause a reasonable person to be fearful or would be perceived as a threat;

(5) By touching the solicited person without a statement, gesture, or other communication that the person being solicited consents to the touching.

(C) It is unlawful for any person to knowingly make a false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to the following:

(1) Stating that the donation is needed to meet a specific need, when the person soliciting already has sufficient funds to meet that need and does not disclose that fact;

(2) Stating that the donation is needed to meet a need that does not exist;

(3) Stating that the person soliciting is from out of town and stranded, or that he or she is homeless when that is not true;

(4) Stating or representing that the person soliciting is a member of a military service when the person soliciting is neither a present nor a former member of a military service;

(5) Stating or representing that the person soliciting suffers from a mental or physical disability or deformity when the person soliciting does not suffer the disability or deformity indicated.

(Prior by-law § 13) (Amended 12-5-2014) Penalty, see § 110.99

## **§ 110.99 PENALTY.**

Whoever violates any provision of this chapter shall be fined not more than \$150 for a first offense and not more than \$1,000 for each subsequent offense.

(R.C. § 1545.99)

## **TITLE XIII: GENERAL OFFENSES**

Chapter

**130. GENERAL PROVISIONS**

**131. OFFENSES AGAINST PROPERTY AND ENVIRONMENT**

**132. OFFENSES AGAINST PUBLIC PEACE**

**133. SEX OFFENSES**

**134. GAMBLING**

**135. OFFENSES AGAINST PERSONS**

**136. OFFENSES AGAINST JUSTICE AND ADMINISTRATION**

**137. THEFT AND FRAUD**

**138. DRUG OFFENSES**

## **CHAPTER 130: GENERAL PROVISIONS**

Section

130.01 Definitions

130.02 Attempt

**§ 130.01 DEFINITIONS.**

For the purpose of this title, 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 unlawful gambling device or paraphernalia;
- (3) 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 or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
- (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;
- (9) A veterans' home police officer appointed under R.C. § 5907.02;
- (10) A member of a police force employed by a regional transit authority under R.C. § 306.35(Y);
- (11) A special police officer employed by a port authority under R.C. § 4582.04 or 4582.28;
- (12) The House of Representatives Sergeant at Arms if the House of Representatives Sergeant at Arms has arrest authority pursuant to R.C. § 101.311(E)(1) and an Assistant House of Representatives Sergeant at Arms;
- (13) The Senate Sergeant at Arms and an Assistant Senate Sergeant at Arms;

(14) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in 14 C.F.R. § 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the Transportation Security Administration of the United States Department of Transportation as provided in 49 C.F.R. parts 1542 and 1544, as amended.

**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 Title XIII 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;
2. An unborn human who is viable.

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

(c) As used in division (1)(a)2. of this definition, "unborn human" means an individual organism of the species *Homo sapiens* from fertilization until live birth. "Viable" means the stage of development of a human fetus at which there is a realistic probability of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (1)(a) of this definition, in no case shall the portion of the definition of the term "person" that is set forth in division (1)(a)2. of this definition be applied or construed in any section contained in Title XIII of this code that sets forth a criminal offense in any of the following manners.

(a) Except as otherwise provided in division (2)(a) of this definition, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of R.C. § 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence but that does violate R.C. § 2919.12, 2919.13(B), 2919.151, 2919.17, or 2919.18, may be punished as a violation of such section, as applicable. Consent is sufficient under this division (a) if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with R.C. § 2919.12.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

1. Her delivery of a stillborn baby;
2. Her causing, in any other manner, the death *in utero* of a viable, unborn human that she is carrying;
3. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the

child is a viable, unborn human;

4. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;

5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other psychological illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

**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.

(R.C. §§ 2901.01, 2935.36(E))

## **§ 130.02 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 aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life is a felony of the first degree, to be prosecuted under appropriate state law. 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 of the first degree if the offense attempted is a felony, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. In the case of an

attempt to commit a violation of any provision of R.C. Chapter 3734, other than R.C. § 3734.18, that relates to hazardous wastes, an attempt is a felony to be prosecuted under appropriate state law. 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.

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

(R.C. § 2923.02) Penalty, see § 130.99

### **§ 130.03 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 § 130.02.

(D) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense, or an offense, the court shall charge the jury in accordance with R.C. § 2923.03(D).

(E) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his or her complicity, under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.

(F) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he 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.

(R.C. § 2923.03)

### **§ 130.99 PENALTY.**

Whoever violates any provision of this title for which no specific penalty is otherwise provided, shall be fined not more than \$150 for a first offense and not more than \$1,000 for each subsequent offense.

(R.C. § 1545.99)

## **CHAPTER 131: OFFENSES AGAINST PROPERTY AND ENVIRONMENT**

---

Section

131.01 Criminal damaging or endangering; vehicular vandalism

131.02 Criminal mischief

131.03 Criminal trespass

- 131.04 Tampering with coin machines
- 131.05 Desecration
- 131.06 Preservation of property and natural features
- 131.07 Waste materials and litter
- 131.08 Camps
- 131.09 Water regulations
- 131.10 Climbing
- 131.11 Throwing objects
- 131.12 Aerosol paint cans
- 131.13 Air pollution
- 131.14 Play equipment
- 131.15 Burning material
- 131.16 Model toys
- 131.17 Aircraft and hot air balloons
- 131.18 Sledding, skiing, and ice skating
- 131.19 Defacing roadways
- 131.20 Roller skating; skateboards

## **§ 131.01 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;

(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. If the property involved in a violation of this division (A) is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person, criminal damaging or endangering is a felony to be prosecuted under appropriate state law. If the property involved in a violation of this division (A) is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a substantial risk of physical harm to any person or if the property involved in a violation of this division (A) is an occupied aircraft, criminal damaging or endangering is a felony to be prosecuted under appropriate state law.

(R.C. § 2909.06)

### *(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. If the violation of this division (B) creates a substantial risk of physical harm to any person or the violation of this division (B) causes serious physical harm to property, vehicular vandalism is a felony to be prosecuted under appropriate state law. If the violation of this division (B) causes physical harm to any person or serious physical harm to any person, vehicular vandalism is a felony to be prosecuted under appropriate state law.

(R.C. § 2909.09)

## § 131.02 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 (C)(1), 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 (C)(1), 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. If the property involved in the violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is a felony to be prosecuted under appropriate state law.

(2) Except as otherwise provided in this division (C)(2), criminal mischief committed in violation of division (A)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section or the loss to the victim resulting from the violation is \$1,000 or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) is used or intended to be used in the operation of an aircraft and the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (A)(6) of this section is a felony to be prosecuted under appropriate state law.

(R.C. § 2909.07) Penalty, see § 130.99

### § 131.03 CRIMINAL TRESPASS.

(A) No person, without privilege to do so, shall do any of the following:

(1) Knowingly enter or remain on the land or premises of another;

(2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;

(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;

(4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.

(B) It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.

(C) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when 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 or R.C. § 2911.21, 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)

#### **§ 131.04 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.

(R.C. § 2911.32)

#### **§ 131.05 DESECRATION.**

(A) No person, without privilege to do so, shall purposely deface, damage, pollute, or otherwise physically mistreat any of the following:

(1) The flag of the United States or of this state;

(2) Any public monument;

(3) Any historical or commemorative marker, or any structure, Indian mound or earthwork, cemetery, thing, or site of great historical or archaeological interest;

(4) A place of worship, its furnishings, or religious artifacts or sacred texts within the place of worship or within the grounds upon which the place of worship is located;

(5) A work of art or museum piece;

(6) Any other object of reverence or sacred devotion.

(B) Whoever violates this section is guilty of desecration. A violation of division (A)(1), (A)(2), (A)(3), (A)(5), or (A)(6) of this section is a misdemeanor of the second degree. A violation of division (A)(4) of this section is a felony to be prosecuted under appropriate state law.

(C) As used in this section, **CEMETERY** means any place of burial and includes burial sites that contain American Indian burial objects placed with or containing American Indian human remains.

(R.C. § 2927.11)

#### **§ 131.06 PRESERVATION OF PROPERTY AND NATURAL FEATURES.**

(A) No person shall injure, deface, disturb, or defoul any part of the park district, nor any building, sign, equipment, or other property found therein.

(B) No person shall remove, injure, or destroy any trees, shrubs, wildflowers or other plants, animals, fossils, or minerals within the park district.

(C) Special exceptions to the above may be permitted for purposes of scientific research, if approved guidelines are followed and collecting of natural materials is authorized by written permit from the Executive Director.

(D) Exceptions to the above could also be made for removal of non-native (alien or exotic) species by park personnel and for generally accepted land management practices.

(Prior by-law § 1) Penalty, see § 130.99

## § 131.07 WASTE MATERIALS AND LITTER.

(A) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any part of the park district, or in or on waters of the state, unless one of the following applies:

(1) The person is directed to do so by a public official as part of a litter collection drive;

(2) Except as provided in division (B) of this section, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements;

(3) The person is issued a permit or license covering the litter pursuant to R.C. Chapter 3734 or 6111.

(B) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any park district property, unless one of the following applies:

(1) The litter was generated or located on the property on which the litter receptacle is located;

(2) The person is directed to do so by a public official as part of a litter collection drive;

(3) The person is directed to do so by a person whom the person reasonably believes to have the privilege to use the litter receptacle;

(4) The litter consists of any of the following:

(a) The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle;

(b) The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;

(c) Beverage containers and food sacks, wrappings, and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;

(d) Beverage containers, food sacks, wrappings, containers, and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.

(R.C. § 3767.32)

(C) No person shall, either within or without the park district, discharge into, throw, cast, lay, drop, or leave in any river, brook, stream, storm sewer, or drain flowing into or through the park district, or into any river, brook, or stream which may be tributary to any river, brook, or stream flowing into or through the park district, any substance, matter, or thing, either liquid or solid, which may or shall result in the pollution of the river, brook, or stream within the park district to such an extent as to unreasonably or improperly prevent or interfere with, or lessen, to an improper or unreasonable degree, the use of said river, brook, or stream for recreational or other proper park uses, or to endanger the health of visitors or wildlife in the park in the proper use and enjoyment of the same.

(D) (1) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard, or deposit litter from any motor vehicle in operation upon any street, road, or highway, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

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

(3) As used in this division (D), **LITTER** means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature.

(R.C. § 4511.82)

(E) (1) As used in this section, **LITTER** means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature thrown, dropped, discarded, placed, or deposited by a person on public property or in or on waters of the park district, unless the person has:

(a) Been directed to do so by a public official as part of a litter collection drive;

(b) Thrown, dropped, discarded, placed, or deposited the material in a receptacle in a manner that prevented its being carried away by the elements;

(c) Been issued a permit or license covering the material pursuant to R.C. Chapters 3734 or 6111.

(2) No person shall, regardless of intent, throw, drop, discard, place, or deposit litter or cause litter to be thrown, dropped, discarded, placed, or deposited on any public property or in or on waters of the park district, unless the person has:

(a) Been directed to do so by a public official as a part of a litter collection drive;

(b) Thrown, dropped, discarded, placed, or deposited the litter in a litter receptacle in a manner that prevents its being carried away by the elements;

(c) Been issued a permit or license covering the litter pursuant to R.C. Chapters 3734 or 6111.

(Prior by-law § 2)

(F) Whoever violates any provision of division (A) or (B) of this section shall be guilty of a misdemeanor of the third degree. The sentencing court may, in addition to or in lieu of the penalty provided in this division, require a person who violates division (A) or (B) to remove litter from any public or private property or in or on waters of the state.

(R.C. § 3767.99(C))

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

(R.C. § 4511.82(C))

Penalty, see § 130.99

### **§ 131.08 CAMPS.**

No person shall establish or maintain any camp or other temporary lodging place within the park district, without specific written permit from the Executive Director, except in locations especially set aside by the Board as camps.

(Prior by-law § 6) Penalty, see § 130.99

### **§ 131.09 WATER REGULATIONS.**

(A) No person shall place any boat, canoe, raft, or watercraft of any type upon or in any lake, pond, stream, or other waters within the boundaries of the park district without specific written permission from the Executive Director except for boats owned and operated by the Board.

(B) No person shall swim, bathe, wade, nor enter into any waters in the park district where prohibited or in a manner contrary to regulations prescribed by the Board.

(C) No person shall fish in any waters in the park district in a manner contrary to regulations resolved by the Board or in waters where fishing is prohibited by the Board.

(D) Any outboard motor used on waters within the park district where not otherwise prohibited by the Board shall not exceed five horsepower, except those used for government purposes, without specific written permit from the Executive Director.

(Prior by-law § 7F) Penalty, see § 130.99

### **§ 131.10 CLIMBING.**

(A) No person, except park district employees or others authorized by the Executive Director, shall use equipment or devices, including climbing spikes, ropes, harnesses, ladders, or scaffolding for climbing of trees.

(B) No person shall engage in rappelling or any rock climbing activity within the park district, without permission from the Executive Director.

Penalty, see § 130.99

### **§ 131.11 THROWING OBJECTS.**

No person shall throw, toss, drop, propel, or cause, directly or indirectly, the throwing, tossing, dropping, or propelling of any object over or off any cliff, precipice, bridge, observation tower, or other similar structure or natural formation in or adjacent to the park district.

Penalty, see § 130.99

### **§ 131.12 AEROSOL PAINT CANS.**

No person in the park district, except a park district employee or other authorized agent, shall carry on or about their person a container capable of propelling paint by means of a gaseous charge.

Penalty, see § 130.99

### **§ 131.13 AIR POLLUTION.**

No person, occupant, owner, or person in charge, by himself or herself, his or her agent, or employee, shall cause, suffer, or allow burning of garbage, waste material, trash, refuse, vehicle or any part thereof, or other combustibles within or adjacent to the park district so as to cause smoke, odor, sparks, dust, dirt, or other residue to come upon, pass through, or over the park which would cause air pollution, nuisance, or danger.

Penalty, see § 130.99

### **§ 131.14 PLAY EQUIPMENT.**

Playing of horseshoes, golf, or other games with play equipment shall, for the safety and welfare of all other persons using the parks, be confined to the areas set aside and designated for such purposes and with due regard for the safety of others.

Penalty, see § 130.99

### **§ 131.15 BURNING MATERIAL.**

No person shall throw away or discard any lighted match, cigar, or cigarette, nor deposit burning material or hot ashes on grass or plants, or in refuse receptacles within or adjacent to the park district.

Penalty, see § 130.99

### **§ 131.16 MODEL TOYS.**

Engine-powered, self-propelled radio controlled, or free sailing model and toy airplanes, rockets, boats, cars, sirens, or other noise-making devices are not permitted to be operated within the park district, except in designated areas or with written permission of the Executive Director.

Penalty, see § 130.99

### **§ 131.17 AIRCRAFT AND HOT AIR BALLOONS.**

No person shall voluntarily bring, land, or cause to descend, or alight upon or adjacent to park land or water, any helicopter, airplane, balloon, parachute, hang glider, or other apparatus for aviation, without specific written permission from the Executive Director.

Penalty, see § 130.99

### **§ 131.18 SLEDDING, SKIING, AND ICE SKATING.**

No person shall sled ride, ski, or ice skate within the park district, except in areas authorized for such purposes.

Penalty, see § 130.99

### **§ 131.19 DEFACING ROADWAYS.**

No person shall accelerate a motor vehicle causing the rubber tires to spin, mark, or deface any park roadway or parking lot surface.

Penalty, see § 130.99

### **§ 131.20 ROLLER SKATING; SKATEBOARDS.**

(A) Roller skating shall be permitted only in authorized areas of the park district.

(B) The riding of skateboards is prohibited within the park district.

Penalty, see § 130.99

## **CHAPTER 132: OFFENSES AGAINST PUBLIC PEACE**

---

### Section

- 132.01 Riot
- 132.02 Failure to disperse
- 132.03 Disorderly conduct
- 132.04 Disturbing a lawful meeting
- 132.05 Misconduct at an emergency
- 132.06 Inducing panic
- 132.07 Making false alarms
- 132.08 Observance of good order; removal
- 132.09 Noise; sound amplification
- 132.10 Hours of operation
- 132.11 Loitering with the intention of committing unlawful drug transaction
- 132.12 Public intoxication
- 132.13 Signs
- 132.14 Event notification

### **§ 132.01 RIOT.**

(A) No person shall participate with four or more others in a course of disorderly conduct in violation of § 132.03:

- (1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;
- (2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder,

impede, or obstruct a function of government;

(3) With purpose to hinder, impede, or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at the institution.

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

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

(R.C. § 2917.03)

(D) For the purposes of prosecuting violations of this section, the prosecution is not required to allege or prove that the offender expressly agreed with four or more others to commit any act that constitutes a violation this section prior to or while committing those acts.

(R.C. § 2917.031)

## **§ 132.02 FAILURE TO DISPERSE.**

(A) Where five or more persons are participating in a course of disorderly conduct in violation of § 132.03, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance, or alarm, a law enforcement officer or other public official may order the participants and the other persons to disperse. No person shall knowingly fail to obey the order.

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

(C) (1) Whoever violates this section is guilty of failure to disperse.

(2) Except as otherwise provided in division (C)(3) of this section, failure to disperse is a minor misdemeanor.

(3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in division (A) of this section creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot, or emergency of any kind.

(R.C. § 2917.04)

## **§ 132.03 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 by-law 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.

(R.C. § 2917.11)

#### **§ 132.04 DISTURBING A LAWFUL MEETING.**

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

(1) Do any act which obstructs or interferes with the due conduct of 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.

(R.C. § 2917.12)

#### **§ 132.05 MISCONDUCT AT AN EMERGENCY.**

(A) No person shall knowingly do any of the following:

(1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;

(2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;

(3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.

(B) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.

(C) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this division, misconduct at an emergency is a misdemeanor of the fourth degree. If violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.

(D) As used in this section:

**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.

(R.C. § 2917.13)

## § 132.06 INDUCING PANIC.

(A) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

- (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false;
- (2) Threatening to commit any offense of violence;
- (3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(B) Division (A)(1) of this section does not apply to any person conducting an authorized fire or emergency drill.

(C) (1) Whoever violates this section is guilty of inducing panic.

(2) Except as otherwise provided in division (C)(3), inducing panic is a misdemeanor of the first degree.

(3) If a violation of this section results in physical harm to any person, inducing panic is a felony to be prosecuted under appropriate state law. If a violation of this section results in economic harm of \$1,000 or more, inducing panic 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, inducing panic 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:

**BIOLOGICAL AGENT.** Has the same meaning as in R.C. § 2917.33.

**ECONOMIC HARM.** Means any of the following:

(a) All direct, incidental and consequential pecuniary harm suffered by a victim as a result of the criminal conduct. "Economic harm" as described in this division (E) includes but is not limited to all of the following:

1. All wages, salaries, or other compensation lost as a result of the criminal conduct;
2. The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
3. The overhead costs incurred from the time that a business is shut down as a result of the criminal conduct;

4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(b) All costs incurred by the state or any political subdivision as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or R.C. § 2917.32, including but not limited to all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.

**EMERGENCY MEDICAL SERVICES PERSONNEL.** Has the same meaning as in R.C. § 2133.21.

**WEAPON OF MASS DESTRUCTION.** Means any of the following:

(a) Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or other precursors;

(b) Any weapon involving a disease organism or biological agent;

(c) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;

(d) Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4) and regulations issued under that section:

1. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;

2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (d)1. of this definition and from which an item or device described in that division may be readily assembled.

(R.C. § 2917.31)

## § 132.07 MAKING FALSE ALARMS.

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

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;

(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;

(3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that 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.

(R.C. § 2917.32)

## § 132.08 OBSERVANCE OF GOOD ORDER; REMOVAL.

(A) All persons while within the park district shall abide by conditions adopted and posted by the Board for the preservation of good order and the protection of property within the park.

(B) No person shall remain within the park district who does not abide by the instructions and directions of duly authorized peace officers or agents of the Board, in the lawful performance of their duties. Any person directed by a police officer or agent of the Board to leave the park shall do so promptly and peaceably.

(Prior by-law § 7B) Penalty, see § 130.99

### **§ 132.09 NOISE; SOUND AMPLIFICATION.**

No person shall indulge in any noisy, boisterous conduct nor shall any person use any sound amplification device audible more than 20 feet from the device without specific written permit from the Executive Director.

(Prior by-law § 7D) Penalty, see § 130.99

### **§ 132.10 HOURS OF OPERATION.**

(A) No person shall remain in or use any part of the facilities of the park district during the times the park district is closed, unless by special written permit from the Executive Director.

(B) The park district is open from dawn until dusk daily unless otherwise authorized by the Executive Director or with permission.

(Prior by-law § 7E) Penalty, see § 130.99

### **§ 132.11 LOITERING WITH THE INTENTION OF COMMITTING UNLAWFUL DRUG TRANSACTION.**

(A) Definitions as used in this section:

**CONTROLLED SUBSTANCE.** Has the same meaning as that term has in R.C. § 3719.01(C).

**LOITER.** To sit, stand, lie, pace, or otherwise remain in essentially the same place in a manner or at a time not usual for a law abiding citizen.

**PUBLIC PLACE.** Any area of property, either publicly owned or to which the public has access. The term shall specifically include, but not be limited to, a street, sidewalk, alley, park, playground, parking lot, or garage, the doorway or entrance to any building that fronts such location, and a motor vehicle that is parked or idling in such a location.

**UNLAWFUL DRUG-RELATED ACTIVITY.** Conduct which constitutes an offense defined in R.C. Chapter 2925; conduct which constitutes complicity to commit such an offense, for example, acting as a lookout, or conduct which constitutes conspiracy to commit such an offense.

(B) It shall be unlawful for any person to loiter in a public place with the intention of engaging in unlawful drug-related activity.

(C) An officer who observes a person loitering under circumstances which provide the officer with a reasonable basis to believe that the person intends to engage in unlawful drug-related activity may detain the individual for the purpose of investigating whether the person is in violation of division (B) of this section.

(D) An officer may not detain an individual under division (C) of this section unless both of the following elements are satisfied:

(1) The person engages in one or more of the following behaviors:

(a) The person passes or receives from passers-by, bystanders or persons in motor vehicles money, objects having characteristics consistent with controlled substances, and/or an envelope, bag, or other container which could reasonably contain such objects or money;

(b) The person conceals or attempts to conceal an object having characteristics consistent with controlled substances and/or an envelope, bag or other container which could reasonably contain such objects;

(c) The person flees or obscures himself or herself upon seeing law enforcement officers;

(d) The person communicates the fact that law enforcement officers are in the vicinity to another person in a manner which suggests that the communication is a warning;

(e) The officer observes the person in possession of any instrument or object which is customarily used in the sale, administration or use of controlled substances.

(2) One of the following factors applies:

(a) The officer is aware that, within the preceding three years, the person has been convicted or found delinquent of an offense defined in R.C. Chapter 2925, of complicity to commit such an offense, or of conspiracy to commit such an offense within the preceding three years;

(b) The officer has knowledge of a specific tip concerning unlawful drug-related activity at a specific location, and the person who is loitering is doing so at a time, in a place or in a manner that is otherwise reasonably similar to the details provided in the tip;

(c) The person is loitering in an area that is notorious for unlawful drug-related activity;

(d) The person is in an area where he or she is prohibited by court order from being, and the officer is aware of the court order;

(e) The officer knows that the person has previously been convicted of loitering with the intention of engaging in unlawful drug-related activity under this section;

(f) Any vehicle the person has approached or communicated with is registered to an individual who has been convicted of an unlawful drug-related activity in the previous three years, and the officer is aware of that fact.

(E) Neither the race or the ethnic background of the person shall be considered in determining a person's specific intent under this section.

(F) Upon detaining a person pursuant to division (C) of this section, a police officer must afford the person an opportunity to explain his or her conduct or otherwise dispel the officer's suspicion. No person shall be convicted upon trial if it appears that the officer failed to do so, and no person shall be convicted upon trial if it appears that the explanation he or she provided the officer at the scene is true and disclosed a lawful purpose.

(G) If a police officer who detains a person pursuant to (C) of this section develops probable cause to believe that the person is in violation of (B) of this section, the officer shall order the person to immediately leave the location and to remain at least 500 feet away from the location for five hours. In the event that the person refuses to comply with such an order, the police officer may arrest the person and charge him or her with a violation of this section.

(H) Penalty: whoever violates this section is guilty with the intention of engaging in unlawful drug-related activity, a misdemeanor of the fourth degree. If any offender has previously been convicted under this section, violation of this section is a second degree misdemeanor.

(Amended By-Law 132.15, passed 3-19-15) Penalty, see § 130.99

## **§ 132.12 PUBLIC INTOXICATION.**

No person shall be under the influence of any beer, intoxicating liquor, controlled substance, or harmful intoxicant within the park district.

(Prior by-law § 12) Penalty, see § 130.99

### ***Cross-reference:***

*Alcoholic beverages, see Ch. 91*

## **§ 132.13 SIGNS.**

(A) No person shall post or place any sign, banner, or advertisement in Great Parks of Hamilton County, without specific written

permission from the Executive Director, except reasonable temporary freestanding event related signs at the location of the event provided the signs are removed at the conclusion of the event.

(B) Directional and/or wayfinding signage is prohibited.

(C) Digging or the placement of in-ground signs and sign posts is prohibited.

(D) The attachment of any signs by nails, staples, tacks, or brads or other similar devices to trees, posts, buildings, shelters, or any other property managed or controlled by Great Parks of Hamilton County is prohibited.

(E) Signs must have a set back from the edge of roadways of not less than 20 feet and no sign shall obstruct the view of drivers or the flow of traffic.

(F) Persons in control of the signage are responsible for any and all damages and for clean-up where the sign is placed.

(G) Any sign communicating transactions involving money, goods, or services is prohibited.

(Prior by-law § 14) (Amended 12-5-2014) Penalty, see § 130.99

### **§ 132.14 EVENT NOTIFICATION.**

(A) Great Parks of Hamilton County provides designated indoor and outdoor reserveable areas such as banquet centers, lodges, meeting rooms, picnic areas, shelters, and wedding settings which may be reserved for private functions. Reservations for these reserveable areas may be made through and confirmed by Great Parks of Hamilton County. Great Parks of Hamilton County also provides general use areas such as open lawn areas, plazas, trails, and trailheads for the public's use and enjoyment.

(B) No group of 50 or more persons shall hold a special event, such as but not limited to a walk-a-thon, running race, bicycle race, boating event, fishing event, sporting event, athletic competition, rally, or other public gathering in a general use area of Great Parks of Hamilton County without a special use permit. Applications for permits shall be obtained from and issued by Great Parks of Hamilton County.

(C) The event notification process is designed to assist Great Parks of Hamilton County in understanding the needs of the applicant in order to plan for appropriate visitor support services, planning for public safety and resource protection needs and to make visits to the park enjoyable for all. Great Parks of Hamilton County will issue permits on a first come, first served basis provided that the applicant satisfies each of the following objective factors:

(1) The applicant submits a legible, completed application form;

(2) The requested location, date, and time are available and the size and type of the requested event does not exceed the carrying capacity of the requested area;

(3) The applicant obtains any necessary permits or licenses required by law such as those mandated by the Board of Health or the Ohio Department of Commerce Division of Liquor Control;

(4) Permits shall not be unduly denied. However, the following factors shall be taken into consideration when making the determination to either grant or deny a permit:

(a) Prior commitment of the site on the date requested;

(b) Suitability of the site requested based on the size and nature of the proposed activity;

(c) Availability of alternate sites;

(d) Potential injury or damage to park area resources;

(e) The activity's compatibility with the purposes of natural, historic, wilderness, or commemorative areas;

(f) Whether the activity would impair the peace and tranquility maintained in the Great Parks of Hamilton County;

(g) Whether the activity would interfere with naturalists, visitor services, other program activities or with the administrative activities of Great Parks of Hamilton County;

(h) Whether the activity would impair the operation of public use facilities or services of Great Parks of Hamilton County or its

concessioners, holders of commercial use authorizations, or contractors;

- (i) Whether the activity will present a clear and present danger to the public health and safety;
- (j) Whether any application is complete and all fees paid;
- (k) Whether the applicant has allowed sufficient time for the GPHC to plan for and coordinate the requested activity;
- (l) The willingness and ability of the applicant to cover expenses related to the activity, including but not limited to first aid, traffic control, security, and utilities.
- (m) Whether the applicant has knowingly provided material falsehoods relative to the application or proposed event;
- (n) Whether the applicant has a record of unpaid damages from prior events;
- (o) Whether the applicant has a record of previous violations of the Great Parks of Hamilton County permits, rules, or by-laws.

(D) Any person whose permit is denied may file a written appeal to the Executive Director of the Great Parks of Hamilton County. The Executive Director shall review the appeal and within ten business days after receipt of the written appeal, provide written notice of his or her decision to the appellant. The Executive Director may deny or condition a permit for good cause, including without limitation that the activity or event authorized by the permit is being conducted in violation of this chapter or represents a nuisance or a threat to the public health or safety.

(E) The Executive Director or his or her designee may consider a request to waive the fees for the use of any Great Parks of Hamilton County park area. In considering the request the Executive Director can consider the following factors:

- (1) Whether the request is for off-season or prime-time use;
- (2) Whether the purpose is nonprofit, charitable, or for profit;
- (3) The size and complexity of the event;
- (4) There is an offer to perform a needed service for the Great Parks of Hamilton County in exchange for use;
- (5) Some other valuable exchange is offered for use;
- (6) The request is from another governmental unit or agency;
- (7) Whether the request conflicts with another fee generating request.

(Prior by-law § 17) (Amended 12-5-2014) Penalty, see § 130.99

## **CHAPTER 133: SEX OFFENSES**

---

### Section

- 133.01 Definitions
- 133.02 Sexual imposition
- 133.03 [Reserved]
- 133.04 Voyeurism
- 133.05 Public indecency
- 133.06 Procuring
- 133.07 Soliciting
- 133.071 Loitering to engage in solicitation
- 133.08 Prostitution
- 133.09 Disseminating matter harmful to juveniles

## § 133.01 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)

### **§ 133.02 SEXUAL IMPOSITION.**

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

- (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard;
- (2) The offender knows that the other person's, or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired;
- (3) The offender knows that the other person, or one of the other persons, submits because of being unaware of the sexual contact;
- (4) The other person, or one of the other persons, is 13 years of age or older but less than 16 years of age, whether or not the offender knows the age of the person, and the offender is at least 18 years of age and four or more years older than the other person;
- (5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

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

(C) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender has been convicted previously of a violation of this section, R.C. § 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or former R.C. § 2907.12, a violation of this section is a misdemeanor of the first degree.

(R.C. § 2907.06) Penalty, see § 130.99

### **§ 133.03 [RESERVED].**

#### ***Editor's note:***

*This section, formerly based on R.C. § 2907.07, was repealed because the underlying misdemeanor offense (importuning - solicitation of a person of the same sex to engage in sexual activity with the offender, when the offender knows the solicitation is offensive to the other person, or is reckless in that regard) was held unconstitutional in State v. Thompson, 767 N.E.2d 251 (Ohio 2002) (holding that the statute imposed an unconstitutional content-based restriction on speech). For felony provisions, see R.C. § 2907.07(A), (C), (D) and (E).*

## § 133.04 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.

(R.C. § 2907.08)

## § 133.05 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, 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, 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, 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, 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, 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, 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, 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, a violation of division (B)(4) of this section is a felony to be prosecuted under appropriate state law.

(R.C. § 2907.09)

(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.

(R.C. § 3781.55)

### **§ 133.06 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.

(R.C. § 2907.23)

### **§ 133.07 SOLICITING.**

(A) (1) No person shall solicit another who is 18 years of age or older to engage with the other person in sexual activity for hire.

(2) No person shall solicit another to engage with such other person in sexual activity for hire if the other person is 16 or 17 years of age and the offender knows that the other person is 16 or 17 years of age or is reckless in that regard.

(3) No person shall solicit another to engage with such other person in sexual activity for hire if either of the following applies:

(a) The other person is less than 16 years of age, whether or not the offender knows the age of the other person;

(b) The other person is a developmentally disabled person and the offender knows or has reasonable cause to believe the other person is a developmentally disabled person.

(B) (1) Whoever violates division (A) of this section is guilty of soliciting. A violation of division (A)(1) of this section is a misdemeanor of the third degree. A violation of division (A)(2) or (A)(3) of this section is a felony to be prosecuted under appropriate state law.

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

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

**DEVELOPMENTALLY DISABLED PERSON.** Has the same meaning as in R.C. § 2905.32.

**SEXUAL ACTIVITY FOR HIRE.** Means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.

(R.C. § 2907.24(A), (C)(1), (D), (E))

### § 133.071 LOITERING TO ENGAGE IN SOLICITATION.

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

(1) Beckon to, stop or attempt to stop another;

(2) Engage or attempt to engage another in conversation;

(3) Stop or attempt to stop the operator of a vehicle or approach a stationary vehicle;

(4) If the offender is the operator of or a passenger in a vehicle, stop, attempt to stop, beckon to, attempt to beckon to, or entice another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger;

(5) Interfere with the free passage of another.

(B) As used in division (A) of this section:

**PUBLIC PLACE.** Means any of the following:

(a) A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot or transportation facility;

(b) A doorway or entrance way to a building that fronts on a place described in division (a) of this definition;

(c) A place not described in division (a) or (b) of this definition that is open to the public.

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

(C) Whoever violates division (A) of this section is guilty of loitering to engage in solicitation, a misdemeanor of the third degree.

(R.C. § 2907.241)

### § 133.08 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.

(R.C. § 2907.25)

## § 133.09 DISSEMINATING MATTER HARMFUL TO JUVENILES.

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

(1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;

(2) Directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;

(3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles.

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

(1) The defendant is the parent, guardian, or spouse of the juvenile involved;

(2) The juvenile involved, at the time of the conduct in question, was accompanied by his or her parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile;

(3) The juvenile exhibited to the defendant or his or her agent or employee a draft card, driver's license, birth record, marriage license, or other official or apparently official document purporting to show that the juvenile was 18 years of age or over or married, and the person to whom the document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of 18 and unmarried.

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

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

(D) (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.

(2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:

(a) The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile;

(b) The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.

(E) Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles except as otherwise provided in this division, a violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, violation of this section is a felony to be prosecuted under appropriate state law.

(R.C. § 2907.31)

## CHAPTER 134: GAMBLING

- 134.01 Definitions
- 134.02 Public gaming
- 134.03 Cheating
- 134.04 Regulations concerning operation of licensed bingo game

## § 134.01 DEFINITIONS.

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

**BET.** The hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.

**BINGO.** Either of the following:

(1) A game with all of the following characteristics:

(a) The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into 25 spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space;

(b) The participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator;

(c) A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains 75 objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the 75 possible combinations of a letter and a number that can appear on the bingo cards or sheets;

(d) The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers, as described in division (1)(c) of this definition, that a predetermined and pre-announced pattern of spaces has been covered on a bingo card or sheet being used by the participant.

(2) Instant bingo, punch boards, and raffles.

**BINGO GAME OPERATOR.** Any person, except security personnel, who performs work or labor at the site of bingo including but not limited to collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.

**BINGO SESSION.** A period that includes both of the following:

(1) Not to exceed five continuous hours for the conduct of one or more games described in division (1) of the definition of "bingo" in this section, instant bingo, and seal cards;

(2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in division (1) of this definition.

**BINGO SUPPLIES.** Bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter or R.C. Chapter 2915. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.

**BOOKMAKING.** The business of receiving or paying off bets.

**CHAMBER OF COMMERCE.** Any organization of individuals, professionals, and businesses that has the purpose to advance the

commercial, financial, industrial, and civic interests of the community and that is, and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under IRC § 501(a) and described in IRC § 501(c)(6).

**CHARITABLE BINGO GAME.** Any bingo game described in divisions (1) or (2) of the definition of "bingo" in this section that is conducted by a charitable organization that has obtained a license pursuant to R.C. § 2915.08 and the proceeds of which are used for a charitable purpose.

**CHARITABLE INSTANT BINGO ORGANIZATION.** An organization that is exempt from federal income taxation under IRC § 501(a) and described in IRC § 501(c)(3) and is a charitable organization as defined in this section. The term does not include a charitable organization that is exempt from federal income taxation under IRC § 501(a) and described in IRC § 501(c)(3) and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to R.C. § 2915.13.

**CHARITABLE ORGANIZATION.**

(1) Except as otherwise provided in this chapter, "charitable organization" means either of the following:

(a) An organization that is and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is exempt from federal income taxation under IRC § 501(a) and described in IRC § 501(c)(3);

(b) A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under IRC §§ 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10) or 501(c)(19).

(2) To qualify as a charitable organization, an organization shall have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under R.C. § 2915.08 or the conducting of any game of chance as provided in R.C. § 2915.02(D).

**CHARITABLE PURPOSE.** Means that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

(1) Any organization that is described in IRC §§ 509(a)(1), 509(a)(2), or 509(a)(3) and is either a governmental unit or an organization that is tax exempt under IRC § 501(a) and described in IRC § 501(c)(3);

(2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least 75% of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in R.C. § 5739.02(B)(12), is used for awarding scholarships to or for attendance at an institution mentioned in that division of the Ohio Revised Code, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;

(3) A fraternal organization that has been in continuous existence in this state for 15 years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, if contributions for such use would qualify as a deductible charitable contribution under IRC § 170;

(4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in the definition of "volunteer firefighter's organization" in this section.

**COMMUNITY ACTION AGENCY.** Has the same meaning as in R.C. § 122.66.

**CONDUCT.** To back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.

**DEAL OF INSTANT BINGO TICKETS.** A single game of instant bingo tickets all with the same serial number.

**DISTRIBUTOR.** Any person who purchases or obtains bingo supplies and who does either of the following:

(1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state;

- (2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this state.

***ELECTRONIC BINGO AID.***

(1) An electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:

- (a) It provides a means for a participant to input numbers and letters announced by a bingo caller;
  - (b) It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device;
  - (c) It identifies a winning bingo pattern.
- (2) The term does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.

***EXPENSES.*** The reasonable amount of gross profit actually expended for all of the following:

- (1) The purchase or lease of bingo supplies;
- (2) The annual license fee required under R.C. § 2915.08;
- (3) Bank fees and service charges for a bingo session or game account described in R.C. § 2915.10;
- (4) Audits and accounting services;
- (5) Safes;
- (6) Cash registers;
- (7) Hiring security personnel;
- (8) Advertising bingo;
- (9) Renting premises in which to conduct a bingo session;
- (10) Tables and chairs;
- (11) Expenses for maintaining and operating a charitable organization's facilities, including but not limited to a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
- (12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
- (13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under R.C. § 2915.08(B)(1).

***FRATERNAL ORGANIZATION.*** Any society, order, state headquarters, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members.

***GAMBLING DEVICE.*** Any of the following:

- (1) A book, totalizer, or other equipment used for recording bets;
- (2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;
- (3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
- (4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;
- (5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter or R.C. Chapter 2915.

***GAMBLING OFFENSE.*** Any of the following:

- (1) A violation of R.C. § 2915.02, 2915.03, 2915.04, 2915.05, 2915.06, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.10, or 2915.11;

(2) A violation of an existing 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. § 2915.06 as it existed prior to July 1, 1996;

(3) An offense under an existing law of this or any other state or of the United States, of which gambling is an element;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (1), (2), or (3) of this definition.

**GAME FLARE.** The board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information for the game:

(1) The name of the game;

(2) The manufacturer's name or distinctive logo;

(3) The form number;

(4) The ticket count;

(5) The prize structure, including the number of winning instant bingo tickets by denomination and the respective winning symbol or number combinations for the winning instant bingo tickets;

(6) The cost per play;

(7) The serial number of the game.

**GAME OF CHANCE.** Poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

**GAME OF CHANCE CONDUCTED FOR PROFIT.** Any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

**GROSS ANNUAL REVENUES.** The annual gross receipts derived from the conduct of bingo described in division (1) of the definition of "bingo" in this section plus the annual net profit derived from the conduct of bingo described in division (2) of the definition of "bingo" in this section.

**GROSS PROFIT.** Gross receipts minus the amount actually expended for the payment of prize awards.

**GROSS RECEIPTS.** All money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. The term does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:

(1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo;

(2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage;

(3) The food and beverages are sold at customary and reasonable prices.

**HISTORIC RAILROAD.** All or a portion of the tracks and right-of-way of a railroad that was owned and operated by a for profit common carrier in this state at any time prior to January 1, 1950.

**INSTANT BINGO.** A form of bingo that shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, and may also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. In all "instant bingo" the prize amount and structure shall be predetermined. The term does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

**INSTANT BINGO TICKET DISPENSER.** A mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:

- (1) It is activated upon the insertion of United States currency;
- (2) It performs no gaming functions;
- (3) It does not contain a video display monitor or generate noise;
- (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations;
- (5) It does not simulate or display rolling or spinning reels;
- (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or non-winning ticket or card and requires a winning ticket or card to be paid by a bingo game operator;
- (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses;
- (8) It is not part of an electronic network and is not interactive.

**INTERNAL REVENUE CODE (IRC).** The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. §§ 1 et seq., as now or hereafter amended.

**MANUFACTURER.** Any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.

**MERCHANDISE PRIZE.** Any item of value, but shall not include any of the following:

- (1) Cash, gift cards, or any equivalent thereof;
- (2) Plays on games of chance, state lottery tickets, bingo, or instant bingo;
- (3) Firearms, tobacco, or alcoholic beverages;
- (4) A redeemable voucher that is redeemable for any of the items listed in division (1), (2), or (3) of this definition.

**NET PROFIT.** Gross profit minus expenses.

**NET PROFIT FROM THE PROCEEDS OF THE SALE OF INSTANT BINGO.** Gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies, and, in the case of instant bingo conducted by a veteran's, fraternal, or sporting organization, minus the payment by that organization of real property taxes and assessments levied on a premises on which instant bingo is conducted.

**PARTICIPANT.** Any person who plays bingo.

**PERSON.** Has the same meaning as in R.C. § 1.59 and includes any firm or any other legal entity, however organized.

**POOL NOT CONDUCTED FOR PROFIT.** A scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

**PUNCH BOARD.** A board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

**RAFFLE.** A form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. The term does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:

- (1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event;
- (2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.

**REDEEMABLE VOUCHER.** Any ticket, token, coupon, receipt, or other noncash representation of value.

**RELIGIOUS ORGANIZATION.** Any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.

**REVOKE.** To void permanently all rights and privileges of the holder of a license issued under R.C. § 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.

**SCHEME OF CHANCE.**

(1) A slot machine unless authorized under R.C. Chapter 3772, lottery unless authorized under R.C. Chapter 3770, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. "Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:

- (a) Less than 50% of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;
- (b) Less than 50% of participants who purchase goods or services at any one location do not accept, use, or redeem the goods or services sold or purportedly sold;
- (c) More than 50% of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in R.C. § 3772.01;
- (d) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
- (e) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
- (f) A participant may use the electronic device to purchase additional game entries;
- (g) A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
- (h) A scheme of chance operator pays out in prize money more than 20% of the gross revenue received at one location;
- (i) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.

(2) As used in this division (2), "electronic device" means a mechanical, video, digital, or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased, or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries, or contractors.

**SEAL CARD.** A form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.

**SECURITY PERSONNEL.** Includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course pursuant to R.C. §§ 109.71 through 109.79 and who is hired to provide security for the premises on which bingo is conducted.

**SKILL-BASED AMUSEMENT MACHINE.**

(1) (a) A mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:

- 1. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed \$10;
- 2. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than \$10;
- 3. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than \$10 times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize;

4. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.

(b) A card for the purchase of gasoline is a redeemable voucher for purposes of division (1) of this definition even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.

(2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:

(a) The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game;

(b) Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;

(c) The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game;

(d) The success of any player is or may be determined by a chance event that cannot be altered by player actions;

(e) The ability of any player to succeed at the game is determined by game features not visible or known to the player;

(f) The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.

(3) All of the following apply to any machine that is operated as described in division (1) of this definition:

(a) As used in this definition of "skill-based amusement machine", **GAME** and **PLAY** mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition, or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play;

(b) Advance play for a single game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play;

(c) To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.

(4) For purposes of division (1) of this definition, the mere presence of a device, such as a pin- setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.

### ***SLOT MACHINE.***

(1) Either of the following:

(a) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;

(b) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.

(2) The term does not include a skill-based amusement machine or an instant bingo ticket dispenser.

***SPORTING ORGANIZATION.*** A hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to the League of Ohio Sportsmen, and that has been in continuous existence in this state for a period of three years.

***SUSPEND.*** To interrupt temporarily all rights and privileges of the holder of a license issued under R.C. § 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.

***SWEEPSTAKES.*** Any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a

person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. "Sweepstakes" does not include bingo as authorized under R.C. Chapter 2915, pari-mutuel wagering as authorized by R.C. Chapter 3769, lotteries conducted by the State Lottery Commission as authorized by R.C. Chapter 3770, and casino gaming as authorized by R.C. Chapter 3772.

***SWEEPSTAKES TERMINAL DEVICE.***

(1) A mechanical, video, digital, or electronic machine or device that is owned, leased, or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:

- (a) The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries;
- (b) The device utilizes software such that the simulated game influences or determines the winning of or value of the prize;
- (c) The device selects prizes from a predetermined finite pool of entries;
- (d) The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry;
- (e) The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed;
- (f) The device utilizes software to create a game result;
- (g) The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded;
- (h) The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

(2) As used in this definition and in § 134.02:

- (a) ***ENTER.*** The act by which a person becomes eligible to receive any prize offered in a sweepstakes.
- (b) ***ENTRY.*** One event from the initial activation of the sweepstakes terminal device until all the sweepstakes prize results from that activation are revealed.
- (c) ***PRIZE.*** Any gift, award, gratuity, good, service, credit, reward, or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.
- (d) ***SWEEPSTAKES TERMINAL DEVICE FACILITY.*** Any location in this state where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in § 134.02(G) and R.C. § 2915.02(G).

***VETERAN'S ORGANIZATION.*** Any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this definition, ***NATIONAL VETERAN'S ASSOCIATION*** means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States Congress or has a national dues-paying membership of at least 5,000 persons.

***VOLUNTEER FIREFIGHTER'S ORGANIZATION.*** Any organization of volunteer firefighters, as defined in R.C. § 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.

***VOLUNTEER RESCUE SERVICE ORGANIZATION.*** Any organization of volunteers organized to function as an emergency medical service organization, as defined in R.C. § 4765.01.

***YOUTH ATHLETIC ORGANIZATION.*** Any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 21 years of age or younger by means of sponsoring,

organizing, operating, or contributing to the support of an athletic team, club, league, or association.

**YOUTH ATHLETIC PARK ORGANIZATION.** Any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates, and maintains playing fields that satisfy both of the following:

(a) The playing fields are used at least 100 days per year for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 18 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association;

(b) The playing fields are not used for any profit-making activity at any time during the year;

(2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in division (1) of this definition.

(R.C. § 2915.01)

### **§ 134.02 PUBLIC GAMING.**

(A) No person within the park district shall make a bet or play any game of chance or scheme of chance.

(B) No person, being the owner or lessee, or having custody, control, or supervision of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit those premises to be used or occupied in violation of division (A) of this section.

(C) Divisions (A) and (B) of this section do not prohibit conduct in connection with gambling expressly permitted by law.

(D) Whoever violates this section is guilty of public gaming. Except as otherwise provided in this division, public gaming is a minor misdemeanor. If the offender previously has been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

(E) Premises used or occupied in violation of division (B) of this section constitute a nuisance subject to abatement under R.C. Chapter 3767.

(R.C. § 2915.04)

### **§ 134.03 CHEATING.**

(A) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of any of the following:

(1) The subject of a bet;

(2) A contest of knowledge, skill, or endurance that is not an athletic or sporting event;

(3) A scheme or game of chance;

(4) Bingo.

(B) No person shall knowingly do any of the following:

(1) Offer, give, solicit, or accept anything of value to corrupt the outcome of an athletic or sporting event;

(2) Engage in conduct designed to corrupt the outcome of an athletic or sporting event.

(C) (1) Whoever violates division (A) of this section is guilty of cheating. Except as otherwise provided in this division (C)(1), cheating is a misdemeanor of the first degree. If the potential gain from the cheating is \$1,000 or more or if the offender previously has been convicted of any gambling offense or of any theft offense as defined in R.C. § 2913.01, cheating is a felony to be prosecuted under appropriate state law.

(2) Whoever violates division (B) of this section is guilty of corrupting sports. Corrupting sports is a felony to be prosecuted under

appropriate state law.

(R.C. § 2915.05)

#### **§ 134.04 REGULATIONS CONCERNING OPERATION OF LICENSED BINGO GAME.**

(A) No charitable organization that conducts bingo shall fail to do any of the following:

(1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;

(2) Except as otherwise provided in division (A)(3) of this section, use all of the gross receipts from bingo for paying prizes, for reimbursement of expenses for or for renting premises in which to conduct bingo, for reimbursement of expenses for or for purchasing or leasing bingo supplies used in conducting bingo, for reimbursement of expenses for or for hiring security personnel, for reimbursement of expenses for or for advertising bingo, or for reimbursement of other expenses or for other expenses listed in the definition for "expenses" in R.C. § 2915.01, provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, advertising, or expense. If the building in which bingo is conducted is owned by the charitable organization conducting bingo and the bingo conducted includes a form of bingo described in division (1) of the definition of "bingo" in R.C. § 2915.01, the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of \$600 or 45% of the gross receipts from the bingo described in that division as consideration for the use of the premises;

(3) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo, other than instant bingo, for a charitable purpose listed in its license application and described in the definition for "charitable purpose" in R.C. § 2915.01, or distribute all of the net profit from the proceeds of the sale of instant bingo as stated in its license application and in accordance with R.C. § 2915.101.

(B) No charitable organization that conducts a bingo game described in division (1) of the definition of "bingo" in R.C. § 2915.01 shall fail to do any of the following:

(1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of \$650 per bingo session or 45% of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality but not in excess of \$450 per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of \$450 per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide only the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three other charitable organizations per calendar week for conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine bingo sessions be conducted on any premises in any calendar week;

(2) Display its license conspicuously at the premises where the bingo session is conducted;

(3) Conduct the bingo session in accordance with division (1) of the definition of "bingo" in R.C. § 2915.01.

(C) No charitable organization that conducts a bingo game described in division (1) of the definition of "bingo" in R.C. § 2915.01 shall do any of the following:

(1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;

(2) Pay consulting fees to any person for any services performed in relation to the bingo session;

(3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;

(4) Except as otherwise provided in division (C)(4) of this section, conduct more than three bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than three bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;

(5) Pay out more than \$6,000 in prizes for bingo games described in R.C. § 2915.01(S)(1) during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo;

(6) Conduct a bingo session at any time during the eight-hour period between 2:00 a.m. and 10:00 a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to R.C. § 2915.12, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. This division (C)(6) does not prohibit the sale of instant bingo tickets beginning at 9:00 a.m. for a bingo session that begins at 10:00 a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney General for an amended license pursuant to R.C. § 2915.08(F). A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;

(7) Permit any person whom the charitable organization knows, or should have known, is under the age of 18 to work as a bingo game operator;

(8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;

(9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;

(10) Purchase or lease bingo supplies from any person except a distributor issued a license under R.C. § 2915.081;

(11) (a) Use or permit the use of electronic bingo aids except under the following circumstances:

1. For any single participant, not more than 90 bingo faces can be played using an electronic bingo aid or aids;

2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets;

3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid;

4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted;

5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used;

6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.

(b) The Attorney General may adopt rules in accordance with R.C. Chapter 119 that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the Attorney General to verify the number of bingo cards or sheets played during each bingo session.

(12) Permit any person the charitable organization knows, or should have known, to be under 18 years of age to play bingo described in division (1) of the definition of "bingo" in R.C. § 2915.01.

(D) (1) Except as otherwise provided in division (D)(3) of this section, no charitable organization shall provide to a bingo game

operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.

(2) Except as otherwise provided in division (D)(3) of this section, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly regardless of the source, for conducting instant bingo other than at a bingo session at the site of instant bingo other than at a bingo session.

(3) Nothing in this division (D) of this section prohibits an employee of a fraternal organization, veteran's organization, or sporting organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.

(E) Notwithstanding division (B)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the Attorney General in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the Attorney General prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the Attorney General prior to December 6, 1977.

(F) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.

(G) Whoever violates division (A)(2) of this section is guilty of illegally conducting a bingo game, a felony to be prosecuted under appropriate state law. Except as otherwise provided in this division (G), whoever violates division (A)(1), (A)(3), (B)(1), (B)(2), (B)(3), (C)(1) through (C)(11), or (D) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of division (A)(1), (A)(3), (B)(1), (B)(2), (B)(3), (C)(1) through (C)(11), or (D) of this section, a violation of division (A)(1), (A)(3), (B)(1), (B)(2), (B)(3), (C)(1) through (C)(11), or (D) of this section is a misdemeanor of the first degree. Whoever violates division (C)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (C)(12) of this section, a violation of division (C)(12) of this section is a felony to be prosecuted under appropriate state law.

(R.C. § 2915.09)

## CHAPTER 135: OFFENSES AGAINST PERSONS

---

### Section

- 135.01 Assault
- 135.02 Negligent assault
- 135.03 Menacing
- 135.04 Coercion
- 135.05 [Reserved]
- 135.06 Contributing to unruliness or delinquency of a child
- 135.07 Telecommunications harassment
- 135.08 Placing harmful objects in food or confection

### § 135.01 ASSAULT.

(A) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.

(B) No person shall recklessly cause serious physical harm to another or to another's unborn.

(C) Whoever violates division (A) or (B) of this section is guilty of assault. Except as provided in R.C. § 2903.13(C), assault is a misdemeanor of the first degree.

(D) 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).

(R.C. § 2903.13)

### **§ 135.02 NEGLIGENT ASSAULT.**

(A) 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.

(B) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree.

(R.C. § 2903.14)

### **§ 135.03 MENACING.**

(A) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.

(B) Whoever violates this section is guilty of 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.

(C) As used in this section, **ORGANIZATION** includes an entity that is a governmental employer.

(R.C. § 2903.22)

### **§ 135.04 COERCION.**

(A) No person, with purpose to coerce another into taking or refraining from action concerning which he or she 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 his or her personal or business repute, or to impair his or her 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 he or she 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 probation on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of his or her 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 his or her purpose was limited to:

(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, *THREAT* includes a direct threat and a threat by innuendo.

(R.C. § 2905.12)

## **§ 135.05 [RESERVED].**

## **§ 135.06 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.**

(A) No person, including a parent, guardian, or other custodian of a child, shall do any of the following:

(1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child, as defined in R.C. § 2151.022, or a delinquent child, as defined in R.C. § 2152.02;

(2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child, as defined in R.C. § 2151.022, or a delinquent child, as defined in R.C. § 2152.02;

(3) If the person is the parent, guardian, or custodian of a child who has the duties under R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address, and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in R.C. § 2919.121, fail to ensure that the child complies with those duties under R.C. Chapters 2152 and 2950.

(B) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of a violation of this section is a separate offense.

(R.C. § 2919.24)

## **§ 135.07 TELECOMMUNICATIONS HARASSMENT.**

(A) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

(1) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass or abuse any person at the premises to which the telecommunication is made, whether or not actual communication takes place

between the caller and a recipient;

(2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;

(3) During the telecommunication, violates R.C. § 2903.21;

(4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;

(5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any persons at those premises.

(B) No person shall make or cause to be made a telecommunication or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.

(C) (1) Whoever violates divisions (A) or (B) of this section is guilty of telecommunications harassment.

(2) A violation of division (A)(1), (A)(2), (A)(3) or (A)(5) or (B) of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, which shall be prosecuted under appropriate state law.

(3) Except as otherwise provided in this division (C)(3), a violation of division (A)(4) of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, to be prosecuted under appropriate state law. If a violation of division (A)(4) of this section results in economic harm of \$1,000 or more, telecommunications harassment is a felony to be prosecuted under appropriate state law.

(D) As used in divisions (A) through (C) of this section:

**CALLER.** Means the person described in division (A) of this section who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.

**ECONOMIC HARM.** Means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of the criminal conduct. The term includes but is not limited to all of the following:

(a) All wages, salaries, or other compensation lost as a result of the criminal conduct;

(b) The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(c) The overhead costs incurred from the time that a business is shut down as a result of the criminal conduct;

(d) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

**SEXUAL ACTIVITY.** Has the same meaning as in R.C. § 2907.01.

**TELECOMMUNICATION.** Has the same meaning as in R.C. § 2913.01.

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

(E) Nothing in this section prohibits a person from making a telecommunication to a debtor that is in compliance with the "Fair Debt Collection Practices Act", 15 U.S.C. § 1692, as amended, or the "Telephone Consumer Protection Act", 47 U.S.C. § 227, as amended.

(R.C. § 2917.21)

## **§ 135.08 PLACING HARMFUL OBJECTS IN FOOD OR CONFECTION.**

(A) No person shall do either of the following, knowing or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:

(1) Place a pin, razor blade, glass, laxative, drug of abuse, or other harmful or hazardous object or substance in any food or confection;

(2) Furnish to any person any food or confection which has been adulterated in violation of division (A)(1) of this section.

(R.C. § 3716.11)

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

(R.C. § 3716.99(C))

## CHAPTER 136: OFFENSES AGAINST JUSTICE AND ADMINISTRATION

---

### Section

- 136.01 Falsification
- 136.02 Failure to aid a law enforcement officer
- 136.03 Obstructing official business
- 136.04 Obstructing justice
- 136.05 Resisting arrest
- 136.06 Personating an officer
- 136.07 Impersonating a peace officer
- 136.08 Assaulting police dog or horse, or service dog
- 136.09 Failure to disclose personal information

### § 136.01 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 made with purpose to secure the payment of unemployment compensation; Ohio Works First; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance as defined in R.C. § 9.66; or other benefits administered by a governmental agency or paid out of a public treasury;

(5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement;

(6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths;

(7) The statement is in writing on or in connection with a report or return that is required or authorized by law;

(8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to his or her detriment;

(9) The statement is made with purpose to commit or facilitate the commission of a theft offense;

(10) The statement is knowingly made to a probate court in connection with any action, proceeding, or other matter within its jurisdiction, either orally or in a written document, including but not limited to an application, petition, complaint, or other pleading, or an inventory, account, or report;

(11) The statement is made on an account, form, record, stamp, label, or other writing that is required by law;

(12) The statement is made in connection with the purchase of a firearm, as defined in R.C. § 2923.11, and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity;

(13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the Secretary of State, a county recorder, or the clerk of a court of record;

(14) The statement is made in an application filed with a county sheriff pursuant to R.C. § 2923.125 in order to obtain or renew a concealed handgun license or is made in an affidavit submitted to a county sheriff to obtain a concealed handgun license on a temporary emergency basis under R.C. § 2923.1213;

(15) The statement is required under R.C. § 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(B) No person, in connection with the purchase of a firearm as defined in R.C. § 2923.11, shall knowingly furnish to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(C) No person, in an attempt to obtain a concealed handgun license under R.C. § 2923.125, shall knowingly present to a sheriff a fictitious or altered document that purports to be certification of the person's competence in handling a handgun as described in R.C. § 2923.125(B)(3).

(D) It is no defense to a charge under division (A)(6) of this section that the oath or affirmation was administered or taken in an irregular manner.

(E) 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.

(F) (1) Whoever violates division (A)(1), (A)(2), (A)(3), (A)(4), (A)(5), (A)(6), (A)(7), (A)(8), (A)(10), (A)(11), (A)(13) or (A)(15) of this section is guilty of falsification. Except as otherwise provided in this division (F)(1), falsification is a misdemeanor of the first degree.

(2) Whoever violates division (A)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division (F)(2), falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is \$1,000 or more, falsification in a theft offense is a felony to be prosecuted under appropriate state law.

(3) Whoever violates division (A)(12) or (B) of this section is guilty of falsification to purchase a firearm, a felony to be prosecuted under appropriate state law.

(4) Whoever violates division (A)(14) or (C) of this section is guilty of falsification to obtain a concealed handgun license, a felony to be prosecuted under appropriate state law.

(5) Whoever violates division (A) of this section in removal proceedings under R.C. § 319.26, 321.37, 507.13 or 733.78 is guilty of falsification regarding a removal proceeding, a felony to be prosecuted under appropriate state law.

(R.C. § 2921.13) Penalty, see § 130.99

## **§ 136.02 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.

(R.C. § 2921.23)

### § 136.03 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.

(R.C. § 2921.31)

### § 136.04 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 charge 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, or if the crime or act committed by the person or child aided is an act of terrorism, obstructing justice is a felony to be prosecuted under appropriate state law.

(D) As used in this section:

**ACT OF TERRORISM.** Has the same meaning as in R.C. § 2909.21.

**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.

(R.C. § 2921.32)

## § 136.05 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;

(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.

(R.C. § 2921.33)

## § 136.06 PERSONATING AN OFFICER.

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

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

(R.C. § 2913.44)

## § 136.07 IMPERSONATING A PEACE OFFICER.

(A) As used in this section:

**FEDERAL LAW ENFORCEMENT OFFICER.** Means an employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.

**IMPERSONATE.** Means to act the part of, assume the identity of, wear the uniform or any part of the uniform of, or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

**INVESTIGATOR OF THE BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION.** Has the same meaning as in R.C. § 2903.11.

**PEACE OFFICER.** A sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation, or township constable, who is employed by a political subdivision of this state; a member of a police force employed by a metropolitan housing authority under R.C. § 3735.31(D); a member of a police force employed by a regional transit authority under R.C. § 306.35(Y); a state university law enforcement officer appointed under R.C. § 3345.04; a veterans' home police officer appointed under R.C. § 5907.02; a special police officer employed by a port authority under R.C. § 4582.04 or 4582.28; an officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within limits of that statutory duty and authority; or a state highway patrol trooper whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws, ordinances, or rules of the state or any of its political subdivisions.

**PRIVATE POLICE OFFICER.** Means any security guard, special police officer, private detective, or other person who is privately employed in a police capacity.

(B) No person shall impersonate a peace officer, private police officer, investigator of the Bureau of Criminal Identification and Investigation, or federal law enforcement officer.

(C) No person, by impersonating a peace officer, private police officer, investigator of the Bureau of Criminal Identification and Investigation, or federal law enforcement officer, shall arrest or detain any person, search any person, or search the property of any person.

(D) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the park district or the state, or investigator of the Bureau of Criminal Identification and Investigation.

(E) No person shall commit a felony while impersonating a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the park district or of the state, or investigator of the Bureau of Criminal Identification and Investigation.

(F) It is an affirmative defense to a charge under division (B) of this section that the impersonation of the peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the park district or of the state, or investigator of the Bureau of Criminal Identification and Investigation was for a lawful purpose.

(G) Whoever violates division (B) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (C) or (D) of this section is guilty of a misdemeanor of the first degree. If the purpose of a violation of division (D) of this section is to commit or facilitate the commission of a felony, a violation of division (D) is a felony to be prosecuted under appropriate state law. Whoever violates division (E) of this section is guilty of a felony to be prosecuted under appropriate state law.

(R.C. § 2921.51)

### **§ 136.08 ASSAULTING POLICE DOG OR HORSE, OR SERVICE DOG.**

(A) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:

(1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted;

(2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

(B) No person shall recklessly do any of the following:

(1) Taunt, torment, or strike a police dog or horse;

(2) Throw an object or substance at a police dog or horse;

(3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:

(a) Inhibits or restricts the law enforcement officer's control of the police dog or horse;

(b) Deprives the law enforcement officer of control of the police dog or horse;

(c) Releases the police dog or horse from its area of control;

(d) Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;

(e) Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.

(4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse;

(5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.

(C) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:

(1) The dog is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted;

(2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is an assistance dog.

(D) No person shall recklessly do any of the following:

(1) Taunt, torment, or strike an assistance dog;

(2) Throw an object or substance at an assistance dog;

(3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a blind, deaf or hearing impaired, or mobility impaired person who is being assisted or served by an assistance dog, in a manner that does any of the following:

(a) Inhibits or restricts the assisted or served person's control of the dog;

(b) Deprives the assisted or served person of control of the dog;

(c) Releases the dog from its area of control;

(d) Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;

(e) Inhibits or restricts the ability of the dog to assist the assisted or served person;

(4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;

(5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person or that the person knows is an assistance dog.

(E) (1) Whoever violates division (A) of this section is guilty of assaulting a police dog or horse. Except as otherwise provided in this division (E)(1), assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in physical harm to the police dog or horse other than death or serious physical harm, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation results in serious physical harm to the police dog or horse or results in its death, assaulting a police dog or horse is a felony to be prosecuted under appropriate state law.

(2) Whoever violates division (B) of this section is guilty of harassing a police dog or horse. Except as otherwise provided this division (E)(2), harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree. If the violation results in serious physical harm to the police dog or horse or results in its death, harassing a police dog or horse is a felony to be prosecuted under appropriate state law.

(3) Whoever violates division (C) of this section is guilty of assaulting an assistance dog. Except as otherwise provided in this division (E)(3), assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in physical harm to the assistance dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation results in serious physical harm to the assistance dog or results in its death, assaulting an assistance dog is a felony to be prosecuted under appropriate state law.

(4) Whoever violates division (D) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this division (E)(4), harassing an assistance dog is a misdemeanor of the second degree. If the violation results in physical harm to the assistance dog but does not result in the death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree. If the violation results in serious physical harm to the assistance dog or results in its death, harassing an assistance dog is a felony to be prosecuted under appropriate state law.

(5) In addition to any other sanctions or penalty imposed for the offense under this section, R.C. Chapter 2929 or any other provision of the Ohio Revised Code or this code, whoever violates division (A), (B), (C), or (D) of this section is responsible for the payment of all of the following:

(a) Any veterinary bill or bill for medication incurred as a result of the violation by the Police Department regarding a violation of division (A) or (B) of this section or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog regarding a violation of division (C) or (D) of this section;

(b) The cost of any damaged equipment that results from the violation;

(c) If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog;

(d) If the violation resulted in the death of the police dog or horse or the assistance dog that was the subject of the violation or resulted in serious physical harm to that dog or horse to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.

(F) This section does not apply to a licensed veterinarian whose conduct is in accordance with R.C. Chapter 4741.

(G) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or an assistance dog.

(H) As used in this section:

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

**BLIND.** Has the same meaning as in R.C. § 955.011.

**MOBILITY IMPAIRED PERSON.** Has the same meaning as in R.C. § 955.011.

**PHYSICAL HARM.** Means any injury, illness, or other psychological impairment, regardless of its gravity or duration.

**POLICE DOG OR HORSE.** Means a dog or horse that has been trained and may be used to assist law enforcement officers in the performance of their official duties.

**SERIOUS PHYSICAL HARM.** Means any of the following:

(a) Any physical harm that carries a substantial risk of death;

(b) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming;

(c) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(R.C. § 2921.321)

## **§ 136.09 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.

(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)

## CHAPTER 137: THEFT AND FRAUD

---

### Section

- 137.01 Theft
- 137.02 Unauthorized use of a vehicle
- 137.03 Unauthorized use of property
- 137.04 Passing bad checks
- 137.05 Misuse of credit cards
- 137.06 Making or using slugs
- 137.07 Prima facie evidence of purpose to defraud
- 137.08 Receiving stolen property
- 137.09 Unlawful display of law enforcement emblem
- 137.10 Payment of fees
- 137.11 Value of district permits

### § 137.01 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;
- (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.

(R.C. § 2913.02)

### **§ 137.02 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.

(R.C. § 2913.03)

### **§ 137.03 UNAUTHORIZED USE OF PROPERTY.**

- (A) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.
- (B) No person, in any manner and by any means, including but not limited to computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.
- (C) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to R.C. § 5503.10 without the consent of, or beyond the scope of the express or implied consent of, the chair of the Law Enforcement Automated Data System Steering Committee.

(D) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law enforcement gateway established and operated pursuant to R.C. § 109.57(C)(1) without the consent of, or beyond the scope of the express or implied consent of, the Superintendent of the Bureau of Criminal Identification and Investigation.

(E) The affirmative defenses contained in R.C. § 2913.03(C) are affirmative defenses to a charge under this section.

(F) Whoever violates division (A) of this section is guilty of unauthorized use of property. Except as otherwise provided in this division, unauthorized use of property is a misdemeanor of the fourth degree.

(1) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is whichever of the following is applicable:

(a) Except as otherwise provided below, unauthorized use of property is a misdemeanor of the first degree.

(b) If the value of the property or services or the loss to the victim is \$1,000 or more, it is a felony to be prosecuted under appropriate state law.

(2) If the victim of the offense is an elderly person or disabled adult, unauthorized use of property is a felony to be prosecuted under appropriate state law.

(G) Whoever violates division (B) of this section is guilty of unauthorized use of computer, cable, or telecommunication property, a felony to be prosecuted under appropriate state law.

(H) Whoever violates division (C) of this section is guilty of unauthorized use of the law enforcement automated database system, a felony to be prosecuted under appropriate state law.

(I) Whoever violates division (D) of this section is guilty of unauthorized use of the Ohio law enforcement gateway, a felony to be prosecuted under appropriate state law.

(J) As used in this section:

**CABLE OPERATOR.** Means any person or group of persons that does either of the following:

(a) Provides cable service over a cable system and directly through one or more affiliates owns a significant interest in that cable system;

(b) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

**CABLE SERVICE.** Means any of the following:

(a) The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;

(b) Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in division (a) of this definition;

(c) Any cable television service.

**CABLE SYSTEM.** Means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. The term does not include any of the following:

(a) Any facility that serves only to retransmit the television signals of one or more television broadcast stations;

(b) Any facility that serves subscribers without using any public right-of-way;

(c) Any facility of a common carrier that, under 47 U.S.C. § 522(7)(c), is excluded from the term "cable system" as defined in 47 U.S.C. § 522(7);

(d) Any open video system that complies with 47 U.S.C. § 573;

(e) Any facility of any electric utility used solely for operating its electric utility system.

(R.C. § 2913.04)

## § 137.04 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. Except as otherwise provided in this division, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of \$1,000 or more, or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of \$1,500 or more, passing bad checks is a felony to be prosecuted under appropriate state law.

(R.C. § 2913.11)

## § 137.05 MISUSE OF CREDIT CARDS.

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

(1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;

(2) Knowingly buy or sell a credit card from or to a person other than the issuer.

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

(1) Obtain control over a credit card as security for a debt;

(2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained, or is being used in violation of law;

(3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;

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

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

(D) Whoever violates this section is guilty of misuse of credit cards.

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

(2) Except as otherwise provided in this division or division (D)(3) of this section, a violation of division (B)(2), (B)(3), or (B)(4) of this section is a misdemeanor of the first degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (B)(3), or (B)(4) of this section which violations involve one or more credit card accounts and occur within a period of 90 consecutive days commencing on the date of the first violation, is \$1,000 or more, misuse of credit cards is a felony to be prosecuted under appropriate state law.

(3) If the victim of the offense is an elderly person or disabled adult, and if the offense involves a violation of division (B)(1) or (B)(2) of this section, misuse of credit cards is a felony to be prosecuted under appropriate state law.

(R.C. § 2913.21)

### **§ 137.06 MAKING OR USING SLUGS.**

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

(1) Insert or deposit a slug in a coin machine, with purpose to defraud;

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

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

(R.C. § 2913.33)

### **§ 137.07 PRIMA FACIE EVIDENCE OF PURPOSE TO DEFRAUD.**

In a prosecution of a person for a theft offense that alleges that the person, with purpose to defraud or knowing that he or she was facilitating a fraud, hired or rented an aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy, or other property or equipment, kept or operated any of the same that has been hired or rented, or engaged accommodations at a hotel, motel, inn, campground, or other hostelry, it is prima facie evidence of purpose to defraud if the person did any of the following:

(A) Used deception to induce the rental agency to furnish the person with the aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy, or other property or equipment, or used deception to induce the hostelry to furnish the person with accommodations;

(B) Hired or rented any aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy, or other property or equipment, or engaged accommodations, knowing that he or she is without sufficient means to pay the hire or rental;

(C) Absconded without paying the hire or rental;

(D) Knowingly failed to pay the hire or rental as required by the contract of hire or rental, without reasonable excuse for the failure;

(E) Knowingly failed to return hired or rented property as required by the contract of hire or rental, without reasonable excuse for the failure.

(R.C. § 2913.41) Penalty, see § 130.99

### **§ 137.08 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;

(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.

(R.C. § 2913.51)

### **§ 137.09 UNLAWFUL DISPLAY OF LAW ENFORCEMENT EMBLEM.**

(A) No person who is not entitled to do so shall knowingly display on a motor vehicle the emblem of a law enforcement agency or an organization of law enforcement officers.

(B) Whoever violates this section is guilty of the unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers, a minor misdemeanor.

(R.C. § 2913.441)

### **§ 137.10 PAYMENT OF FEES.**

All persons who take part in any specialized activities for which there is a fee, rental, or admission charge must abide by the posted regulations adopted by the Board for those specialized activities. No person shall be allowed within the confines of those specialized activities unless they have first paid the fee, rental, or admission charge.

(Prior by-law § 7C) Penalty, see § 130.99

### **§ 137.11 VALUE OF DISTRICT PERMITS.**

For purposes of establishing the fair market value of certain stolen property, the value set for the annual, daily and replacement motor vehicle permits is equal to the selling price established by the Board for each category of motor vehicle permits that year.

(Amended 7- -2005) Penalty, see § 130.99

#### ***Cross-reference:***

*Permit required, see § 72.75*

## Section

- 138.01 Definitions
- 138.02 Drug abuse
- 138.03 Possessing drug abuse instruments
- 138.04 Permitting drug abuse
- 138.05 Abusing harmful intoxicants
- 138.06 Counterfeit controlled substances
- 138.07 Use, possession, or sale of drug paraphernalia

**§ 138.01 DEFINITIONS.**

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

**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.

**BENZODIAZEPINE.** A controlled substance that has United States Food and Drug Administration approved labeling indicating that it is a benzodiazepine, benzodiazepine derivative, triazolobenzodiazepine, or triazolobenzodiazepine derivative, including the following drugs and their varying salt forms or chemical congeners: alprazolam, chlordiazepoxide hydrochloride, clobazam, clonazepam, clorazepate, diazepam, estazolam, flurazepam hydrochloride, lorazepam, midazolam, oxazepam, quazepam, temazepam, and triazolam.

**BULK AMOUNT.** Of a controlled substance means any of the following:

(1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of controlled substance analogs, marijuana, cocaine, L.S.D., heroin, and hashish and except as provided in division (2) or (5) of this definition, whichever of the following is applicable:

(a) An amount equal to or exceeding ten grams or 25 unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I opiate or opium derivative;

(b) An amount equal to or exceeding ten grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;

(c) An amount equal to or exceeding 30 grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;

(d) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II opiate or opium derivative;

(e) An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;

(f) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;

(g) An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 301 et seq., as amended) and the federal drug abuse control laws.

(2) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;

(3) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;

(4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule V substance;

(5) An amount equal to or exceeding 200 solid dosage units, 16 grams, or 16 milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III anabolic steroid.

**CERTIFIED GRIEVANCE COMMITTEE.** A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.

**COCAINE.** Any of the following:

(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine;

(2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine;

(3) A salt, compound, derivative, or preparation of a substance identified in division (1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.

**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.

**DISCIPLINARY COUNSEL.** The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.

**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.

**FEDERAL DRUG ABUSE CONTROL LAWS.** The "Comprehensive Drug Abuse Prevention and Control Act of 1970", 21 U.S.C. §§ 801 et seq., as amended.

**FELONY DRUG ABUSE OFFENSE.** Any drug abuse offense that would constitute a felony under the laws of this state, any other state, or the United States.

**HARMFUL INTOXICANT.** Does not include beer or intoxicating liquor, but means any of the following:

(1) Any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes but is not limited to any of the following:

(a) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;

(b) Any aerosol propellant;

(c) Any fluorocarbon refrigerant;

(d) Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1,4 Butanediol.

**HASHISH.** The resin or a preparation of the resin contained in marijuana, 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.

**LABORATORY.** A laboratory approved by the State Board of Pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and clinical purposes and for purposes of instruction.

**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 certificate to prescribe issued under R.C. Chapter 4730;
- (6) A veterinarian licensed under R.C. Chapter 4741.

**L.S.D.** Lysergic acid diethylamide.

**MAJOR DRUG OFFENDER.** Has the same meaning as in R.C. § 2929.01.

**MANDATORY PRISON TERM.** Has the same meaning as in R.C. § 2929.01.

**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.

**METHAMPHETAMINE.** Methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine.

**MINOR DRUG POSSESSION OFFENSE.** Either of the following:

- (1) A violation of R.C. § 2925.11 as it existed prior to July 1, 1996.
- (2) A violation of R.C. § 2925.11 as it exists on and after July 1, 1996, 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.

**OPIOID ANALGESIC.** A controlled substance that has analgesic pharmacologic activity at the opioid receptors of the central nervous system, including the following drugs and their varying salt forms or chemical congeners: buprenorphine, butorphanol, codeine (including acetaminophen and other combination products), dihydrocodeine, fentanyl, hydrocodone (including acetaminophen combination products), hydromorphone, meperidine, methadone, morphine sulfate, oxycodone (including acetaminophen, aspirin, and other combination products), oxymorphone, tapentadol, and tramadol.

**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.** 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.

**PRESUMPTION FOR A PRISON TERM or PRESUMPTION THAT A PRISON TERM SHALL BE IMPOSED.** A presumption as described in R.C. § 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under R.C. § 2929.11.

**PROFESSIONAL LICENSE.** Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in R.C. § 2925.01(W)(1) through (W)(36) and that qualifies a person as a professionally licensed person.

**PROFESSIONALLY LICENSED PERSON.** Any of the following:

- (1) A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under R.C. Chapter 3719;
- (2) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;
- (3) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under R.C. Chapter 4703;
- (4) A person who is registered as a landscape architect under R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
- (5) A person licensed under R.C. Chapter 4707;
- (6) A person who has been issued a certificate of registration as a registered barber under R.C. Chapter 4709;
- (7) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of R.C. Chapter 4710;
- (8) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, managing cosmetologist's license, managing hair designer's license, managing manicurist's license, managing esthetician's license, managing natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under R.C. Chapter 4713;
- (9) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under R.C. Chapter 4715;
- (10) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under R.C. Chapter 4717;
- (11) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under R.C. Chapter 4723;
- (12) A person who has been licensed to practice optometry or to engage in optical dispensing under R.C. Chapter 4725;
- (13) A person licensed to act as a pawnbroker under R.C. Chapter 4727;
- (14) A person licensed to act as a precious metals dealer under R.C. Chapter 4728;
- (15) A person licensed as a pharmacist, a pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under R.C. Chapter 4729;
- (16) A person who is authorized to practice as a physician assistant under R.C. Chapter 4730;
- (17) A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine, or podiatry under R.C. Chapter 4731;

- (18) A person licensed as a psychologist or school psychologist under R.C. Chapter 4732;
- (19) A person registered to practice the profession of engineering or surveying under R.C. Chapter 4733;
- (20) A person who has been issued a license to practice chiropractic under R.C. Chapter 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under R.C. Chapter 4735;
- (22) A person registered as a registered sanitarian under R.C. Chapter 4736;
- (23) A person licensed to operate or maintain a junkyard under R.C. Chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under R.C. Chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under R.C. Chapter 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under R.C. Chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under R.C. Chapter 4747;
- (28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under R.C. Chapter 4749;
- (29) A person licensed and registered to practice as a nursing home administrator under R.C. Chapter 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under R.C. Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under R.C. Chapter 4755;
- (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under R.C. Chapter 4757;
- (33) A person issued a license to practice dietetics under R.C. Chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under R.C. Chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under R.C. Chapter 4763;
- (36) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.

**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.

**SAMPLE DRUG.** A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

**SCHEDULE I, II, III, IV, OR V.** Controlled substance Schedules I, II, III, IV, and V established pursuant to R.C. § 3719.41, as amended pursuant to R.C. § 3719.43 or 3719.44.

**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.

**STANDARD PHARMACEUTICAL REFERENCE MANUAL.** The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.

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

**UNIT DOSE.** An amount or unit or a compound, mixture, or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

**WHOLESALE.** A person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes **WHOLESALE DISTRIBUTOR OF DANGEROUS DRUGS**, which means a person engaged in the sale of dangerous drugs at wholesale and includes any agent or employee of that person authorized by that person to engage in the sale of dangerous drugs at wholesale.

(R.C. §§ 2925.01, 3719.01, 3719.011, 3719.013, 4729.01)

**Statutory reference:**

For comprehensive lists of drugs identified under each of the following Schedules, see R.C. § 3719.41, as amended by R.C. §§ 3719.43 and 3719.44:

**Schedule I**

- (A) *Narcotics - opiates*
- (B) *Narcotics - opium derivatives*
- (C) *Hallucinogens*
- (D) *Depressants*
- (E) *Stimulants*

**Schedule II**

- (A) *Narcotics - opium and opium derivatives*
- (B) *Narcotics - opiates*
- (C) *Stimulants*
- (D) *Depressants*
- (E) *Hallucinogenic substances*
- (F) *Immediate precursors*

**Schedule III**

- (A) *Stimulants*
- (B) *Depressants*
- (C) *Narcotic antidotes*
- (D) *Narcotics - narcotic preparations*

(E) *Anabolic steroids*

(F) *Hallucinogenic substances*

**Schedule IV**

(A) *Narcotic drugs*

(B) *Depressants*

(C) *Fenfluramine*

(D) *Stimulants*

(E) *Other substances*

**Schedule V**

(A) *Narcotic drugs*

(B) *Narcotics - narcotic preparations*

(C) *Stimulants*

**§ 138.02 DRUG ABUSE.**

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

(B) This section does not apply to any of the following:

(1) 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;

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;

(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the Federal Food, Drug, and Cosmetic Act, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act;

(4) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(C) Whoever violates division (A) of this section is guilty of one of the following:

(1) Except as otherwise provided in divisions (C)(2), (C)(3), (C)(4), and (C)(5), if the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule I or II of R.C. § 3719.41, or is cocaine, L.S.D., heroin, a controlled substance analog, or a compound, mixture or preparation containing such drugs, possession of drugs is a felony to be prosecuted under appropriate state law.

(2) If the drug involved is a compound, mixture, preparation, or substance included in Schedule III, IV, or V of R.C. § 3719.41, whoever violates division (A) of this section is guilty of possession of drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in the following division, possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, it is a felony to be prosecuted under appropriate state law.

(b) If the amount of the drug involved equals or exceeds the bulk amount, possession of drugs is a felony to be prosecuted under appropriate state law.

(3) If the drug involved in the violation is marihuana or a compound, mixture, preparation or substance containing marihuana other than hashish, 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.

(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) In addition to any prison term or jail term authorized or required by division (C) of this section and R.C. §§ 2929.13, 2929.14, 2929.22, 2929.24, and 2929.25, or any substantially equivalent municipal ordinance, and in addition to any other sanction that is imposed for the offense under this section, R.C. §§ 2929.11 through 2929.18, or R.C. §§ 2929.21 through 2929.28, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section shall do the following if applicable regarding the offender:

(1) 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).

(2) 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.

(3) 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. § 2925.11)

### **§ 138.03 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.

(D) 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. § 2925.12)

#### **§ 138.04 PERMITTING DRUG ABUSE.**

(A) No person who is the owner, operator, or person in charge of a locomotive, watercraft, aircraft, or other vehicle, as defined in R.C. § 4501.01, shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(B) No person, who is the owner, lessee, or occupant, or who has custody, control, or supervision of premises, or real estate, including vacant land, shall knowingly permit his or her premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

(C) Whoever violates this section is guilty of permitting drug abuse.

(1) Except as provided in division (C)(2) of this section, permitting drug abuse is a misdemeanor of the first degree.

(2) Permitting drug abuse is a felony to be prosecuted under appropriate state law if the felony drug abuse offense in question is a violation of R.C. § 2925.02 or 2925.03.

(D) In addition to any prison term authorized or required by division (C) of this section and R.C. §§ 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or R.C. §§ 2929.11 through 2929.18, the court that sentences a person who is convicted of or pleads guilty to a violation of division (A) of this section shall do all of the following that are applicable regarding the offender:

(1) 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;

(2) 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.

(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).

(F) Any premises or real estate that is permitted to be used in violation of division (B) of this section constitutes a nuisance subject to abatement pursuant to R.C. Chapter 3767.

(R.C. § 2925.13)

#### **§ 138.05 ABUSING HARMFUL INTOXICANTS.**

(A) Except for lawful research, clinical, medical, dental, or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess, or use a harmful intoxicant.

(B) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony to be prosecuted under appropriate state law.

(C) In addition to any other sanction imposed upon an offender for a violation of this section, the court 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. § 2925.31)

#### **§ 138.06 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).

(R.C. § 2925.37(A), (G), (M))

### **§ 138.07 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, marijuana;
- (9) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance;
- (10) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance;
- (11) A container or device for storing or concealing a controlled substance;
- (12) A hypodermic syringe, needle, or instrument for parenterally injecting a controlled substance into the human body;
- (13) An object, instrument, or device for ingesting, inhaling, or otherwise introducing into the human body, marijuana, 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 marijuana 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 marijuana.

(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)

(This title is reserved for by-laws dealing with zoning, subdivisions and the like.)

**PARALLEL REFERENCES**

References to Ohio Revised Code

References to By-Laws

References to Amendments

**REFERENCES TO OHIO REVISED CODE**

<i>R.C. Section</i>	<i>By-Laws Section</i>
1.01	10.01
1.02(A)	10.02
1.02(B)	10.02
1.02(F)	10.02
1.02(G)	10.02
1.05	10.02
1.14	10.03
1.15	10.03
1.23	10.05
1.42	10.03
1.43	10.03
1.44	10.02
1.45	10.03
1.46	10.03
1.50	10.07
1.54	10.04
1.55	10.05
1.56	10.05
1.57	10.04
1.58	10.04
1.59	10.02
1.59(C)	10.02
701.01	10.02

701.01(B)	10.02
701.01(E)	10.02
1531.02	90.06
1533.161	90.05
1533.32	90.07
Ch. 1545	Ch. 31, App. A
1545.05	30.02
1545.07	30.03, 30.05
1545.09	30.04
1545.11	31.02
1545.13	30.06
1545.131	30.07
1545.132	30.08
1545.99	10.99, 70.99, 90.99, 91.99, 92.99, 110.99, 130.99
Ch. 2744	30.08
2901.01	130.01
2903.13	135.01
2903.14	135.02
2903.22	135.03
2905.12	135.04
2907.01	133.01
2907.06	133.02
2907.08	133.04
2907.09	133.05
2907.23	133.06
2907.24(A)	133.07
2907.24(C)(1)	133.07
2907.24(D)	133.07
2907.24(E)	133.07
2907.241	133.071
2907.25	133.071
2907.31	133.09
2909.06	131.01
2909.07	131.02
2909.09	131.01
2911.21	131.03

2911.32	131.04
2913.02	137.01
2913.03	137.02
2913.04	137.02
2913.11	137.04
2913.21	137.05
2913.33	137.06
2913.41	137.07
2913.44	136.06
2913.441	137.09
2913.51	137.08
2915.01	134.01
2915.04	134.02
2915.05	134.03
2915.09	134.04
2917.03	132.01
2917.031	132.01
2917.04	132.02
2917.11	132.03
2917.12	132.04
2917.13	132.05
2917.21	135.07
2917.31	132.06
2917.32	132.07
2919.24	135.06
2921.13	136.01
2921.23	136.02
2921.29	136.09
2921.31	136.03
2921.32	136.04
2921.321	136.08
2921.33	136.05
2921.331(A) - (C), (E), (F)	72.18
2921.51	136.07
2923.02	130.02
2923.03	130.03
2923.11	92.07

2923.12	92.01
2923.15	92.02
2923.16	92.03
2923.211	92.04
2925.01	138.01
2925.11	138.02
2925.12	138.03
2925.13	138.04
2925.14	138.07
2925.31	138.05
2925.37	138.06
2927.11	131.05
2935.36(E)	130.01
3716.11	135.08
3716.99(C)	135.08
3719.01	138.01
3719.011	138.01
3719.013	138.01
3743.65	92.10
3743.99(C)	92.10, 131.07
3767.32	131.07
3767.99(C)	131.07
3781.55	133.05
4301.01	91.01
4301.58	91.02
4301.631	91.041
4301.633	91.03
4301.634	91.03
4301.638	91.09
4301.64	91.05
4301.69	91.09
4301.99(B)	91.041, 91.05
4301.99(C)	91.02, 91.03, 91.09
4301.99(E)	91.041
4301.99(F)	91.04
4301.99(I)	91.09
4503.11(A)	71.10

4503.11(D)	71.10
4507.30	71.05
4507.31	71.05
4507.35	71.08
4507.36	71.09
4509.74	72.53
4511.01	70.01
4511.03	72.04
4511.05	72.27
4511.12	72.05
4511.13	72.06, 72.07
4511.17	72.08
4511.20	72.45
4511.201	72.46
4511.202	72.47
4511.203	71.07
4511.204	72.70
4511.205	72.71
4511.22(A), (D)	72.61
4511.25	72.01
4511.251	72.65
4511.26	72.03
4511.32	72.09
4511.33	72.10
4511.34	72.11
4511.36	72.13
4511.37	72.14
4511.38	72.15
4511.39	72.16
4511.40	72.17
4511.41	72.20
4511.42	72.21
4511.43	72.22
4511.431	72.23
4511.44	72.24
4511.441	72.25
4511.45	72.26

4511.452	72.28
4511.46	72.29
4511.47	72.30
4511.48	72.31
4511.481	72.32
4511.49	72.35
4511.50	72.36
4511.51	72.37
4511.512	72.38
4511.52	75.01
4511.521	75.02
4511.53	75.03
4511.54	75.04
4511.55	75.05
4511.56	75.06
4511.60	72.66
4511.66	73.01
4511.661	73.02
4511.67	73.06
4511.69	73.03
4511.70	72.55
4511.701	72.56
4511.712	72.59
4511.72	72.60
4511.74	72.62
4511.81(A) - (H), (K), (L)	72.63
4511.82	131.07
4511.84	72.69
4513.02(A), (H)	74.01
4513.021	74.02
4513.03	74.03
4513.04	74.04
4513.05	74.05
4513.06	74.06
4513.071	74.08
4513.09	74.09
4513.10	74.10

4513.11	74.11
4513.11(I)	74.11
4513.111	74.11
4513.111(E)	74.11
4513.12	74.12
4513.13	74.13
4513.14	74.14
4513.15	74.15
4513.17	74.16
4513.17(F)	74.16
4513.171	74.16
4513.171(B)	74.16
4513.19	74.17
4513.20	74.18
4513.21	74.19
4513.22	74.20
4513.23	74.21
4513.24	74.22
4513.241(C) - (J)	74.24
4513.241(K)	74.24
4513.263	72.64
4513.30	74.40
4513.31	74.41
4513.36	72.19
4513.99	74.10, 74.18, 74.40, 74.41
4549.02	72.50
4549.021	72.51
4549.03	72.52
4549.05	73.07
4549.08	71.11
4549.11	71.12
4549.12	71.13
4729.01	138.01
5577.11	74.23
5577.99(E)	74.23
5589.081	74.07
5589.99(B)	74.07

## REFERENCES TO BY-LAWS

---

<i>Prior By-Law Section</i>	<i>By-Law Section</i>
1	131.06
2	131.07
3	90.01
4	92.20
5	92.06, 92.11
6	131.08
7B	132.08
7C	137.10
7D	132.09
7E	132.10
7F	131.09
8	72.68
8C	72.57
8E	72.58
8F	72.02
8H	72.75
8-05	30.03, 30.05, 72.38
9	91.06
9B	91.09
9C	91.07
9D	91.08
12	132.12
13	110.01, 110.02
14	132.13
15	90.02
15A	90.03
16	31.02
17	132.14
18	10.02
19	10.99
86	72.27

## REFERENCES TO AMENDMENTS

---

<i>No.</i>	<i>Date Amended</i>	<i>By-Law Section</i>
--	10- -2004	72.75
--	7- -2005	137.11
--	8- -2005	90.01, 90.08
--	8- -2005	110.01
--	12-5-2014	110.01, 110.02
--	12-5-2014	132.13, 132.14
132.15	3-19-2015	132.11