

**CODIFIED
ORDINANCES
OF THE
CITY OF
GAHANNA
OHIO**

Complete to March 2, 2015

We, Rebecca W. Stinchcomb, Mayor, and Kimberly McWilliams, CMC, Clerk of Council of Gahanna, Ohio, pursuant to Municipal Charter Section 4.19 and Ohio Revised Code Sections 731.23 and 731.42, hereby certify that the general and permanent ordinances of Gahanna, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of Gahanna, Ohio, as amended to March 2, 2015.

/s/ Rebecca W. Stinchcomb
Mayor

/s/ Kimberly McWilliams, CMC
Clerk of Council

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CITY OF GAHANNA
ROSTER OF OFFICIALS
(March 2015)

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Michael Schnetzer	Ward 2
Brian D. Larick	Ward 3
Jamie Leeseberg	Ward 4
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Karen J. Angelou	At Large
Ryan P. Jolley	At Large
Kimberly McWilliams, CMC	Clerk of Council

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Dennis Murphy	Chief of Police
Dottie Franey	Director of Public Service
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Tony Collins	Director of Parks and Recreation
Jennifer Teal	Director of Finance
Jeffrey J. Feltz	Water Resources Engineer
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Bonnie Gard	Planning & Zoning Administrator
Kenneth W. Fultz	Chief Building Official
Sue Wadley	Director of Human Resources
Rory Gaydos	Director of Technology
Niel M. Jurist	Public Information Manager

The publisher
expresses his appreciation
to

KIMBERLY McWILLIAMS, CMC
Council Clerk

and to all other officers and employees
who gave time and counsel in the
preparation of the Codified Ordinances
and current replacement pages.

GENERAL INDEX

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

- (a) The Comparative Section Table, which indicates in the Codified Ordinances the disposition of the ordinances or resolutions integrated therein.
- (b) The Tables of Special Ordinances at the end of the Preliminary Unit.
- (c) The table of contents preceding each component code, and the sectional analysis preceding each chapter.
- (d) The cross references to related material following each chapter analysis.

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0143-2008	8-4-08	133.093	0272-2009	12-7-09	941.15
0164-2008	8-18-08	1181.01 to 1181.27, 1181.99	0293-2009	12-21-09	161.13
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0230-2008	11-3-08	921.11	0021-2010	2-1-10	1193.01 to 1193.09, 1195.01 to 1195.10, 1195.99
0233-2008	11-3-08	927.17	0042-2010	3-1-10	155.01
0235-2008	11-3-08	929.08, 929.12, 929.17	0074-2010	4-19-10	721.01 to 721.05, 721.99
0236-2008	11-3-08	941.15	0075-2010	4-19-10	131.01
0266-2008	11-17-08	148.13	0114-2010	6-21-10	537.12
0271-2008	12-1-08	1163.07	0115-2010	6-21-10	715.06; repeals 715.09
0283-2008	12-15-08	1173.01 to 1173.08, 1173.99	0134-2010	8-2-10	331.34
0009-2009	1-2-09	131.08	0148-2010	9-7-10	914.01, 914.02, 914.99
0026-2009	2-17-09	153.04	0154-2010	9-7-10	Ch. 149 Editor's Note
0028-2009	2-17-09	Repeals Ch. 751	0178-2010	12-6-10	921.01 to 921.14, 921.99
0029-2009	2-17-09	Repeals Ch. 150	0179-2010	12-6-10	927.01 to 927.25, 927.99
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0092-2009	5-4-09	139.02	0181-2010	12-6-10	941.01 to 941.03, 941.11 to 941.18, 941.99
0105-2009	5-18-09	133.11	0194-2010	12-20-10	1195.04
0107-2009	5-18-09	Repeals Ch. 735	0203-2010	12-20-10	Ch. 149 Editor's Note
0109-2009	5-18-09	148.12	0014-2011	2-7-11	148.13
0111-2009	5-18-09	135.01 to 135.09	0015-2011	2-7-11	1501.15
0112-2009	5-18-09	1171.01 to 1171.05, 1171.99	0016-2011	2-7-11	1311.01 to 1311.06, 1311.99
0119-2009	6-1-09	1153.07	0030-2011	2-22-11	151.01 to 151.03, 153.01 to 153.04
0141-2009	9-21-09	1155.01 to 1155.12, 1155.99	0031-2011	2-22-11	136.01
0142-2009	9-21-09	1108.01	0032-2011	2-22-11	137.01 to 137.03
0143-2009	9-21-09	1135.01	0033-2011	2-22-11	138.01 to 138.04
0144-2009	9-21-09	1152.02	0061-2011	4-4-11	121.01
0145-2009	9-21-09	1157.02	0100-2011	6-6-11	1152.02
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0177-2009	8-17-09	941.15			
0198-2009	9-8-09	1171.03			
0269-2009	12-7-09	929.01 to 929.19, 929.99			

SUPPLEMENTAL COMPARATIVE SECTION TABLE

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0150-2011	8-1-11	1131.03 to 1131.08	0200-2012	11-19-12	929.01 to 929.19, 929.99
0151-2011	8-1-11	1133.01 to 1133.05, 1133.07	0201-2012	11-19-12	921.01 to 921.14, 921.99
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0211-2011	12-27-11	1150.01 to 1150.12	0053-2013	3-18-13	907.01 to 907.04, 907.99
0212-2011	12-19-11	1197.01, 1197.02, 1197.05, 1197.06, 1197.08 to 1197.10, 1197.12, 1197.99	0073-2013	4-15-13	Repeals Ch. 914
0213-2011	12-19-11	1135.01	0100-2013	7-1-13	105.01 to 105.03
0238-2011	12-5-11	929.12, 929.15	0111-2013	8-19-13	161.18
0239-2011	12-5-11	921.11	0115-2013	8-19-13	135.01 to 135.09
0240-2011	12-5-11	927.17	0147-2013	12-2-13	929.01 to 929.19, 929.99
0241-2011	12-5-11	135.05	0148-2013	12-2-13	921.01 to 921.14, 921.99
0065-2012	4-2-12	149.01 to 149.06, 149.10, 149.20, 149.25, 149.30, 149.35	0151-2013	11-25-13	105.01 to 105.08
0089-2012	4-16-12	908.01 to 908.09, 908.99	0035-2014	4-7-14	708.01 to 708.06, 708.99
0110-2012	6-4-12	154.01 to 154.04	0120-2014	9-15-14	563.18
0136-2012	7-16-12	559.01 to 559.08, 559.99	0133-2014	10-20-14	513.121
0116-2012	6-4-12	135.02	0157-2014	11-17-14	919.03 to 919.05
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0182-2012	9-17-12	929.12	0159-2014	11-17-14	929.01 to 929.19, 929.99
0184-2012	10-1-12	1163.01	0160-2014	11-17-14	941.01 to 941.18, 941.99
0191-2012	10-15-12	559.01 to 559.08, 559.99	0161-2014	11-17-14	927.01 to 927.25, 927.99
0192-2012	10-15-12	501.99	0162-2014	12-15-14	161.18
0195-2012	11-5-12	303.99	0175-2014	12-15-14	148.12
0197-2012	11-5-12	927.24	0176-2014	12-15-14	157.02
0198-2012	10-22-12	559.01 to 559.08, 559.99	0186-2014	1-2-15	1311.01 to 1311.06, 1311.99, 1331.11; Repeals Ch. 1319, 1329, 1333
			0013-2015	2-17-15	Ch. 149 Editor's Note
			0026-2015	3-2-15	1150.05, 1155.02
			0027-2015	2-17-15	159.01, 159.02

TABLE B- EASEMENTS (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
0236-2011	12-5-11	Accepts right of way easements made by Judgment Entry for Donatos Pizzeria, LLC, for property at 377 Granville Street, for the Hamilton/Granville Intersection Project.
0255-2011	12-19-11	Authorizes the Mayor to vacate an ingress egress easement in the Creekside Area.
0256-2011	12-19-11	Authorizes the Mayor to vacate a blanket easement for operation of drainage tiles in the Creekside Area.
0034-2012	3-5-12	Accepts deed of easement for property located at 53 Granville Street for a facade easement from Robin Ruhl.
0037-2012	3-5-12	Accepts deed of easement from Billy G. Decker for a utility easement at 3891 Clotts Road.
0112-2012	6-4-12	Vacates the unused gas line easement in Reserve B of Hunters Ridge.
0218-2012	12-3-12	Accepts deed of easement for property located at 194 Academy Woods Drive for storm sewer and appurtenances thereto; from Brock Dietrich.
0219-2012	12-3-12	Accepts deed of easement for property located at 1035 Eastchester Drive for storm sewer and appurtenances thereto; from Daniel Donovan.
0003-2013	1-22-13	Accepts a General Warranty Deed which includes an easement for sanitary sewer and water lines for property at 4491 E. Johnstown Road.
0005-2013	1-22-13	Acknowledges easement for utility purposes for property known as Reserve A of Springbrook Farm Subdivision containing .734 acres +/-.
0007-2013	1-22-13	Acknowledges easement for utility purposes for property located east of Cherry Bottom Road and south of Coldwell Drive from Columbus Academy containing 2.797 acres.
0010-2013	1-22-13	Acknowledges easement for utility purposes to Columbia Gas for property on Havens Corners Road containing 6.263 acres +/-.
0011-2013	1-22-13	Acknowledges easement for utility purposes to Columbia Gas for property on Challis Springs Drive and in Headley Park.
0050-2013	3-18-13	Accepts deed of easement for property located at 110 Clark Avenue for sanitary sewer purposes from Thomas A. and Margie A. Gyde.
0051-2013	3-18-13	Accepts deed of easement for property located at 116 Clark Avenue for sanitary sewer purposes from Jeffery and Tracey Girard.
0052-2013	3-18-13	Accepts deed of easement for Buckles Waterline near Techcenter Drive from Andre M. Buckles.
0069-2013	4-1-13	Authorizes the Mayor to execute encroachment easement for property located at 73-77 Mill Street to legally permit right-of-way encroachment.
0086-2013	5-20-13	Accepts deed of easement for 1.076 acres and 0.903 acres of land; property located at 975 and 1025 North Hamilton Road; from Academy Development Limited Partnership; for utility purposes and establishment of preservation areas.

TABLE B- EASEMENTS (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
0121-2013	9-3-13	Authorizes the Mayor to execute easement with American Electric Power to allow installation of underground conduit along a portion of Bricklawn Avenue.
0150-2013	12-2-13	Vacates a slope easement for property located at 701 TechCenter Drive, a portion of Lot 3 of Tech Center Commons.
0013-2014	2-3-14	Accepts deed of easement for sanitary sewer easement from The Residences at Central Park, LLC.
0081-2014	5-19-14	Accepts deed of easement in the area of 1241 North Hamilton Road, for a sanitary sewer easement grant and a storm sewer easement grant from Ellen I. Lepera, successor trustee of the Martha J. Lepera Trust.
0121-2014	9-2-14	Vacates an easement for property located at the southeast corners of Defenbaugh Court and Eastgate Parkway in the Eastgate Business Center.
0126-2014	9-15-14	Authorizes the Mayor to enter into an easement and maintenance agreement with Bonita 25 Real Estate Investors, LLC.
0134-2014	10-20-14	Vacates sanitary sewer easement for property located on Lot 2 of Crossroads Commerce Center on Crosspointe Road.
0152-2014	11-17-14	Accepts deed of easement for access and utility easement from Brookewood Construction Co., Inc.
0153-2014	11-17-14	Accepts deed of easement for sanitary sewer and drainage easement from Brookewood Construction Co., Inc.
0154-2014	11-17-14	Accepts deed of easement for access utility easement from Ronald W. and Susan B. Duderstadt.
0155-2014	11-17-14	Accepts deed of easement for utility easement from Matt and Ashlee Girard.
0156-2014	11-17-14	Accepts deed of easement for access/utility easement from Rodney R. Owens and Margaret M. Owens.
0165-2014	12-1-14	Accepts deed of easement for sanitary sewer easement from Taylor Pointe, LLC.
0014-2015	2-17-15	Accepts deed of easement for a 16' waterline along Taylor Road and Science Boulevard from Value Recovery Group, Inc.

TABLE D - DEDICATION AND PLAT APPROVAL (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
0246-2000	11-6-00	Accepts final plat for Eastgate Industrial Center (91.315 acres); Pizzuti Properties, applicant.
0247-2000	10-16-00	Amends Ord. 0158-2000 (accepting final plat for The Greens at Clarenton, Sec. 1, Pt. 2).
0002-2001	1-16-01	Accepts final plat called Beecher Crossing North Dedication and Easements (1.003 acres).
0114-2001	6-18-01	Accepts final plat for The Park at Harrison Pond, the Villages at Rocky Fork, Section 11 (15.865 acres); HMI Properties, Ltd., applicant.
0172-2001	8-20-01	Accepts final plat for Eastgate Industrial Center; Pizzuti Properties, applicant.
0076-2002	4-15-02	Accepts final plat for Rivers Edge property; Canini & Pellecchia, applicant.
0153-2002	8-19-02	Accepts final plat for Stonegate property on Olde Ridenour Rd.; A.F. Archer, applicant.
0165-2002	9-3-02	Accepts final plat for Eastgate Industrial Center; J. Russell, applicant.
0247-2002	12-16-02	Abandons portion of McCutcheon Rd. as public roadway with utility easements maintained; declares 0.407 acres on McCutcheon Rd. E of Stygler Rd. and W of Olde Ridenour Rd. as excess land; repeals Ord. 0022-2001; dedicates 0.226 acres as roadway r-o-w.
0050-2003	3-3-03	Accepts final plat for Foxwood, Section 1; Homewood Corp., applicant.
0098-2003	5-5-03	Accepts final plat for Eastgate Industrial Center; Pizzuti Properties, applicant.
0144-2003	7-7-03	Amends Ord. 0050-2003; dedicated streets for this ord. are Kason's Way, Preservation Lane and Taylor Rd.
0169-2003	8-18-03	Accepts general warranty deed from Portrait Homes - Gahanna Grove, LLC, for r-o-w for .418 acres dedicated to YMCA Place.
0170-2003	8-18-03	Dedicates City-owned property as r-o-w for YMCA Place.
0194-2003	9-2-03	Authorizes deeds to create dedicated r-o-w for Riva Ridge extension.
0223-2003	11-17-03	Accepts dedication plat entitled Granville Street Dedication.
0112-2004	5-3-04	Accepts final plat of Foxwood, Sec. 2; Homewood Corp., applicant.
0038-2005	3-21-05	Accepts final plat for Woods at Rose Run; M/I Homes of Central Ohio, LLC, applicant.
0233-2005	11-21-05	Final plat of Foxwood Section 3.
0101-2006	6-5-06	Accepts street, storm and water Improvement No. 813 in Imperial Rise III Subdivision, Phase 2.
0216-2006	11-20-06	Accepts Sanitary Sewer Improvement No. 815, at the Market at Hamilton.
0218-2006	11-20-06	Accepts the final plat for Hamilton Parke; Allodium Inc., applicant.
0022-2007	2-20-07	Accepts final plat for Village at Hannah Farms, Phase I; Advanced Civil Design, applicant.
0136-2007	7-16-07	Accepts Street, Storm and Water Improvement No. 823 and Sanitary Sewer Improvement No. 824 in Stonegate Subdivision.

TABLE D - DEDICATION AND PLAT APPROVAL (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
0153-2007	9-4-07	Accepts final plat for property known as Meadowbrooke; Brookewood Construction Company, Inc., applicant.
0236-2007	10-15-07	Accepts final plat for property known as Hamilton Parke, Allodium Inc., applicant.
0238-2007	11-5-07	Accepts street, storm and street light improvement No. 904, and appurtenances thereto, in the Village of Hannah Farms, Phase I, Subdivision.
0275-2007	12-17-07	Accepts street and waterline improvements and appurtenances thereto, for Marinell Lane; Improvement No. ST 884; Walnut Creek Presbyterian Church.
0008-2008	1-2-08	Accepts infrastructure improvements and appurtenances thereto, for Hamilton Parke; Improvement No. ST 909 and SA 910.
0251-2008	11-17-08	Accepts storm sewer improvement #ST932 and appurtenances thereto, for Whit's Frozen Custard, 121 South Stygler Road.
0252-2008	11-17-08	Accepts sanitary sewer improvement #SA930 and waterline improvement #ST931 and appurtenances thereto, for Morse Road Medical Office, 5175 Morse Road.
0121-2009	6-1-09	Accepts the final plat for property known as Techcenter Drive extension and Greenspace Dedication Plat; Value Recovery Group II by Advanced Civil Design, applicant.
0137-2009	7-6-09	Accepts the final plat for property known as Science Boulevard extension dedication plat; Value Recovery Group II and City of Gahanna, by Karl Wetherholt, applicant.
0029-2010	2-16-10	Accepts the plat titled Dedication of Highway Easement YMCA place owned by the City of Gahanna, and general purpose utility easement.
0055-2010	3-15-10	Accepts the final plat for property known as Science Boulevard Extension Dedication Plat; Value Recovery Group II and City of Gahanna, by Karl Wetherholt, applicant.
0158-2011	8-15-11	Accepts the final plat for property known as TechCenter Commons; Trivium Development, LLC, Tim Spencer, applicant.
0066-2012	4-2-12	Accepts Fifth Amendment to Articles of Dedication for Gahanna Woods State Nature Preserve.
0104-2013	7-15-13	Accepts Sanitary Sewer Improvement No. SA 1000 and appurtenances thereto, for Residences at Central park, 840 Claycraft Road.
0124-2013	9-16-13	Accepts the final plat for property known as Village at Hannah Farms, Phase 2, Dublin Manor, LLC, applicant.
0077-2014	5-19-14	Accepts the final plat for property known as Meadowbrooke Green; Shawn Lanning, Watcon Engineering, applicant.
0109-2014	8-18-14	Accepts the final plat for property known as Oak Grove of Gahanna, consisting of 4.585 acres (4.56 acres by deed) at 4185 Stygler Road; Ed Minhinnick, applicant.
0151-2014	11-17-14	Accepts infrastructure improvements and appurtenances thereto, for Woods at Spring Ridge.

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

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
0136-2014	11-3-14	Authorizes the Mayor to enter into settlement agreement with George R. Bright, Jr., 206 Carpenter Road, for right of way acquisition needed for the Carpenter Road Culvert Replacement.
0137-2014	11-3-14	Authorizes the Mayor to enter into settlement agreement with Brian & Karen Burford, 226 Carpenter Road, for right of way acquisition needed for the Carpenter Road Culvert Replacement.
0138-2014	11-3-14	Authorizes the Mayor to enter into settlement agreement with Michael & Alison Celentano, 710 Havens Corners Road, for right of way acquisition needed for the Carpenter Road Culvert Replacement.

TABLE F - LEASE OF REAL PROPERTY (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
0075-2014	5-19-14	Authorizes the Mayor to enter into lease agreement with Daria Padegimas for the residential use of City owned property.
0105-2014	8-4-14	Repeals Ord. 0131-1979, "to authorize the Mayor to enter into lease agreement with Gahanna Historical Society for certain land to be used for public, charitable or historical purposes".
0106-2014	8-4-14	Repeals Ord. 0075-2014, "to authorize the Mayor to enter into lease agreement with Daria Padegimas for the residential use of City owned property".
0107-2014	8-4-14	Authorizes the Mayor to enter into lease agreement with the Gahanna Historical Society for property located at 101 South High Street.

TABLE I - ZONING MAP CHANGES (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
0201-2008	10-6-08	Rezones 10.000 +/- acres as L-AR, Limited Overlay Multi-Family Residential for property located at 433 through 531 North Hamilton Road; by Stonehenge Land Company, Terry Andrews, applicant.
0209-2008	10-20-08	Zones 0.926 acres located at 6010 Taylor Road; requested zoning SF-1, Single Family Residential; by Karl Wetherholt, City of Gahanna, applicant.
0210-2008	10-20-08	Zones 5.615 acres located at 6052 Taylor Road; requested zoning ER-1, Estate Residential; by Karl Wetherholt, City of Gahanna, applicant.
0270-2008	12-1-08	Zones 27.9 +/- acres as M-1, Manufacturing; for property located at 5847 Taylor Road as part of Central Park and additional adjacent parcels; Value Recovery Group II, LLC, owner.
0025-2009	2-2-09	Zones 0.79 +/- acres as SO, Suburban Office; for property located at 211 West Johnstown Road; Sunrise Lodge No. 783 F&AM, by Jack L. Allen, applicant.
0069-2009	4-6-09	Rezones 190.3 +/- acres as L-M1, Limited Overlay, Manufacturing; for property bounded by Taylor Road, Morrison Road, Claycraft Road and Science Blvd.; known as Central Park; Value Recovery Group II, LLC; Dwight McCabe, applicant.
0070-2009	4-6-09	Zones 3.9 +/- acres more or less, as ER-2, Estate Residential; for property located at 4705 East Johnstown Road; Edward J. Doersam, owner.
0072-2009	4-6-09	Zones 6.3 +/- acres more or less, as ER-1, Estate Residential; for property located at 3891 Clotts Road; Billy G. & Vanieta Decker, owners.
0073-2009	4-6-09	Zones 1.5 +/- acres, more or less, as ER-2, Estate Residential; for property located at 4301 Johnstown Road; Mifflin Township, owner.
0139-2009	7-20-09	Rezones 3.546 +/- acres as RID, Restricted Institutional District; for property located at 94 Price Road; Eagle Academy by John Kenimer, applicant.
0140-2009	8-3-09	Zones 6.905 +/- acres, as CX-1, Neighborhood Commercial Mixed Use District; for property located at 83-109 North Hamilton Road; Gahanna Jefferson Local School District, applicant.
0196-2009	9-8-09	Rezones 1.626 acres and 0.558 acre as RID, Restricted Institutional District; for property located at 296 Rocky Fork Drive South; Gahanna Christian Church, owner; by City of Gahanna, applicant.
0197-2009	9-8-09	Rezones 4.7205 acres as RID, Restricted Institutional District; for property located at 81 Price Road; the Resurrection Power Church of God in Christ, owner; by City of Gahanna, applicant.

TABLE I - ZONING MAP CHANGES (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
0086-2011	5-2-11	Rezones 222 +/- acres of property as CC Community Commercial; said property located at 470 Havens Corners Road; Fifth Third Bank, applicant.
0096-2011	6-6-11	Rezones 4.7 +/- acres of property as ROD/SF3, Residential Overlay District/Single Family 3; said property located at 5593 Havens Corners Road; Brookewood Construction Company, Inc., Doug Maddy, applicant.
0167-2011	9-6-11	Zones 13.175 +/- acres of property as OCT, Office Commerce and Technology; and property located at 655 TechCenter Drive; Trivium Development, applicant.
0067-2012	4-2-12	Zones 2.45 +/- acres of property as ER-2, Estate Residential; said property located at 5061 Shagbark Road; City of Gahanna, applicant.
0068-2012	4-2-12	Zones 0.29 +/- acres of property as SO, Suburban Office; said property located at 4427 East Johnstown Road; City of Gahanna, applicant.
0069-2012	4-2-12	Zones 0.826 +/- acres of property at CC-2, Community Commercial; said property located at 1150 North Hamilton Road; City of Gahanna, applicant.
0093-2012	5-7-12	Zones .840 +/- acres of property as SO, Suburban Office; said property located at 790 East Johnstown Road; Leader Development, LLC, Kathy Weible, applicant.
0031-2013	2-4-13	Rezones 5.478 +/- acres of property as SO, Suburban Office; said property located at 975 North Hamilton Road; current zoning PCC; Otterbein Homes, applicant.
0091-2013	7-15-13	Rezones 3.9 +/- acres of property as ROD/SF3, Residential Overlay District/Single Family 3; said property located at 5593 Havens Corners Road; known as the Meadowbrooke Subdivision; Brookewood Construction Company, Inc., Doug Maddy, applicant.
0009-2014	3-3-14	Rezones 3.55 +/- acres as CX-1, Neighborhood Commercial, Mixed Use District; for property located at 391-361 South Hamilton Road and 390 Rocky Fork Drive South; Ranger Development Group, LLC, Jason Zadeh applicant.
0010-2014	2-3-14	Rezones 1.84 +/- acres as MR-1, Two Family Residential District; for property located at 559 North Hamilton; Creative Housing, Inc.; Connie Klema applicant.
0127-2014	9-15-14	Rezones 4.806 +/- acres located at 5495, 5505, 5511 and 5515 Morse Road to NC, Neighborhood Commercial from ER-1, Estate Residential.
0128-2014	9-15-14	Rezones 5.006 +/- acres located at 5445 Morse Road and parts of 5495 and 5505 Morse Road to SO, Suburban Office from ER-1 Estate Residential.

148.08 TRANSFER OF CITY INTERESTS IN REALTY WITHOUT COMPETITIVE BIDDING.

(a) Notwithstanding the bidding requirements of Chapter 135 of the Codified Ordinances, the Mayor or his designee, with the approval of Council, is hereby authorized to negotiate the sale, lease, transfer or conveyance of all or part of the interests in any real or personal property for uses in accordance with an urban renewal plan without competitive bidding. No land shall be sold, leased, transferred or conveyed by the Mayor except pursuant to an ordinance passed by Council authorizing such sale, lease, transfer or conveyance; and such ordinance shall prescribe the detailed terms and conditions upon which the sale, lease, transfer or conveyance shall be made, and the covenants or restrictions, if any, to be contained in any deed for real property from the City as grantor to the grantee thereof.

(b) Pending the use or sale, lease, transfer or conveyance of property in a project area, the Mayor may temporarily rent such property, without competitive bidding, for such uses and purposes as he may determine to be desirable, even though not in conformity with an applicable urban renewal or redevelopment plan.

(c) The Mayor or his designee, with the approval of Council, is hereby authorized to enter into any appraisal, market analysis, management or agency contracts without competitive bidding if he determines that such a contract is required or desirable in connection with the sale, lease, transfer or conveyance of real or personal property located within a project area. (Ord. 47-78. Passed 4-18-78.)

148.09 LEASES AUTHORIZED WITHOUT BIDDING; CONDITIONS.

The Mayor is authorized to enter into a lease contract upon the acquisition of the land by the City according to terms and conditions as he deems just, providing:

- (a) That the amount of the lease shall not be less than eighty-five dollars (\$85.00) per acre, per month, for a lease term of thirty (30) years nor less than sixty-five dollars (\$65.00) per acre, per month, for a lease term of thirty-five (35) years;
 - (b) That the term of the lease shall not exceed thirty-five (35) years, however the lessee may acquire the property leased after thirty (30) years;
 - (c) That prior to its execution, the lease be approved in form by the City Attorney;
 - (d) That prior to its execution, the lease be approved by bond counsel;
 - (e) That the Director of Planning and Development certify that the lease is consistent with the Urban Renewal and Redevelopment Plan of the City.
- (Ord. 0120-2007. Passed 6-18-07.)

148.10 PLANNING GUIDE ADOPTED.

Council hereby adopts the Planning Guide, 1990, Revised, November, 1990, as an official document of the City, and as a general planning guide for future development, and to serve as a technical reference supplement to the Master Development Plan of the City. The Planning Guide is attached to original Ordinance 203-90, as Exhibit A, and made a part herein. (Ord. 203-90. Passed 12-4-90.)

148.11 EMINENT DOMAIN.

(a) The City shall not use its power of eminent domain to appropriate, without the owner's consent, private property when the primary purpose for the appropriation is to promote private economic development and the appropriation is intended to result in long-term use of the property by another private person or entity.

(b) The provisions of this section shall not apply to the use of eminent domain where the property is located in a blighted area.

(c) The provisions of this section shall not apply to excess land appropriated in furtherance of a public use as permitted by Article XVIII, Section 10 of the Ohio Constitution.

(d) The provisions of this section shall not otherwise restrict the Council's authority to appropriate private land as necessary for public uses as permitted by Article XVIII, Sections 3, 4 and 5 of the Ohio Constitution and Chapter 719 of the Ohio Revised Code, except as outlined in subsection (a) hereof. (Ord. 0172-2005. Passed 9-19-05.)

148.12 FEES.

(a) Council shall by ordinance establish and annually adjust fees for all types of applications, permits and other specialized services provided by the Department of Planning and Development, which includes the Division of Building and Zoning, and such document shall be referred to as the "Development Fee Schedule". All fees are for the purpose of defraying the costs of preparing necessary maps, plats, reports, analyses, administration, legislation, notices, acquiring data, conducting surveys and other related work. The fee in effect on the date of receipt of any application shall be the fee charged; provided, however, the owners of all tax abated properties, irrespective of the date the initial application for abatement was filed, are subject to the annual fee outlined in the development fee schedule commencing in calendar year 2009.

(b) Any person desiring to do or cause to be done anything for which a fee is required by the Development Fee Schedule, shall upon application or prior to issuance pay to the Department through the cashier the fee prescribed by the then current Development Fee Schedule. The Development Fee Schedule shall be posted in the offices of the Department and shall be made available upon request.

(c) Park Fee.

(1) In addition to the fees and deposits required by other sections of the Codified Ordinances of Gahanna a park fee shall be paid by the developer in accordance with the following:

A. Residential

1. A single-family dwelling shall be equal to a one dwelling unit.
2. Each unit in a two-family dwelling shall be equal to one dwelling unit.
3. Each unit in a multi-family dwelling shall be equal to one dwelling unit.

B. Non-Residential

1. Each unit or room in an Extended Stay or Residential Hotel shall be equal to one dwelling unit.
2. Each unit or room in a family care facility or independent senior living facility shall be equal to one dwelling unit.

(2) Such park fee shall be as established in the Development Fee Schedule set forth in Section 148.12 of these Codified Ordinances.

(3) Such fee shall be collected prior to issuance of a certificate of occupancy.

(4) The fees so collected shall be deposited in a Park Fund for the improvement of recreational facilities within existing publicly owned and operated park facilities and the purchase of recreational equipment. Such funds shall not be used for the maintenance and operation expenses incurred by the Parks Department in the daily operation of park facilities.

(Ord. 0175-2014. Passed 12-15-14.)

148.13 FEES; EXEMPTIONS.

(a) The Municipality of Gahanna, shall be exempt from fees in the development fee schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance. This exemption shall also not apply to the fees required for portions of private structures utilized by the Municipality of Gahanna. Fees shall be charged for the areas of buildings owned by the Municipality of Gahanna that are not used exclusively by the Municipality in accordance with the fees established in the development fee schedule.

(b) Bona fide corporations not-for-profit, upon written request to Council, and upon approval by Council, shall be exempt from fees in the development fee schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance.

(c) Individuals or corporations claiming a hardship, upon written request to Council for a waiver or reduction of fees, and upon approval by Council, shall be exempt from or shall receive the approved reduction in the applicable fees in the development fee schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance.
(Ord. 0014-2011. Passed 2-7-11.)

148.14 FEES; REFUNDS.

(a) All fees as enumerated in the development fee schedule are non-refundable except as otherwise denoted in this section.

(b) A refund shall require a refund fee to cover the cost of making the refund and/or costs incurred. This refund fee shall be deducted from any amount to be refunded.

(c) An overpayment equal to or less than the refund fee shall be considered the refund fee and shall be added to the permit fee.

(d) Any refund of a permit application fee submitted for land, which is later determined to be located outside the city is subject to a refund fee.

(e) The Director of Planning and Development may waive the refund fee upon determination that the refund is necessary due to an error on the part of a city employee.

(f) The Director of Planning and Development shall not refund a fee upon determination that the refund is necessary due to an error on the part of an applicant.
(Ord. 0120-2007. Passed 6-18-07.)

CHAPTER 149
Civil Service Commission

EDITOR'S NOTE: Rules and regulations of the Civil Service Commission were adopted by Council by Ordinance 0141-2002, and amended by Ordinance 0208-2002, Ordinance 0154-2010, Ordinance 0203, Ordinance 0021-2014 and Ordinance 0013-2015.

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| <p>149.01 Powers and duties.
149.02 Present employees.
149.03 Organization.
149.04 Rules.
149.05 Appeals/grievances to the Commission.</p> | <p>149.06 Fees.
149.10 Subpoena power.
149.20 Failure to appear.
149.25 Settlements and withdrawals.
149.30 Disposition of appeals/grievances.
149.35 Further appeals.</p> |
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CROSS REFERENCES

Charter provisions - see CHTR. Art. XIII
Civil service - see Ohio Const., Art. XV, §10
Civil Service Law - see Ohio R.C. Ch. 124

149.01 POWERS AND DUTIES.

The Civil Service Commission shall have the jurisdiction derived from Article XIII of the Charter, and the power, and duty to hear and decide appeals/grievances from administrative determinations pursuant to the provisions of the Civil Service Rules and Regulations as enacted by Council and the Codified Ordinances. The Commission shall have such other powers, duties, and functions as provided by ordinance and in accordance with applicable collective bargaining agreements. The City may, from time to time, contract with other public entities.
(Ord. 0065-2012. Passed 4-2-12.)

149.02 PRESENT EMPLOYEES.

Any person who has served the City in a position included in the classified service for at least thirty days preceding the effective date of Ordinance 193-95 shall retain his position without examination until discharged, reduced, promoted or transferred in accordance with this chapter or the rules and regulations of the Civil Service Commission adopted hereunder.
(Ord. 0065-2012. Passed 4-2-12.)

149.03 ORGANIZATION.

Council shall establish the date, time and place for the first meeting each year, at which the Civil Service Commission shall organize under a Chairman and Vice Chairman. The Mayor shall preside at this meeting until the Chairman is elected. The Civil Service Commission shall establish its own rules of procedure. The Clerk of Council shall serve as the Secretary of the Board, shall serve as the official custodian of the records of the Commission, and shall perform such duties for the Commission as is required. All filings pertaining to official Board actions and appeals/grievances shall be submitted to the Clerk. A duly appointed Deputy Clerk of Council may perform the duties prescribed for the Clerk under this section.
(Ord. 0065-2012. Passed 4-2-12.)

149.04 RULES.

The Civil Service Rules & Regulations as adopted by City Council shall be kept on file with the Clerk of Council and the Department of Human Resources for inspection by the public. The Civil Service Rules & Regulations shall be formally evaluated every 5 years by City Council.
(Ord. 0065-2012. Passed 4-2-12.)

149.05 APPEALS/GRIEVANCES TO THE COMMISSION.

(a) **Parties.** The party filing an appeal/grievance is the appellant. The party against whom an appeal/grievance has been filed is the appellee. A party shall have the right to appeal/grieve an administrative determination pursuant to provisions of the Civil Service Rules and Regulations and the Codified Ordinances of the City of Gahanna.

(b) **Rules of Evidence.** The rules of evidence prevailing in civil actions in Ohio courts of general jurisdiction are adopted for guidance in hearings before the Commission, except as modified by this Code, Civil Service Rules & Regulations, and Civil Service Rules of Procedure. The rules of evidence shall not be strictly applied, but deference may be afforded to the rules of evidence.

(c) **Appellant's Requirements.** Appeals/grievances shall be in writing and shall be filed with the Clerk of Council within 30 calendar days from the date of the action being appealed. An appeal is considered filed when it is time stamped by the office of the Clerk of Council. Any appeal/grievance received after 5:00 p.m. on a business day or at any time on a non-business day shall be considered to be filed on the next business day. The following items shall be filed with each appeal/grievance:

- (1) A copy of the action being appealed/grieved shall be attached to the appeal/grievance.
- (2) A statement outlining the reason or legal basis for the appeal/grievance, along with a citation of the applicable rules and regulations section(s) signed by the appellant and/or agent.
- (3) The name, address, telephone number and e-mail address of the appellant and/or agent. Appellants shall notify the Clerk of Council, in writing, of any change of address while an appeal is pending.

(d) **Appellees's Requirements.** Within seven (7) business days of notification of an appeal/grievance, the appellee shall transmit to the Clerk of Council the records pertaining to the matter under appeal/grievance. Further, the Commission may require the appellees to provide a written statement describing the basis for the decision under appeal/grievance.

CHAPTER 157
Records Management Program

157.01	City Records Commission.	157.07	Commission duties and responsibilities.
157.02	Membership.	157.08	Compliance.
157.03	Operation.	157.09	Transfer of records.
157.04	Funding.	157.10	Authority not restricted.
157.05	Adoption.	157.99	Penalty.
157.06	Records Administrator.		

157.01 CITY RECORDS COMMISSION.

There is hereby established a City Records Commission. The purpose of the Commission shall be to establish rules, regulations and procedures for the retention and disposal of all City records and archives in compliance with the Charter of the City and laws of the State of Ohio, with particular reference to Ohio R.C. 149.39.
(Ord. 0148-2006. Passed 8-7-06.)

157.02 MEMBERSHIP.

The membership of the City Records Commission shall be the Mayor or the Mayor's appointed representative, Director of Finance, Director of Technology, City Attorney, Clerk of Council and two resident members appointed by Council. The appointment by Council shall be for a term of three years, commencing January 2, 1990. Elected and appointed officials who are employees of the City shall serve on the Commission without additional compensation. The Council appointee shall receive compensation as established by Council.
(Ord. 0176-2014. Passed 12-15-14.)

157.03 OPERATION.

The City Records Commission shall meet at least once every six months, and upon the call of the Chairman. One of these meetings shall be an annual meeting that shall be scheduled during January. At such annual meeting, the Commission members shall elect one of the members to serve as Chairman for a one-year term. There shall be no limit on the number of successive terms.
(Ord. 0148-2006. Passed 8-7-06.)

157.04 FUNDING.

The City Records Commission budget shall be included in the Council office budget.
(Ord. 0148-2006. Passed 8-7-06.)

157.05 ADOPTION.

The current edition of the Ohio Municipal Records Manual, published by the Ohio Historical Society, is hereby adopted to provide guidelines for the City Records Commission.
(Ord. 0148-2006. Passed 8-7-06.)

157.06 RECORDS ADMINISTRATOR.

A qualified person for the position of Records Administrator shall be selected and appointed by the City Council and work under the direction of the Clerk of Council. The Records Administrator shall not be a member of the Commission.
(Ord. 0148-2006. Passed 8-7-06.)

157.07 COMMISSION DUTIES AND RESPONSIBILITIES.

(a) The City Records Commission, acting under authority of Ohio R.C. 149.39 shall establish and implement a program to encompass such areas of records management as are required to preserve and keep in order all books, papers, documents, records and files of Council and of the executive departments of the City in order to achieve the following goals:

- (1) Release space and reduce the need for storage and filing equipment;
- (2) Establish an efficient retrieval operation for both active and inactive Municipal records;
- (3) Provide for routine disposition of paperwork;
- (4) Establish, control and maintain total security over Municipal records; and
- (5) Communicate the need for an effective records management program.

(b) The Commission shall adopt a retention schedule for all documents and materials under its jurisdiction and shall apply to the Ohio Historical Society for approval of this schedule. Once approved, the records management program shall be administered according to this schedule except as may be amended by the Commission and approved by the Ohio Historical Society from time to time.

(Ord. 0148-2006. Passed 8-7-06.)

157.08 COMPLIANCE.

Any and all Municipal officials, employees and board or commission members shall comply with requests by the City Records Commission or the Records Administrator for documents, records or information, made pursuant to the authority granted herein, within a reasonable time.

(Ord. 0148-2006. Passed 8-7-06.)

**CHAPTER 159
Board of Health**

159.01 Creation.

159.02 Adoption of regulations.

CROSS REFERENCES

Contract with general health district - see Ohio R.C. 3709.08

159.01 CREATION.

Pursuant to Ohio R.C. 3709.08, the Franklin County Public Health shall have all the powers and perform all the duties required of a board of health of the City Health District within the jurisdiction of the City of Gahanna. The City of Gahanna shall enter into contract with Franklin County Public Health on an annual basis to provide health services.
(Ord. 0027-2015. Passed 2-17-15.)

159.02 ADOPTION OF REGULATIONS.

(a) Council hereby adopts the Franklin County Public Health Regulations in effect on January 1, 2015, and any amendments or revisions thereto, to the extent that such regulations are not inconsistent with the previously adopted and effective Codified Ordinances of the City of Gahanna. Council incorporates such regulations and any amendments or revisions thereto, by reference, into the Codified Ordinances of the City of Gahanna.

(b) A copy of said Franklin County Public Health Regulations as adopted and incorporated by reference, and any amendments and revisions thereto, shall be kept on file with the Clerk of Council for inspection by the public.
(Ord. 0027-2015. Passed 2-17-15.)

(f) The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.

(g) The term "person" as used in this section shall, in addition to the meaning prescribed in Section 161.02, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.
(Ord. 0293-2009. Passed 12-21-09.)

161.14 BOARD OF REVIEW.

(a) A Board of Review, consisting of three (3) members, residents of the Municipality, all to be appointed by the Mayor and approved by Council, is hereby created and shall be maintained to hear appeals. The members of the Board of Review shall be appointed for a term of three (3) years; however, in January 2005 the members of the Board of Review shall be appointed for one, two and three years respectively. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board shall be conducted privately and the provisions of Section 161.09 with reference to the confidential character of information required to be disclosed by the Chapter shall apply to such matters as may be heard before the Board on appeals.

(b) All rules and regulations and amendments or changes thereto which are adopted by the Tax Administrator under the authority conferred by this Chapter, must be approved by the Board of Review before the same becomes effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Clerk of Council and shall be open to public inspection. The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator, and, at the request of the taxpayer or Tax Administrator, is empowered to substitute alternate methods of apportionment.

(c) Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Municipality, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(d) Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the Municipality the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator has issued the decision.

(e) The imposition of penalty and interest as prescribed in the Codified Ordinances of the Municipality is not a sole basis for an appeal.

(f) The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.

(g) The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Tax Administrator may appeal the Board's decision as provided in section 5717.011 of the Ohio Revised Code.

(h) Each Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code.
(Ord. 0276-2004. Passed 12-20-04.)

161.15 INFORMATION BY LANDLORDS.

(a) All owners or management companies of rental property who rent to tenants of apartments, rooms and other rental accommodations, shall file with the Tax Administrator on a quarterly basis a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Municipality in the reporting period.

(b) On the quarterly reporting from subsection (a) above, the owner or management company of vacated rental property shall file with the Tax Administrator a report showing the date of vacation from the rental property and a forwarding address of any tenant that has vacated an apartment, room or other rental property located within the Municipality in the reporting period.

(c) The reporting period will be on a calendar quarter with the reporting being due in the Tax Administrator's office 30 days after the end of the quarter. (Reports are due as follows: 1st quarter - April 30th, 2nd quarter - July 31, 3rd quarter - October 31, and 4th quarter - January 31).

(d) Any person who violates this section shall be guilty of a misdemeanor and shall be subject to a fine of five dollars (\$5.00) per day for each and every day they remain in violation or subject to a maximum penalty of two hundred fifty dollars (\$250.00).
(Ord. 0276-2004. Passed 12-20-04.)

161.18 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Each resident shall be allowed a nonrefundable credit against the tax imposed under this Chapter with respect to that resident's Creditable Income. For purposes of this section, "Creditable Income" means, with respect to any Taxable Year, the portion of a resident's income (1) on which the resident paid municipal income tax to a municipality other than the City of Gahanna, or (2) with respect to which the employer of the resident withheld the municipal income tax of a municipality other than the City of Gahanna. Creditable Income shall not include taxes paid or withheld to the extent the resident is eligible to receive a refund of such taxes from the other municipality.

(b) The credit under subsection (a) above shall be equal to the product calculated by multiplying the following two (2) numbers:

- (1) Eighty-three and one-third percent (83-1/3%).
- (2) The lesser of the following amounts for the Taxable Year:
 - A. The tax paid on the Creditable Income to the other municipality; OR
 - B. The tax imposed under this Chapter, prior to application of this credit.

(c) For purposes of this section, "Net Proceeds" means the total proceeds collected from the tax imposed under this Chapter on the Creditable Income of all residents, after the application of the credit under subsection (a). Until otherwise determined by Council, the Net Proceeds for each fiscal year, as those Net Proceeds are verified by the Finance Director, shall be expended for capital improvements and equipment in the following categories:

- (1) Safety;
- (2) Streets; and
- (3) Stormwater Maintenance.

(d) The credit became effective with respect to taxable income earned and/or received on and after January 1, 1989, and the purpose of and intention behind the revisions made to this section on January 6, 2015 are to provide clarification and to carry out the intent behind the credit since such effective date.

(e) Council shall conduct a minimum of three (3) public hearings at least sixty (60) days prior to any amendment of this section.
(Ord. 0162-2014. Passed 12-15-14.)

161.19 CONTRACT PROVISIONS.

No contract on behalf of the City for works or improvements of the City shall be binding or valid unless such contract contains the following provisions:

"Said hereby further agrees to withhold all City income tax due or payable under the provisions of Chapter 161, Income Tax, of the Codified Ordinances of the City of Gahanna, Ohio, for wages, salaries, and commissions paid to its employees and further agrees that any of its contractors shall be required to agree to withhold any such City income taxes due under said Chapter for services performed under this contract."
(Ord. 0257-2003. Passed 12-15-03.)

161.20 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter except as defined in Section 161.18, shall be deposited to the General Fund and be applied for the following purposes, and in the following order to wit:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this chapter and the cost of maintaining the Division of Taxation and administering and enforcing the provisions thereof.
- (b) Such part thereof as Council may appropriate for the purpose of paying the cost of general municipal operations.
- (c) Such part thereof as Council may appropriate for the purpose of paying the cost for repairs and maintenance of streets.
- (d) Such part thereof as Council may appropriate for the purpose of purchasing new equipment, maintenance, and capital improvements.
- (e) Such part thereof as Council may appropriate for the payment of principal and interest on certain bond issues for capital improvements.

(Ord. 0257-2003. Passed 12-15-03.)

161.21 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(Ord. 0257-2003. Passed 12-15-03.)

161.99 PENALTY.

Whoever violates any of the provisions of this chapter for which no penalty is otherwise provided shall be guilty of a minor misdemeanor on a first offense, and a third degree misdemeanor for a second and subsequent offense.

(Ord. 0257-2003. Passed 12-15-03.)

- (2) When any vehicle or "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 is left on private property for more than forty-eight consecutive hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway, for forty-eight consecutive hours or longer, without notification to the Police Chief of the reasons for leaving such vehicle in such place. Prior to disposal of an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63, it shall be photographed by a law enforcement officer.
- (3) When any vehicle has been stolen or operated without the consent of the owner and is located upon either public or private property.
- (4) When any vehicle displays illegal license plates or fails to display the current lawfully required plates and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- (5) When any vehicle has been used in or connected with the commission of a felony and is located upon either public or private property.
- (6) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code whereby its continued operation would constitute a condition hazardous to life, limb or property, and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- (7) When any vehicle is left unattended either on public or private property due to the removal of an ill, injured or arrested operator, or due to the abandonment thereof by the operator during or immediately after pursuit by a law enforcement officer.
- (8) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision and is located either on public or private property.
- (9) When any vehicle has been operated by any person who is driving without a lawful license or while his license has been suspended or revoked and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.
- (10) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required, and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.

(b) Any vehicle removed under authority of subsection (a)(2) hereof shall be ordered into storage and/or disposed of as provided under Ohio R.C. 4513.60 et seq. Any other vehicle removed under authority of this section shall be ordered into storage and the Municipal police shall forthwith notify the registered vehicle owner of the fact of such removal and impounding, reasons therefor and the place of storage. Any person desiring to redeem an impounded vehicle shall appear at the police offices to furnish satisfactory evidence of identity and ownership or right to possession. Prior to issuance of a release form, the claimant, owner or operator shall either pay the amount due for any fines for violations on account of which such vehicle was impounded or, as the court may require, post a bond in an amount set by the court, to appear to answer to such violations. The pound operator shall release such vehicle upon the receipt of the release form and payment of all towage and storage charges.

(c) No owner or operator shall remove an impounded vehicle from the place of storage without complying with the above procedure. Possession of a vehicle which has been impounded and unlawfully taken from the place of storage, by the owner or operator, shall constitute prima-facie evidence that it was so removed by the owner or operator.

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

303.081 IMPOUNDING VEHICLES ON PRIVATE RESIDENTIAL OR AGRICULTURAL PROPERTY.

- (a) (1) The Chief of Police upon complaint of any person adversely affected may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The Chief of Police, upon complaint of the owner of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. When ordering a motor vehicle into storage pursuant to this section, the Chief of Police may arrange for the removal of the motor vehicle by a towing service and shall designate a storage facility.
- (2) A towing service towing a motor vehicle under subsection (a)(1) of this section shall remove the motor vehicle in accordance with that subsection. The towing service shall deliver the motor vehicle to the location designated by the Chief of Police not more than two hours after the time it is removed from the private property.
- (3) Subject to subsection (b) of this section, the owner of a motor vehicle that has been removed pursuant to this subsection may recover the vehicle only in accordance with subsection (d) of this section.
- (4) As used in this section "private residential property" means private property on which is located one or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

(b) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to subsection (a)(1) of this section arrives after the motor vehicle has been prepared for removal, but prior to its actual removal from the property, the towing service shall give the owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the motor vehicle under subsection (d)(1) of this section in order to obtain release of the motor vehicle. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the motor vehicle to the owner or operator. Upon its release, the owner or operator immediately shall move it so that it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable.

- (c) (1) The Chief of Police shall maintain a record of motor vehicles that the Chief orders into storage pursuant to subsection (a)(1) of this section. The record shall include an entry for each such motor vehicle that identifies the motor vehicle's license number, make, model and color, the location from which it was removed, the date and time of the removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. The Chief of Police shall provide any information in the record that pertains to a particular motor vehicle to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (2) Any person who registers a complaint that is the basis of the Police Chief's order for the removal and storage of a motor vehicle under subsection (a)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (d) (1) The owner or lienholder of a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section may reclaim it upon both of the following:
- A. Payment of the following fees:
1. Not more than ninety dollars (\$90.00) for the removal of the motor vehicle. However, if the motor vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds, and is a truck, bus or a combination of a commercial tractor and trailer or semitrailer, not more than one hundred fifty dollars (\$150.00) for the removal.
 2. Not more than twelve dollars (\$12.00) per twenty-four hour period for the storage of the motor vehicle. However, if the motor vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus or a combination of a commercial tractor and trailer or semitrailer, not more than twenty dollars (\$20.00) per twenty-four hour period for storage.
- B. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle.
- (2) Upon presentation of proof of ownership, the owner of a motor vehicle that is ordered into storage under subsection (a)(1) of this section may retrieve any personal items from the motor vehicle without retrieving the vehicle and without paying any fee. However, the owner may not retrieve any personal item that has been determined by the Chief of Police, as applicable, to be necessary to a criminal investigation. For purposes of subsection (d)(2) of this section, "personal items" do not include any items that are attached to the motor vehicle.
- (3) If a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by Ohio R.C. 4513.61 and 4513.62 apply.

- (e) (1) No person shall remove, or cause the removal of, any motor vehicle from any private residential or private agricultural property other than in accordance with subsection (a)(1) of this section or Ohio R.C. 4513.61 to 4513.65.
 - (2) No towing service or storage facility shall fail to comply with the requirements of this section.
- (f) This section does not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with Section 303.082.
- (g) The owner of any towing service or storage facility that violates subsection (e) of this section is guilty of a minor misdemeanor.
(ORC 4513.60)

303.082 PRIVATE TOW-AWAY ZONES.

- (a) The owner of private property may establish a private tow-away zone, but may do so only if all of the following conditions are satisfied:
- (1) The owner posts on the owner's property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that includes all of the following information:
 - A. A statement that the property is a tow-away zone;
 - B. A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner shall include on the sign the address of the property on which the private tow-away zone is located, or the name of the business that is located on the property designated as a private tow-away zone.
 - C. If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;
 - D. The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;
 - E. A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in division (B) of Ohio R.C. 4505.101.

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

- (2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:
- A. It is located within twenty linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within twenty linear miles.
 - B. It is well-lighted.
 - C. It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.
- (b) (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (a) of this section, without the consent of the owner of the property or in violation of any posted parking condition or regulation, the owner may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established under subsection (g) of this section, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Ohio R.C. 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (c) of this section, may recover the vehicle in accordance with subsection (g) of this section.
- (2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.
- (c) If the owner or operator of a vehicle that is being removed under authority of subsection (b) of this section, arrives after the vehicle has been prepared for removal, but prior to the actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established under subsection (g) of this section, in order to obtain release of the vehicle. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner or in violation of any posted parking condition or regulation.
- (d) (1) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section.

- The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.
- (2) A towing service shall deliver a vehicle towed under subsection (b) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone.
- (e) (1) If an owner of private property that is established as a private tow-away zone in accordance with subsection (a) of this section causes the removal of a vehicle from that property by a towing service under subsection (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the Police Department concerning all of the following:
- A. The vehicle's license number, make, model and color;
 - B. The location from which the vehicle was removed;
 - C. The date and time the vehicle was removed;
 - D. The telephone number of the person from whom the vehicle may be recovered;
 - E. The address of the place from which the vehicle may be recovered.
- (2) The Chief of Police shall maintain a record of any vehicle removed from private property in the Chief's jurisdiction that is established as a private tow-away zone of which the Chief has received notice under this section. The record shall include all information submitted by the towing service. The Chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.
- (f) (1) When a vehicle is removed from private property in accordance with this section, the owner of the towing service or storage facility from which the vehicle may be recovered shall immediately cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the identity of the owner and any lienholder of the motor vehicle. Subject to subsection (f)(4) of this section, the owner of the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:
- A. Within five business days of removal of the vehicle from the private tow-away zone, if the vehicle has not yet been recovered, to the owner's and lienholder's last known address by certified or express mail with return receipt requested or by a commercial carrier service utilizing any form of delivery requiring a signed receipt;
 - B. If the vehicle remains unclaimed thirty days after the first notice is sent, in the manner authorized in subsection (f)(1)A. of this section;
 - C. If the vehicle remains unclaimed forty-five days after the first notice is sent, in the manner authorized in subsection (f)(1)A. of this section.
- (2) Sixty days after any notice sent pursuant to subsection (f)(1) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the owner of a towing service or storage facility, if authorized under subsection (B) of Ohio R.C. 4505.101, may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.

- (3) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under division (B) of Ohio R.C. 4505.101.
 - (4) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under Ohio R.C. 4505.101, the towing service or storage facility need only comply with the initial notice required under subsection (f)(1)A. of this section.
- (g)
- (1) The owner or lienholder of a vehicle that is removed under subsection (b) of this section may reclaim it upon all of the following:
 - A. Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle;
 - B. Payment of the following fees:
 - 1. Not more than ninety dollars (\$90.00) for the removal of the vehicle. However, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus or a combination of a commercial tractor and trailer or semitrailer, not more than one hundred fifty dollars (\$150.00) for the removal.
 - 2. Not more than twelve dollars (\$12.00) per twenty-four-hour period for the storage of the vehicle. However, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer, not more than twenty dollars (\$20.00) per twenty-four-hour period for storage.
 - 3. If notice has been sent to the owner and lienholder as described in subsection (f) of this section, a processing fee of twenty-five dollars (\$25.00).
 - (2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (b) of this section shall show the vehicle owner, operator or lienholder who contests the removal of the vehicle all photographs taken under subsection (d) of this section. Upon request, the towing service or storage facility shall provide copies of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.
 - (3) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, the owner of a vehicle that is removed under authority of subsection (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. For purposes of subsection (g)(3) of this section, "personal items" do not include any items that are attached to the vehicle.
- (h) No towing service or storage facility shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.

(i) This section does not affect or limit the operation of Ohio R.C. 4513.60 or Ohio R.C. 4513.61 to 4613.65 as they relate to property other than private property that is established as a private tow-away zone under subsection (a) of this section.

(j) The owner of any towing service or storage facility or property owner that violates subsection (h) of this section is guilty of a minor misdemeanor.
(ORC 4513.601)

303.083 RELEASE OF VEHICLE; RECORDS; CHARGES.

(EDITOR'S NOTE: The provisions of former Section 303.083 as amended are now codified in Section 303.081.)

303.09 LEAVING JUNK AND OTHER VEHICLES ON PRIVATE OR PUBLIC PROPERTY WITHOUT PERMISSION OR NOTIFICATION.

(a) No person shall willfully leave any vehicle or an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 on private property for more than seventy-two consecutive hours without the permission of the person having the right to the possession of the property or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway, for forty-eight consecutive hours or longer, without notification to the Police Chief of the reasons for leaving the vehicle in such place.

For purposes of this section, the fact that a vehicle has been so left without permission or notification is prima-facie evidence of abandonment. Nothing contained in this section shall invalidate the provisions of other ordinances regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property or private property within the Municipality.

(b) Whoever violates this section is guilty of a minor misdemeanor and shall also be assessed any costs incurred by the Municipality in disposing of an abandoned junk motor vehicle that is the basis of the violation, less any money accruing to the Municipality from this disposal of the vehicle. (ORC 4513.64)

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

(a) For the purposes of this section, "junk motor vehicle" means any motor vehicle meeting the requirements of Ohio R.C. 4513.63(B) to (E) that is left uncovered in the open on private property for more than seventy-two hours with the permission of the person having the right to the possession of the property, except if the person is operating a junk yard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05 to 4737.12; or regulated under authority of the Municipality; or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation, or if the motor vehicle is a collector's vehicle.

Persons may store or keep by unrestricted method any collector's vehicle as defined in Ohio R.C. 4501.01(F) on private property with the permission of the person having the right to the possession of the property; except that such person having such permission shall conceal, by means of buildings, fences, vegetation, terrain or other suitable obstruction, any unlicensed collector's vehicle stored in the open.

Council, the Chief of Police or the Municipal Zoning Authority, may send notice by certified mail with return receipt requested, to the person having the right to the possession of the property on which a junk motor vehicle is left, that within ten days of receipt of the notice, the junk motor vehicle either shall be covered by being housed in a garage or other suitable structure or shall be removed from the property.

No person shall willfully leave a junk motor vehicle uncovered in the open for more than ten days after receipt of a notice as provided in this section. The fact that a junk motor vehicle is so left is prima-facie evidence of willful failure to comply with the notice. Each subsequent period of thirty days that a junk motor vehicle continues to be so left constitutes a separate offense.

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

303.11 ENFORCEMENT OUTSIDE THE CORPORATE LIMITS.

Notwithstanding the usual definitions of the words City and Municipality found within this Part Three - Traffic Code and notwithstanding any limiting words of any particular provisions of this Traffic Code, all police regulations within this Traffic Code shall apply on all lands and to all lands owned by the City and situated outside the corporate limits thereof, to the full extent authorized by Ohio statutes. Further, all roads owned by the City outside its territory shall be considered both a public road and a private road for purposes of this Traffic Code.
(Ord. 96-78. Passed 11-21-78.)

303.12 PROCEDURE ON ARREST; FAILURE TO OBEY NOTICE.

(a) When any person is arrested for violating any section of this Traffic Code, the arresting officer may take the person's name, address, operator's license number and the registration number of the motor vehicle involved and issue to him, on a form provided by the Municipality, a notice to answer to the charges placed against him, within seven days at a place specified in the notice. After the accused has given his promise to appear as specified in the notice, the officer may release him from custody. The arresting officer shall send one copy of such notice to the Police Chief and one copy to the Court.

(b) Whenever any motor vehicle without a driver is found parked in violation of any of the parking restrictions of this or any other lawful Municipal ordinance, the officer finding it shall take its registration number and any other information displayed on the vehicle which may identify its owner, and affix conspicuously to such vehicle a notice in writing on a form provided for such use, for the owner to answer to the charges placed against him within seven days at a place specified in the notice.

(c) Any person who willfully violates such written notice to appear, given or affixed by a police officer in accordance with subsections (a) or (b) hereof, is guilty of a minor misdemeanor regardless of the disposition of the charges for which the notice was originally issued. (Ord. 26-66. Passed 6-6-66.)

303.13 PROVIDING FALSE INFORMATION TO POLICE OFFICER.

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

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

303.99 GENERAL TRAFFIC CODE PENALTIES.

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

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

<u>Classification of Misdemeanor</u>	<u>Maximum Term of Imprisonment</u>	<u>Maximum Fine</u>
First degree	180 days	\$1,000.00
Second degree	90 days	750.00
Third degree	60 days	500.00
Fourth degree	30 days	250.00
Minor	No imprisonment	150.00
Unclassified misdemeanor	500 hours of community service	1,000.00

(Ord. 0195-2012. Passed 11-5-12.)

TITLE FIVE - Vehicles

- Chap. 331. Operation Generally.
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CHAPTER 331 Operation Generally

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CROSS REFERENCES

See sectional histories for similar State law

Obedience to traffic control devices - see TRAF. 313.01

Operation of bicycles and motorcycles - see TRAF. 373.01 et seq.

School bus operation - see OAC Ch. 4501-3

331.01 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.

(a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

- (1) When overtaking and passing another vehicle proceeding in the same direction, or when making a left turn under the rules governing such movements;
- (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
- (3) When driving upon a roadway divided into three or more marked lanes for traffic under the rules applicable thereon;
- (4) When driving upon a roadway designated and posted with signs for one-way traffic;
- (5) When otherwise directed by a police officer or traffic control device.

- (b) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, and far enough to the right to allow passing by faster vehicles if such passing is safe and reasonable, except under any of the following circumstances:
 - A. When overtaking and passing another vehicle proceeding in the same direction;
 - B. When preparing for a left turn;
 - C. When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.
- (2) Nothing in subsection (b)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.

331.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.

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

(b) This section does not apply to:

- (1) Any person wearing a hearing aid;
- (2) Law enforcement personnel while on duty;
- (3) Fire personnel and emergency medical service personnel while on duty;
- (4) Any person engaged in the operation of equipment for use in the maintenance or repair of any street or highway; or
- (5) Any person engaged in the operation of refuse collection equipment.

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

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

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

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

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

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

- (2) An order for immobilization and impoundment of a vehicle under this section shall be issued and enforced in accordance with Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.
 - (3) An order for criminal forfeiture of a vehicle under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of a copy of the order from the court, neither the Registrar of Motor Vehicles nor a Deputy Registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then shall take the necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle. (ORC 4510.161)
- (h) As used in this section:
- (1) "Electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.
 - (2) "Equivalent offense" means any of the following:
 - A. A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to subsection (a) of this section;
 - B. A violation of a former law of this State that was substantially equivalent to subsection (a) of this section.
 - (3) "Jail" has the same meaning as in Ohio R.C. 2929.01.
 - (4) "Mandatory jail term" means the mandatory term in jail of three, ten, or thirty consecutive days that must be imposed under subsection (b)(1), (2) or (3) of this section upon an offender convicted of a violation of subsection (a) of this section and in relation to which all of the following apply:
 - A. Except as specifically authorized under this section, the term must be served in a jail.
 - B. Except as specifically authorized under this section, the term cannot be suspended, reduced, or otherwise modified pursuant to any provision of the Ohio Revised Code. (ORC 4510.14)

**335.072 DRIVING UNDER FINANCIAL RESPONSIBILITY LAW
SUSPENSION OR CANCELLATION; DRIVING UNDER A
NONPAYMENT OF JUDGMENT SUSPENSION.**

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

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

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

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

- (1) Except as otherwise provided in subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.16, or any combination of two violations of Ohio R.C. 4510.16 or Ohio R.C. 4510.11 or 4510.111, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree.
- (3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section.
(ORC 4510.16)

(e) No person who has knowingly failed to maintain proof of financial responsibility in accordance with Ohio R.C. 4509.101 shall produce any document or present to a peace officer an electronic wireless communications device that is displaying any text or images with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with Ohio R.C. 4509.101. Whoever violates this subsection (e) hereof is guilty of falsification, a misdemeanor of the first degree. (ORC 4509.102)

335.073 DRIVING WITHOUT COMPLYING WITH LICENSE REINSTATEMENT REQUIREMENTS.

(a) No person whose driver's license, commercial driver's license, temporary instruction permit, or nonresident's operating privilege has been suspended shall operate any motor vehicle upon a public road or highway or any public or private property after the suspension has expired unless the person has complied with all license reinstatement requirements imposed by the court, the Bureau of Motor Vehicles, or another provision of the Ohio Revised Code.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima-facie evidence that the license of the person had not been reinstated by the person at the time of the alleged violation of subsection (a) hereof. The person charged with a violation of subsection (a) hereof may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates this section is guilty of failure to reinstate a license and shall be punished as follows:

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of a violation of subsection (a) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of Ohio R.C. 4510.21(A) or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
- (3) In all cases, the court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary driver's license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.21)

**335.074 DRIVING UNDER LICENSE FORFEITURE OR CHILD SUPPORT
SUSPENSION.**

(a) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality whose driver's or commercial driver's license has been suspended pursuant to Ohio R.C. 2151.354, 2151.87, 2935.27, 3123.58, 4301.99, 4510.032, 4510.22 or 4510.33.

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

(c) Whoever violates subsection (a) of this section is guilty of driving under suspension and shall be punished as provided in subsection (c) of this section.

- (1) Except as otherwise provided in subsection (c)(2) of this section, the offense is an unclassified misdemeanor. The offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of subsection (A) of Ohio R.C. 4510.111, or any combination of two or more violations of subsection (A) of Ohio R.C. 4510.111, or Ohio R.C. 4510.11 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree and the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.111)

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

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

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

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

337.17 FOCUS AND AIM OF HEADLIGHTS.

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

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

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

337.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.

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

TITLE SEVEN - Parking
Chap. 351. Parking Generally.

CHAPTER 351
Parking Generally

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| <p>351.01 Police may remove unattended vehicle which obstructs traffic.</p> <p>351.02 Registered owner prima-facie liable for unlawful parking.</p> <p>351.03 Prohibited standing or parking places.</p> <p>351.04 Parking near curb; handicapped locations on public and private lots and garages.</p> <p>351.05 Maximum consecutive parking on streets.</p> <p>351.06 Selling, washing or repairing vehicle upon roadway.</p> <p>351.07 Unattended vehicle: duty to stop engine, remove key, set brake and turn wheels.</p> <p>351.08 Opening vehicle door on traffic side.</p> | <p>351.09 Parking on public or private lots and lands.</p> <p>351.10 Parking before driveways or garage entrances.</p> <p>351.11 Parking on narrow streets.</p> <p>351.12 Prohibition against parking on streets or highways.</p> <p>351.13 Night parking of trucks.</p> <p>351.14 Standing for loading or unloading.</p> <p>351.15 Vehicles displaying advertising.</p> <p>351.16 Selling from vehicles.</p> <p>351.17 Fire lane designation; posting compliance; parking.</p> <p>351.18 Parking of trucks, trailers, recreational vehicles and boats.</p> <p>351.19 Parking on posted private property.</p> <p>351.20 Parking near mailboxes or private drives.</p> <p>351.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Owner nonliability, lease defense - see Ohio R.C. 4511.071
 Police may remove ignition key from unattended vehicle - see TRAF. 303.03
 Parking near stopped fire apparatus - see TRAF. 331.27
 Lights on parked or stopped vehicles - see TRAF. 337.09

351.01 POLICE MAY REMOVE UNATTENDED VEHICLE WHICH OBSTRUCTS TRAFFIC.

Whenever any police officer finds a vehicle unattended upon any street, bridge or causeway, or in any tunnel, where such vehicle constitutes an obstruction to traffic, such officer may provide for the removal of such vehicle to the nearest garage or other place of safety.
 (ORC 4511.67)

351.02 REGISTERED OWNER PRIMA-FACIE LIABLE FOR UNLAWFUL PARKING.

In any hearing on a charge of illegally parking a motor vehicle, testimony that a vehicle bearing a certain license plate was found unlawfully parked as prohibited by the provisions of this Traffic Code, and further testimony that the record of the Ohio Registrar of Motor Vehicles shows that the license plate was issued to the defendant, shall be prima-facie evidence that the vehicle which was unlawfully parked, was so parked by the defendant. A certified registration copy, showing such fact, from the Registrar shall be proof of such ownership.

351.03 PROHIBITED STANDING OR PARKING PLACES.

(a) No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this Traffic Code, or while obeying the directions of a police officer or a traffic control device, in any of the following places:

- (1) On a sidewalk, curb or street lawn area, except as provided in subsection (b) hereof;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within ten feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within twenty feet of a crosswalk at an intersection;
- (7) Within thirty feet of, and upon the approach to, any flashing beacon, stop sign or traffic control device;
- (8) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the end of a safety zone, unless a different length is indicated by a traffic control device;
- (9) Within fifty feet of the nearest rail of a railroad crossing;
- (10) Within twenty feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within seventy-five feet of the entrance when it is properly posted with signs;
- (11) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
- (12) Alongside any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a street, or within a street tunnel;
- (14) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow, or at any place in excess of the maximum time limited by signs;
- (15) Within one foot of another parked vehicle;
- (16) On the roadway portion of a freeway, expressway or thruway.

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

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.68)

(d) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

(e) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation or other process, unless reasonable diligence is exercised to execute the same.

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

(g) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused absented himself from this Municipality or concealed his identity or whereabouts is prima-facie evidence of his purpose to avoid prosecution.

(h) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information or process that commenced the prosecution is quashed or the proceedings on the indictment, information or process are set aside or reversed on appeal.

(i) The period of limitation for a violation of any provision of this General Offenses Code that involves a physical or mental wound, injury, disability or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen years of age or of a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age shall not begin to run until either of the following occurs:

- (1) The victim of the offense reaches the age of majority.
- (2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred. (ORC 2901.13)

(j) This section shall not apply to prosecutions commenced within the period of limitations set forth in Ohio R.C. 718.12(B) for violations of the Municipal income tax ordinance.

501.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

(a) Except as provided in subsection (b) hereof, a person is not guilty of an offense unless both of the following apply:

- (1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;
- (2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the language defining the offense.

(b) When the language defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. The fact that one subsection of a section plainly indicates a purpose to impose strict liability for an offense defined in that subsection does not by itself plainly indicate a purpose to impose strict criminal liability for an offense defined in other subsections of the section that do not specify a degree of culpability.

- (c) (1) When language defining an element of an offense that is related to knowledge or intent or to which mens rea could fairly be applied neither specifies culpability nor plainly indicates a purpose to impose strict liability, the element of the offense is established only if a person acts recklessly.
- (2) Subsection (c)(1) of this section does not apply to offenses defined in the Traffic Code.
- (3) Subsection (c)(1) of this section does not relieve the prosecution of the burden of proving the culpable mental state required by any definition incorporated into the offense.

(d) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

- (e) As used in this section:
- (1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.
- (2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.
- (3) "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 501.08.
- (4) "Intoxication" includes, but is not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.
(ORC 2901.21)

501.08 CULPABLE MENTAL STATES.

(a) A person acts purposely when it is the person's specific intention to cause a certain result, or when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is the offender's specific intention to engage in conduct of that nature.

(b) A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

(c) A person acts recklessly when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that such circumstances are likely to exist.

(d) A person acts negligently when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist.

(e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element.
(ORC 2901.22)

501.09 ATTEMPT.

(a) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.

(b) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(c) No person who is convicted of committing a specific offense or of complicity in the commission of an offense, shall be convicted of an attempt to commit the same offense in violation of this section.

(d) It is an affirmative defense to a charge under this section that the actor abandoned the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(e) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other misdemeanor is a misdemeanor of the next lesser degree than the misdemeanor attempted. In the case of an attempt to commit an offense other than a violation of Ohio R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony under the Ohio Revised Code, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. An attempt to commit a minor misdemeanor is not an offense under this section.

(f) As used in this section, "drug abuse offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.02)

501.10 COMPLICITY.

(a) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

- (1) Solicit or procure another to commit the offense;
- (2) Aid or abet another in committing the offense;
- (3) Cause an innocent or irresponsible person to commit the offense.

(b) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(c) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of Section 501.09.

(d) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense or an offense, the court when it charges the jury, shall state substantially the following:

"The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.

"It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(e) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(f) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.
(ORC 2923.03)

501.11 ORGANIZATIONAL CRIMINAL LIABILITY.

(a) An organization may be convicted of an offense under any of the following circumstances:

- (1) The offense is a minor misdemeanor committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.
- (2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.

- (3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.
- (4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated or performed by the board of directors, trustees, partners or by a high managerial officer, agent or employee acting in behalf of the organization and within the scope of such a board's or person's office or employment.

(b) If strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(c) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(d) As used in this section, "organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated nonprofit association, estate, trust or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program. (ORC 2901.23)

501.12 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

(a) An officer, agent or employee of an organization as defined in Section 501.11 may be prosecuted for an offense committed by such organization, if he acts with the kind of culpability required for the commission of the offense, and any of the following apply:

- (1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility;
- (2) He has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(b) When a person is convicted of an offense by reason of this section, he is subject to the same penalty as if he had acted in his own behalf. (ORC 2901.24)

501.13 CONSPIRACY.

(a) No person, with purpose to commit or to promote or facilitate the commission of aggravated murder, murder, kidnapping, abduction, compelling prostitution, promoting prostitution, trafficking in persons, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, engaging in a pattern of corrupt activity, corrupting another with drugs, a felony drug trafficking, manufacturing, processing or possession offense, theft of drugs, or illegal processing of drug documents, the commission of a felony offense of unauthorized use of a vehicle, illegally transmitting multiple commercial electronic mail messages or unauthorized access of a computer in violation of Ohio R.C. 2923.421 or the commission of a violation of any provision of Ohio R.C. Chapter 3734, other than Ohio R.C. 3734.18, that relates to hazardous wastes, shall do either of the following:

- (1) With another person or persons, plan or aid in planning the commission of any of the specified offenses;
- (2) Agree with another person or persons that one or more of them will engage in conduct that facilitates the commission of any of the specified offenses.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the accused or a person with whom the accused conspired, subsequent to the accused's entrance into the conspiracy. For purposes of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(c) When the offender knows or has reasonable cause to believe that a person with whom the offender conspires also has conspired or is conspiring with another to commit the same offense, the offender is guilty of conspiring with that other person, even though the other person's identity may be unknown to the offender.

(d) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the conspiracy was impossible under the circumstances.

(e) A conspiracy terminates when the offense or offenses that are its objects are committed or when it is abandoned by all conspirators. In the absence of abandonment, it is no defense to a charge under this section that no offense that was the object of the conspiracy was committed.

(f) A person who conspires to commit more than one offense is guilty of only one conspiracy, when the offenses are the object of the same agreement or continuous conspiratorial relationship.

(g) When a person is convicted of committing or attempting to commit a specific offense or of complicity in the commission of or attempt to commit the specific offense, the person shall not be convicted of conspiracy involving the same offense.

(h) (1) No person shall be convicted of conspiracy upon the testimony of a person with whom the defendant conspired, unsupported by other evidence.

(2) If a person with whom the defendant allegedly has conspired testifies against the defendant in a case in which the defendant is charged with conspiracy and if the testimony is supported by other evidence, the court, when it charges the jury, shall state substantially the following:

"The testimony of an accomplice that is supported by other evidence does not become inadmissible because of the accomplice's complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect the witness' credibility and make the witness' testimony subject to grave suspicion, and requires that it be weighed with great caution.

It is for you, as jurors, in light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth".

(3) "Conspiracy", as used in subsection (h)(1) of this section, does not include any conspiracy that results in an attempt to commit an offense or in the commission of an offense.

(i) The following are affirmative defenses to a charge of conspiracy:

(1) After conspiring to commit an offense, the actor thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

- (2) After conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor's abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor's participation in the conspiracy.

(j) Whoever violates this section is guilty of conspiracy, which is a misdemeanor of the first degree, when the most serious offense that is the object of the conspiracy is a felony of the fifth degree.

(k) This section does not define a separate conspiracy offense or penalty where conspiracy is defined as an offense by one or more sections of this Code, other than this section. In such a case, however:

- (1) With respect to the offense specified as the object of the conspiracy in the other section or sections, subsection (a) hereof defines the voluntary act or acts and culpable mental state necessary to constitute the conspiracy;
 - (2) Subsections (b) to (i) hereof are incorporated by reference in the conspiracy offense defined by the other section or sections of this Code.
- (l) (1) In addition to the penalties that otherwise are imposed for conspiracy, a person who is found guilty of conspiracy to engage in a pattern of corrupt activity is subject to divisions (B)(2) and (3) of Ohio R.C. 2923.32, division (A) of Ohio R.C. 2981.04 and division (D) of Ohio R.C. 2981.06.
- (2) If a person is convicted of or pleads guilty to conspiracy and if the most serious offense that is the object of the conspiracy is a felony drug trafficking, manufacturing, processing or possession offense, in addition to the penalties or sanctions that may be imposed for the conspiracy under subsection (j) hereof and Ohio R.C. Chapter 2929, both of the following apply:
- A. The provisions of divisions (D), (F) and (G) of Ohio R.C. 2925.03, division (D) of Ohio R.C. 2925.04, division (D) of Ohio R.C. 2925.05, division (D) of Ohio R.C. 2925.06 and division (E) of Ohio R.C. 2925.11 that pertain to mandatory and additional fines, driver's or commercial driver's license or permit suspensions, and professionally licensed persons and that would apply under the appropriate provisions of those divisions to a person who is convicted of or pleads guilty to the felony drug trafficking, manufacturing, processing, or possession offense that is the most serious offense that is the basis of the conspiracy shall apply to the person who is convicted of or pleads guilty to the conspiracy as if the person had been convicted or pleaded guilty to the felony drug trafficking, manufacturing, processing or possession offense that is the most serious offense that is the basis of the conspiracy.
 - B. The court that imposes sentence upon the person who is convicted of or pleads guilty to the conspiracy shall comply with the provisions identified as being applicable under subsection (l)(2) of this section, in addition to any other penalty or sanction that it imposes for the conspiracy under subsection (j) of this section and Ohio R.C. Chapter 2929.
- (m) As used in this section:
- (1) "Felony drug trafficking, manufacturing, processing or possession offense" means any of the following that is a felony:

- A. A violation of Ohio R.C. 2925.03, 2925.04, 2925.05, or 2925.06;
 - B. A violation of Ohio R.C. 2925.11 that is not a minor drug possession offense.
- (2) "Minor drug possession offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.01)

501.99 PENALTIES FOR MISDEMEANORS.

(a) **Financial Sanctions.** In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor committed under the Codified Ordinances, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

- (1) **Restitution.** Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this section if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim. If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18. If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five per cent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments. The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.
- (2) **Fines.** A fine in the following amount:
- A. For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000);

- B. For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
- C. For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
- D. For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
- E. For a minor misdemeanor, not more than one hundred fifty dollars (\$150.00).
- F. For an unclassified misdemeanor, up to one thousand dollars (\$1,000) and/or 500 hours of community service.

(3) Reimbursement of costs of sanctions.

- A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
 - 1. All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021;
 - 2. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.
- B. The amount of reimbursement ordered under subsection (a)(3)A. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section. (ORC 2929.28)

(b) Jail Terms.

- (1) Except as provided in Ohio R.C. 2929.22 or 2929.23 of the Revised Code, and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this General Offenses Code, the court shall impose a definite jail term that shall be one of the following:
 - A. For a misdemeanor of the first degree, not more than one hundred eighty days;
 - B. For a misdemeanor of the second degree, not more than ninety days;
 - C. For a misdemeanor of the third degree, not more than sixty days;
 - D. For a misdemeanor of the fourth degree, not more than thirty days.
- (2) A. A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in Ohio R.C. 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

- B. 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.
2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.
- (3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.
- (4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
 - A. The court shall specify both of the following as part of the sentence:
 1. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
 2. If the person does not dispute the bill described in subsection (b)(4)A.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.
 - B. The sentence automatically includes any certificate of judgment issued as described in subsection (b)(4)A.2. of this section.
(ORC 2929.24)

(c) Organizations. Regardless of the penalties provided in subsections (a) and (b) hereof, an organization convicted of an offense pursuant to Section 501.11 shall be fined, in accordance with this section. The court shall fix the fine as follows:

Type of <u>Misdemeanor</u>	Maximum <u>Fine</u>
First degree	\$5000.00
Second degree	4000.00
Third degree	3000.00
Fourth degree	2000.00
Minor	1000.00
Misdemeanor not specifically classified	2000.00
Minor misdemeanor not specifically classified	1000.00

- (1) When an organization is convicted of an offense that is not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then the penalty so provided shall be imposed in lieu of the penalty provided in this subsection (c).
- (2) When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is provided in this subsection (c), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.
- (3) This subsection (c) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to this subsection (c).

(Ord. 0192-2012. Passed 10-15-12.)

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.
(Ord. 0133-2014. Passed 10-20-14.)

513.13 COUNTERFEIT CONTROLLED SUBSTANCES.

- (a) No person shall knowingly possess any counterfeit controlled substance.
- (b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. (ORC 2925.37)

513.14 TOXIC GLUE.

(a) The term "toxic glue" as used herein means any compound, narcotic, drug, solution, mixture or chemical or liquid containing any toluol, hexane, trichlorethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichoroathane, isopropanol, emthyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone or any other substance containing volatile solvents releasing noxious or toxic vapors so as to cause a condition of excitement, intoxication, stupefaction, dizziness or changing or distorting the audio, visual or mental processes.

(b) No person shall inhale, drink, breathe, eat or otherwise introduce into his respiratory or circulatory system any toxic glue with the intention of becoming intoxicated, elated, paralyzed, irrational or in any manner changing, distorting or disturbing the eyesight, thinking process, judgement, balance or coordination. For the purpose of this section, any such condition so induced shall be deemed an intoxicated condition.

(c) No person shall for the purpose of violating or aiding another to violate any provision of this section intentionally possess, buy, sell, transfer possession or receive possession of any toxic glue.

(d) No person shall sell or transfer possession of any toxic glue to another person under twenty-one years of age except that:

- (1) Upon written order of a parent or guardian, or
- (2) Only one tube of glue may be sold at any one time to that person under twenty-one years of age, provided that the tube is included in a kit for the assembly of a model airplane, automobile, boat or other unassembled model, or
- (3) A kit not having glue packaged therein is sold in conjunction with the sale of one tube of glue.

(e) The provisions of this section concerning toxic glue shall not apply to the use of this at the direction of or under prescription of any medical or dental treatment by a physician, surgeon, doctor, dentist or podiatrist.

(f) Whoever violates any provision of this section is guilty of a minor misdemeanor for the first offense, and a misdemeanor of the third degree for the second or any subsequent offense.

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

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

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

513.99 PENALTY.

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

The parking or standing of three or more motor vehicles, without current registration thereon, on a single lot shall be prima-facie evidence of use of the premises for a new or used car sales lot and/or a motor vehicle salvage yard.

(c) Whoever violates any provision of this section shall be warned verbally by a police officer or zoning officer and shall be given seventy-two hours in which to correct the condition complained of. Such officer shall note the date and time of such warning, and the name of the person warned, on his daily report or log.

(d) Whoever continues to violate any provision of this section after such seventy-two hours, shall be served with a sworn affidavit for such violation and proceedings shall be had thereafter according to law.

(e) Whoever violates this section shall be guilty of a minor misdemeanor.
(Ord. 60-89. Passed 6-8-89.)

521.08 LITTERING AND DEPOSIT OF GARBAGE, RUBBISH, JUNK, ETC.

(a) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property not owned by the person, or in or on waters of the State, or Municipality, unless one of the following applies:

- (1) The person is directed to do so by a public official as part of a litter collection drive;
- (2) Except as provided in subsection (b) hereof, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements;
- (3) The person is issued a permit or license covering the litter pursuant to Ohio R. C. Chapter 3734 or 6111.

(b) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property not owned by the person, unless one of the following applies:

- (1) The litter was generated or located on the property on which the litter receptacle is located.
- (2) The person is directed to do so by a public official as part of a litter collection drive.
- (3) The person is directed to do so by a person whom the person reasonably believes to have the privilege to use the litter receptacle.
- (4) The litter consists of any of the following:
 - A. The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle;
 - B. The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;
 - C. Beverage containers and food sacks, wrappings and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;
 - D. Beverage containers, food sacks, wrappings, containers and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.

- (c) (1) As used in subsection (b)(1) hereof, "public property" includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee but does not include any private property to which the public otherwise does not have a right of access.
- (2) As used in subsection (b)(4) hereof, "casual passerby" means a person who does not have depositing litter in a litter receptacle as the person's primary reason for traveling to or by the property on which the litter receptacle is located.
- (d) As used in this section:
- (1) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.
- (2) "Deposit" means to throw, drop, discard or place.
- (3) "Litter receptacle" means a dumpster, trash can, trash bin, garbage can or similar container in which litter is deposited for removal.
(ORC 3767.32)
- (e) No person shall cause or allow litter to be collected or remain in any place to the damage or prejudice of others or of the public, or unlawfully obstruct, impede, divert, corrupt or render unwholesome or impure, any natural watercourse.
- (f) Whoever violates any provision of subsections (a) to (d) hereof, is guilty of a misdemeanor of the third degree. The sentencing court may, in addition to or in lieu of the penalty provided in this subsection require a person who violates subsections (a) to (d) hereof to remove litter from any public or private property, or in or on any waters.
(ORC 3767.99(C))
- (g) Whoever violates subsection (e) hereof is guilty of a minor misdemeanor.

521.09 NOXIOUS OR OFFENSIVE ODORS.

(a) No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public.
(ORC 3767.13)

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

- (f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.
- (2) Notwithstanding Ohio R.C. 4731.22, the doctor-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.
- (g) Subsections (a) and (d) of this section do not require disclosure of information, when any of the following applies:
- (1) The information is privileged by reason of the relationship between attorney and client; doctor and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.
- (2) The information would tend to incriminate a member of the actor's immediate family.
- (3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.
- (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.
- (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or services provider certified pursuant to Ohio R.C. 5119.36.
- (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.
- (h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(i) Whoever violates subsection (a) or (b) of this section is guilty of failure to report a crime. Violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. Violation of subsection (a)(2) or (b) of this section is a misdemeanor of the second degree.

(j) Whoever violates subsection (c) or (d) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

- (k) (1) Whoever negligently violates subsection (e) of this section is guilty of a minor misdemeanor.
(2) Whoever knowingly violates subsection (e) of this section is guilty of a misdemeanor of the second degree.
(ORC 2921.22)

525.06 FAILURE TO AID A LAW ENFORCEMENT OFFICER.

(a) No person shall negligently fail or refuse to aid a law enforcement officer, when called upon for assistance in preventing or halting the commission of an offense, or in apprehending or detaining an offender, when such aid can be given without a substantial risk of physical harm to the person giving it.

(b) Whoever violates this section is guilty of failure to aid a law enforcement officer, a minor misdemeanor. (ORC 2921.23)

525.07 OBSTRUCTING OFFICIAL BUSINESS.

(a) No person, without privilege to do so and with purpose to prevent, obstruct or delay the performance by a public official of any authorized act within the public official's official capacity, shall do any act that hampers or impedes a public official in the performance of the public official's lawful duties.

(b) Whoever violates this section is guilty of obstructing official business. Except as otherwise provided in this subsection (b), obstructing official business is a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm to any person, obstructing official business is a felony and shall be prosecuted under appropriate State law.
(ORC 2921.31)

525.08 OBSTRUCTING JUSTICE.

(a) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for a misdemeanor, or to assist another to benefit from the commission of a misdemeanor, and no person, with purpose to hinder the discovery, apprehension, prosecution, adjudication as a delinquent child, or disposition of a child for an act that if committed by an adult would be a misdemeanor or to assist a child to benefit from the commission of an act that if committed by an adult would be a misdemeanor, shall do any of the following:

- (1) Harbor or conceal the other person or child;
- (2) Provide the other person or child with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension;
- (3) Warn the other person or child of impending discovery or apprehension;
- (4) Destroy or conceal physical evidence of the misdemeanor, or act, or induce any person to withhold testimony or information or to elude legal process summoning the person to testify or supply evidence;
- (5) Communicate false information to any person.
- (6) Prevent or obstruct any person, by means of force, intimidation, or deception, from performing any act to aid in the discovery, apprehension, or prosecution of the other person or child.

(b) A person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of subsection (a) hereof, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed shall be used under subsection (c) hereof in determining the penalty for the violation of subsection (a) hereof, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed.

- (c) (1) Whoever violates this section is guilty of obstructing justice.
(2) If the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be a misdemeanor if committed by an adult, obstructing justice is a misdemeanor of the same degree as the misdemeanor committed by the person aided or a misdemeanor of the same degree that the act committed by the child aided would be if committed by an adult.
- (d) As used in this section:
(1) "Adult" and "child" have the same meanings as in Ohio R.C. 2151.011.
(2) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.
(ORC 2921.32)

525.09 RESISTING ARREST.

(a) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another.

(b) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the resistance or interference, cause physical harm to a law enforcement officer.

(c) Whoever violates this section is guilty of resisting arrest. A violation of subsection (a) hereof is a misdemeanor of the second degree. A violation of subsection (b) hereof is a misdemeanor of the first degree. (ORC 2921.33)

525.10 HAVING AN UNLAWFUL INTEREST IN A PUBLIC CONTRACT.

- (a) No public official shall knowingly do any of the following:
- (1) During the public official's term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by the public official or by a legislative body, commission or board of which the public official was a member at the time of authorization unless the contract was let by competitive bidding, to the lowest and best bidder;
 - (2) Have an interest in the profits or benefits of a public contract entered into by or for the use of the Municipality or governmental agency or instrumentality with which the public official is connected;
 - (3) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law, and that involves more than one hundred fifty dollars (\$150.00).

(b) In the absence of bribery or a purpose to defraud, a public official, member of a public official's family or any of a public official's business associates shall not be considered as having an interest in a public contract if all of the following apply:

- (1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested;
- (2) The shares owned or controlled by that person do not exceed five percent (5%) of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed five percent (5%) of the total indebtedness of the corporation or other organization;
- (3) That person, prior to the time the public contract is entered into, files with the Municipality or governmental agency or instrumentality involved, an affidavit giving that person's exact status in connection with the corporation or other organization.

(c) This section does not apply to a public contract in which a public official, member of a public official's family, or one of a public official's business associates, has an interest, when all of the following apply:

- (1) The subject of the public contract is necessary supplies or services for the Municipality or governmental agency or instrumentality involved;
- (2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the Municipality or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the Municipality or governmental agency or instrumentality involved;
- (3) The treatment accorded the Municipality or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;
- (4) The entire transaction is conducted at arm's length, with full knowledge by the Municipality or governmental agency or instrumentality involved, of the interest of the public official, member of the public official's family or business associate, and the public official takes no part in the deliberations or decisions of the Municipality or governmental agency or instrumentality with respect to the public contract.

(d) Subsection (a)(4) does not prohibit participation by a public employee in any housing program funded by public moneys if the public employee otherwise qualifies for the program and does not use the authority or influence of the public employee's office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not constitute an unlawful interest in a public contract in violation of this section.

(e) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of this section is a misdemeanor of the first degree.

(f) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with Ohio R.C. 309.06 and 2921.421, or for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with Ohio R.C. 733.621 and 2921.421.

(g) Any public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable. Any contract securing the investment of public funds in which a public official, a member of the public official's family, or any of the public official's business associates has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees and that was entered into in violation of this section is void and unenforceable.

- (h) As used in this section:
- (1) "Public contract" means any of the following:
 - A. The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the State, any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the State, any of its political subdivisions, or any agency or instrumentality of either.
 - B. A contract for the design, construction, alteration, repair or maintenance of any public property.
 - (2) "Chief legal officer" has the same meaning as in Ohio R.C. 733.621. (ORC 2921.42)

525.11 SOLICITING OR RECEIVING IMPROPER COMPENSATION.

- (a) No public servant shall knowingly solicit or accept and no person shall knowingly promise or give to a public servant either of the following:
- (1) Any compensation, other than is allowed by Ohio R.C. 102.03(G), (H), and (I) or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;
 - (2) Additional or greater fees or costs than are allowed by law to perform the public servant's official duties.
- (b) No public servant for the public servant's own personal or business use and no person for the person's own personal or business use or for the personal or business use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:
- (1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;
 - (2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.
- (c) No person for the benefit of a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity shall coerce any contribution in consideration of either of the following:
- (1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;
 - (2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.
- (d) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.
- (e) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment or position of trust in this Municipality for a period of seven years from the date of conviction.
- (f) Subsections (a), (b) and (c) hereof do not prohibit a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity or prohibit a political party, campaign committee,

legislative campaign fund, political action committee or political contributing entity from accepting voluntary contributions. (ORC 2921.43)

525.12 DERELICTION OF DUTY.

- (a) No law enforcement officer shall negligently do any of the following:
- (1) Fail to serve a lawful warrant without delay;
 - (2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in the law enforcement officer's power to do so alone or with available assistance.
- (b) No law enforcement, ministerial or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.
- (c) No officer, having charge of a detention facility, shall negligently do any of the following:
- (1) Allow the detention facility to become littered or unsanitary;
 - (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention;
 - (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;
 - (4) Allow a prisoner to escape;
 - (5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.
- (d) No public official of the Municipality shall recklessly create a deficiency, incur a liability or expend a greater sum than is appropriated by the legislative authority of the Municipality for the use in any one year of the department, agency or institution with which the public official is connected.
- (e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.
- (f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree.
- (g) As used in this section, "public servant" includes an officer or employee of a contractor as defined in Ohio R.C. 9.08.

525.13 INTERFERING WITH CIVIL RIGHTS.

- (a) No public servant, under color of his office, employment or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.
- (b) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree. (ORC 2921.45)

525.14 UNAUTHORIZED DISPLAY OF LAW ENFORCEMENT EMBLEMS ON MOTOR VEHICLES.

- (a) No person who is not entitled to do so shall knowingly display on a motor vehicle the emblem of a law enforcement agency or an organization of law enforcement officers.

(b) Whoever violates this section is guilty of the unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers, a minor misdemeanor. (ORC 2913.441)

525.15 FAILURE TO PAY FINE.

(a) No person shall fail to pay a fine imposed by the Mayor's Court within the time specified for payment unless such person demonstrates in a hearing before the Mayor his inability to pay such fine.

(b) No person shall fail to obey an order imposed in lieu of a fine imposed by the Mayor's Court within the specified compliance time ordered.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree. (Ord. 102-84. Passed 12-4-84.)

525.16 ASSAULTING POLICE DOG OR HORSE OR AN ASSISTANCE DOG.

(a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:

- (1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.
- (2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

(b) No person shall recklessly do any of the following:

- (1) Taunt, torment, or strike a police dog or horse;
- (2) Throw an object or substance at a police dog or horse;
- (3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:
 - A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;
 - B. Deprives the law enforcement officer of control of the police dog or horse;
 - C. Releases the police dog or horse from its area of control;
 - D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;
 - E. Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.
- (4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse.
- (5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.

- (c) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:
- (1) The dog is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted.
 - (2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is an assistance dog.
- (d) No person shall recklessly do any of the following:
- (1) Taunt, torment, or strike an assistance dog;
 - (2) Throw an object or substance at an assistance dog;
 - (3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a blind, deaf or hearing impaired, or mobility impaired person who is being assisted or served by an assistance dog, in a manner that does any of the following:
 - A. Inhibits or restricts the assisted or served person's control of the dog;
 - B. Deprives the assisted or served person of control of the dog;
 - C. Releases the dog from its area of control;
 - D. Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;
 - E. Inhibits or restricts the ability of the dog to assist the assisted or served person.
 - (4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;
 - (5) If the person is the owner, keeper or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person or that the person knows is an assistance dog.
- (e) (1) Whoever violates subsection (a) hereof is guilty of assaulting a police dog or horse. If the violation results in physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the police dog or horse, such violation is a felony and shall be prosecuted under appropriate State law.

CHAPTER 533
Obscenity and Sex Offenses

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| <p>533.01 Definitions.</p> <p>533.02 Presumption of knowledge; actual notice and defense.</p> <p>533.03 Unlawful sexual conduct with a minor.</p> <p>533.04 Sexual imposition.</p> <p>533.05 Importuning.</p> <p>533.06 Voyeurism.</p> <p>533.07 Public indecency.</p> <p>533.08 Procuring.</p> <p>533.09 Soliciting.</p> | <p>533.091 Loitering to engage in solicitation.</p> <p>533.10 Prostitution.</p> <p>533.11 Disseminating matter harmful to juveniles.</p> <p>533.12 Deception to obtain matter harmful to juveniles.</p> <p>533.13 Displaying matter harmful to juveniles.</p> <p>533.14 Unlawful advertising of massage.</p> <p>533.99 Penalty.</p> |
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CROSS REFERENCES

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

533.01 DEFINITIONS.

As used in this chapter:

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

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

- (3) Except as otherwise provided in subsection (c)(3) of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.
- (4) Except as otherwise provided in subsection (c)(4) of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (b)(1), (2) or (3) of this section is a felony and shall be prosecuted under appropriate state law.
- (5) A violation of subsection (b)(4) of this section is a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to any violation of this section in which case the violation is a felony and shall be prosecuted under appropriate state law. (ORC 2907.09)

533.08 PROCURING.

- (a) No person, knowingly and for gain, shall do either of the following:
 - (1) Entice or solicit another to patronize a prostitute or brothel;
 - (2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.
- (b) No person, having authority or responsibility over the use of premises, shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire.

(c) Whoever violates this section is guilty of procuring. Except as otherwise provided in this subsection (c), procuring is a misdemeanor of the first degree. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(2) of this section is under sixteen years of age at the time of the violation, regardless of whether the offender who violates subsection (a)(2) of this section knows the prostitute's age, or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (b) of this section is under sixteen years of age at the time of the violation, regardless of whether the offender who violates subsection (b) of this section knows the prostitute's age, procuring is a felony and shall be prosecuted under appropriate state law. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(2) of this section is sixteen or seventeen years of age at the time of the violation or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (b) of this section is sixteen or seventeen years of age at the time of the violation, procuring is a felony and shall be prosecuted under appropriate state law. (ORC 2907.23)

533.09 SOLICITING.

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

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

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

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

533.091 LOITERING TO ENGAGE IN SOLICITATION.

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

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

(b) As used in this section:

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

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

533.10 PROSTITUTION.

(a) No person shall engage in sexual activity for hire.

(b) Whoever violates this section is guilty of prostitution, a misdemeanor of the third degree. (ORC 2907.25)

533.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.

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

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

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

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

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

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

(d) (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.

(2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance

in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:

- A. The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile.
- B. The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.

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

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

533.12 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.

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

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

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

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

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

533.13 DISPLAYING MATTER HARMFUL TO JUVENILES.

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

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

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

533.14 UNLAWFUL ADVERTISING OF MASSAGE.

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

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

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

533.99 PENALTY.

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

- C. The victim was engaged in the performance of the victim's duties.
- D. The hospital offered de-escalation or crisis intervention training for such professionals, workers or officers.
- (13) "De-escalation or crisis intervention training" means de-escalation or crisis intervention training for health care professionals of a hospital, health care workers of a hospital, and security officers of a hospital to facilitate interaction with patients, members of a patient's family, and visitors, including those with mental impairments.
- (14) "Assault or homicide offense committed against justice system personnel" means a violation of this section or of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which the victim of the offense was a judge, magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, magistrate, prosecutor, or court official or employee, and the victim was engaged in the performance of the victim's duties.
- (15) "Court official or employee" means any official or employee of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (16) "Judge" means a judge of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (17) "Magistrate" means an individual who is appointed by a court of record of this State and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this State who has similar powers and functions.
- (18) "Prosecutor" has the same meaning as in Ohio R.C. 2935.01.
- (19) A. "Hospital" means, subject to subsection (d)(19)B. of this section, an institution classified as a hospital under Ohio R.C. 3701.01 in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.
- B. "Hospital" does not include any of the following:
1. A facility licensed under Ohio R.C. Chapter 3721, a health care facility operated by the Department of Mental Health or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;
 2. An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under Section 501 of the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing twenty-four-hour nursing care pursuant to the exemption in division (E) of Ohio R.C. 4723.32 from the licensing requirements of Ohio R.C. Chapter 4723.
- (20) "Health maintenance organization" has the same meaning as in Ohio R.C. 3727.01. (ORC 2903.13)

537.04 NEGLIGENT ASSAULT.

(a) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in Section 549.01 cause physical harm to another or to another's unborn.

(b) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree. (ORC 2903.14)

537.05 AGGRAVATED MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(b) Whoever violates this section is guilty of aggravated menacing. Except as otherwise provided in this subsection (b), aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony and shall be prosecuted under appropriate State law.

(c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.21)

537.051 MENACING BY STALKING.

(a) (1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's mental distress, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(2) No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to urge or incite another to commit a violation of subsection (a)(1) of this section.

(3) No person, with sexual motivation, shall violate subsection (a)(1) or (2) of this section.

(b) Whoever violates this section is guilty of menacing by stalking.

(1) Except as otherwise provided in subsections (b)(2) and (3) of this section, menacing by stalking is a misdemeanor of the first degree.

- (2) Menacing by stalking is a felony and shall be prosecuted under appropriate State law if any of the following applies:
- A. The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of Section 541.051.
 - B. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.
 - C. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.
 - D. The victim of the offense is a minor.
 - E. The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.
 - F. While committing the offense under subsection (a)(1) of this section or a violation of subsection (a)(3) of this section is based on conduct in violation of subsection (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Subsection (b)(2)F. of this section does not apply in determining the penalty for a violation of subsection (a)(2) of this section or a violation of subsection (a)(3) of this section based on conduct in violation of subsection (a)(1) of this section.
 - G. At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.
 - H. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under subsection (a)(2) of this section, or an offense committed under subsection (a)(3) of this section based on a violation of subsection (a)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.
 - I. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.

- (3) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities, or duties, menacing by stalking is a felony and shall be prosecuted under appropriate State law.

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

(d) As used in this section:

- (1) "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages or receipts of information or data through the use of an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct".
- (2) "Mental distress" means any of the following:
- A. Any mental illness or condition that involves some temporary substantial incapacity;
 - B. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.
- (3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
- (4) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
- (5) "Public official" has the same meaning as in Ohio R.C. 2921.01.
- (6) "Computer", "computer network", "computer program", "computer system" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- (7) "Post a message" means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communication, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.

- (8) "Third person" means, in relation to conduct as described in subsection (a)(2) of this section, an individual who is neither the offender nor the victim of the conduct.
- (9) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
- (10) "Organization" includes an entity that is a governmental employer.

(e) The Municipality does not need to prove in a prosecution under this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in subsection (d)(2)B. of this section.

- (f)
 - (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section.
 - (2) Subsection (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
 - (3) Subsection (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature. (ORC 2903.211)

537.06 MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediately family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(b) Whoever violates this section is guilty of menacing. Except as otherwise provided in this subsection (b), menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, menacing is a felony and shall be prosecuted under appropriate State law.

(c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.22)

537.07 ENDANGERING CHILDREN.

(a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(b) No person shall abuse a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age.

(c) (1) No person shall operate a vehicle in violation of Section 333.01(a) of the Traffic Code when one or more children under eighteen years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 333.01(a) of the Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in subsection (c) hereof:

A. "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.

B. "Vehicle" has the same meaning as in Ohio R.C. 4511.01.

(d) Whoever violates this section is guilty of endangering children.

(1) Whoever violates subsection (a) or (b) hereof is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, Ohio R.C. 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate State law.

(2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate State law if either of the following applies:

A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under Ohio R.C. 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.

- B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.
- (3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).
- (e) (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.
- (2) A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:
1. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 333.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 333.01(a) of the Traffic Code.
 2. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.
- B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code. (ORC 2919.22)

537.08 UNLAWFUL RESTRAINT.

- (a) No person, without privilege to do so, shall knowingly restrain another of the other person's liberty.
- (b) No person, without privilege to do so and with a sexual motivation, shall knowingly restrain another of the other person's liberty.

(c) Whoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree.

(d) As used in this section, "sexual motivation" has the same meaning as in Ohio R.C. 2971.01. (ORC 2905.03)

537.09 COERCION.

(a) No person, with purpose to coerce another into taking or refraining from action concerning which the other person has a legal freedom of choice, shall do any of the following:

- (1) Threaten to commit any offense;
- (2) Utter or threaten any calumny against any person;
- (3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt or ridicule, to damage any person's personal or business repute, or to impair any person's credit;
- (4) Institute or threaten criminal proceedings against any person;
- (5) Take or withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

(b) Subsections (a)(4) and (5) hereof shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interest of justice:

- (1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to Ohio R.C. 2945.44;
- (2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which the accused is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence;
- (3) Imposing community control sanction on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of the offense.

(c) It is an affirmative defense to a charge under subsection (a)(3), (4) or (5) hereof that the actor's conduct was a reasonable response to the circumstances that occasioned it, and that the actor's purpose was limited to any of the following:

- (1) Compelling another to refrain from misconduct or to desist from further misconduct;
- (2) Preventing or redressing a wrong or injustice;
- (3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified;
- (4) Compelling another to take action that the actor reasonably believed the other person to be under a duty to take.

(d) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.

(e) As used in this section:

- (1) "Threat" includes a direct threat and a threat by innuendo.
- (2) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01. (ORC 2905.12)

- (ee) "Firearm" and "dangerous ordnance" have the same meanings as in Ohio R.C. 2923.11.
- (ff) "Motor vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (gg) "Dangerous drug" has the same meaning as in Ohio R.C. 4729.01.
- (hh) "Drug abuse offense" has the same meaning as in Ohio R.C. 2925.01.
- (ii) "Police dog or horse" has the same meaning as in Ohio R.C. 2921.321.
- (jj) "Anhydrous ammonia" is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this subsection. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two per cent nitrogen to eighteen per cent hydrogen.
- (kk) "Assistance dog" has the same meaning as in Ohio R.C. 955.011.
- (ll) "Active duty service member" means any member of the armed forces of the United States performing active duty under Title 10 of the United States Code. (ORC 2913.01)

545.02 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

(a) If more than one item of property or service is involved in a theft offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property or services involved in the offense.

- (b) (1) When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06, or 545.08, 545.10(b)(1) or (2), or Section 545.15 or 545.20 involving a victim who is an elderly person or disabled adult, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Sections 545.05 or 545.15 involving a victim who is an active duty service member or spouse of an active duty service member is committed by the offender in the offender's same employment, capacity or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value is the aggregate value of all property and services involved in all offenses in the series.
- (2) If an offender commits a series of offenses under Section 545.05 that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06 or 545.08, Section 545.10(b)(1) or (2), or Section 545.15 or 545.20, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05 or 545.15, whether committed against one victim or more than one victim, involving a victim who is an active duty service member or spouse of an active duty service member pursuant to a scheme or course of conduct, all of those offenses

may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property and services involved in all of the offenses in the course of conduct.

- (3) In prosecuting a single offense under subsection (b)(1) or (2), it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses in the offender's same employment, capacity, or relationship to another as described in subsection (b)(1) of this section or that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in subsection (b)(2) of this section. While it is not necessary to separately allege and prove each offense in the series in order to prosecute a single offense under subsection (b)(1) or (2) hereof, it remains necessary in prosecuting them as a single offense to prove the aggregate value of the property or services in order to meet the requisite statutory offense level sought by the prosecution.

- (c) The following criteria shall be used in determining the value of property or services involved in a theft offense:

- (1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that has intrinsic worth to its owner and that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, is the amount that would compensate the owner for its loss.
- (2) The value of personal effects and household goods, and of materials, supplies, equipment and fixtures used in the profession, business, trade, occupation or avocation of its owner, which property is not covered under subsection (c)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.
- (3) The value of any real or personal property that is not covered under subsections (c)(1) or (2) hereof, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

- (d) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:

- (1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.
- (2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of the security or commodity.
- (3) When the property involved is livestock, poultry or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry or products.

- (4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.
- (5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument.
- (6) When the property involved is a ticket of admission, ticket for transportation, coupon, token or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services that may be received by the instrument, is prima-facie evidence of the value of the instrument.
- (7) When the services involved are gas, electricity, water, telephone, transportation, shipping or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of the services.
- (8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima-facie evidence of the value of the services. (ORC 2913.61)

545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Section 545.05 or 545.18 do not apply if the property involved is any of the following:

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;
- (c) A firearm or dangerous ordnance as defined in Ohio R.C. 2923.11;
- (d) A motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22, a temporary license placard or windshield sticker as prescribed by Ohio R.C. 4503.182, or any comparable license plate, placard or sticker as prescribed by the applicable law of another state or the United States;
- (e) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;
- (f) A blank form for any license listed in Ohio R.C. 4507.01(A).
(ORC 2913.71)

545.04 DETENTION OF SHOPLIFTERS; RIGHTS OF MUSEUMS AND LIBRARIES.

(a) A merchant, or his employee or agent, who has probable cause to believe that items offered for sale by a mercantile establishment have been unlawfully taken by a person, may, for the purposes set forth in subsection (c) hereof, detain the person in a reasonable manner for a reasonable length of time within the mercantile establishment or its immediate vicinity.

(b) Any officer, employee or agent of a library, museum or archival institution may, for the purposes set forth in subsection (c) hereof or for the purpose of conducting a reasonable investigation of a belief that the person has acted in a manner described in subsections (b)(1) and (2) hereof, detain a person in a reasonable manner for a reasonable length of time within, or in the

immediate vicinity of the library, museum or archival institution, if the officer, employee or agent has probable cause to believe that the person has either:

- (1) Without privilege to do so, knowingly moved, defaced, damaged, destroyed or otherwise improperly tampered with property owned by or in the custody of the library, museum or archival institution; or
- (2) With purpose to deprive the library, museum or archival institution of property owned by it or in its custody, knowingly obtained or exerted control over the property without the consent of the owner or person authorized to give consent, beyond the scope of the express or implied consent of the owner or person authorized to give consent, by deception, or by threat.

(c) An officer, agent or employee of a library, museum or archival institution pursuant to subsection (b) hereof or a merchant or his employee or agent pursuant to subsection (a) hereof may detain another person for any of the following purposes:

- (1) To recover the property that is the subject of the unlawful taking, criminal mischief or theft;
- (2) To cause an arrest to be made by a peace officer;
- (3) To obtain a warrant of arrest.
- (4) To offer the person, if the person is suspected of the unlawful taking, criminal mischief, or theft and notwithstanding any other provision of this General Offenses or the Ohio Revised Code, an opportunity to complete a pretrial diversion program and to inform the person of the other legal remedies available to the library, museum, archival institution or merchant.

(d) The officer, agent or employee of the library, museum or archival institution, or the merchant or his employee or agent acting under subsection (a) or (b) hereof shall not search the person, search or seize any property belonging to the person detained without the person's consent, or use undue restraint upon the person detained.

(e) Any peace officer may arrest without a warrant any person that he has probable cause to believe has committed any act described in subsection (b)(1) or (2) hereof or that he has probable cause to believe has committed an unlawful taking in a mercantile establishment. An arrest under this subsection shall be made within a reasonable time after the commission of the act or unlawful taking.

(f) As used in this section:

- (1) "Archival institution" means any public or private building, structure or shelter in which are stored historical documents, devices, records, manuscripts or items of public interest, which historical materials are stored to preserve the materials or the information in the materials, to disseminate the information contained in the materials, or to make the materials available for public inspection or for inspection by certain persons who have a particular interest in, use for or knowledge concerning the materials.
- (2) "Museum" means any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.
- (3) "Pretrial diversion program" means a rehabilitative, educational program designed to reduce recidivism and promote personal responsibility that is at least four hours in length and that has been approved by any court in this State. (ORC 2935.041)

545.05 PETTY THEFT.

(a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(b) Whoever violates this section is guilty of petty theft, a misdemeanor of the first degree. Petty theft is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or services stolen is one thousand dollars (\$1,000) or more; or
- (2) The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, or
- (3) The property stolen is a firearm or dangerous ordnance, or
- (4) The property stolen is a motor vehicle, or
- (5) The property stolen is any dangerous drug, or
- (6) The property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, or
- (7) The property stolen is anhydrous ammonia, or
- (8) The property stolen is a special purpose article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.

(c) In addition to the penalties described in subsection (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

- (1) Unless subsection (c)(2) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
- (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to subsection (c)(1) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be for at least six months.
- (3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to subsections (c)(1) or (2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.

(d) In addition to the penalties described in subsection (b) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft

of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of Ohio R.C. 2913.72.

(e) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under subsection (c) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Ohio R.C. Chapter 4510. (ORC 2913.02)

545.06 UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS.

(a) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(b) This section does not apply to property removed from the State or if possession is kept for more than forty-eight hours.

(c) The following are affirmative defenses to a charge under this section:

- (1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that the actor was authorized to use or operate the property.
- (2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(d) No person shall knowingly enter into or upon a motor vehicle, motorcycle or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(e) Whoever violates subsection (a) hereof is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of subsection (a) hereof is a felony and shall be prosecuted under appropriate State law. (ORC 2913.03)

(f) Whoever violates subsection (d) hereof is guilty of vehicle trespass, a misdemeanor of the fourth degree.

545.07 INSURANCE FRAUD.

(a) As used in this section:

- (1) "Data" has the same meaning as in Section 545.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.
- (2) "Deceptive" means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind or other objective or subjective fact.
- (3) "Insurer" means any person that is authorized to engage in the business of insurance in this State under Title XXXIX of the Ohio Revised Code; The Ohio Fair Plan Underwriting Association created under Ohio R.C. 3929.43; any health insuring corporation; and any legal entity that is self-insured and provides benefits to its employees or members.
- (4) "Policy" means a policy, certificate, contract or plan that is issued by an insurer.

- (5) "Statement" includes, but is not limited to, any notice, letter or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical or dental chart or other record; X-Ray, photograph, videotape or movie film; test result; other evidence of loss, injury or expense; computer-generated document; and data in any form.

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

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

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

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

545.08 UNAUTHORIZED USE OF PROPERTY.

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

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

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

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

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

545.09 PASSING BAD CHECKS.

(a) As used in this section:

- (1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:

- A. A check, bill of exchange, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument;
 - B. An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.
- (2) "Issue a check" means causing any form of debit from a demand deposit account.

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

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

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

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

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

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

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

545.10 MISUSE OF CREDIT CARDS.

- (a) No person shall do any of the following:
- (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;

- (2) Knowingly buy or sell a credit card from or to a person other than the issuer.
- (b) No person, with purpose to defraud, shall do any of the following:
- (1) Obtain control over a credit card as security for a debt;
 - (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained or is being used in violation of law;
 - (3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;
 - (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.
- (c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.
- (d) Whoever violates this section is guilty of misuse of credit cards, a misdemeanor of the first degree. Misuse of credit cards is a felony and shall be prosecuted under appropriate State law if:
- (1) The cumulative retail value of the property and services involved in one or more violations of subsection (b)(2), (3) or (4) hereof, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one thousand dollars (\$1,000) or more; or
 - (2) The victim of the offense is an elderly person or disabled adult and the offense involves a violation of subsection (b)(1) or (2) hereof.
(ORC 2913.21)

545.11 MAKING OR USING SLUGS.

- (a) No person shall do any of the following:
- (1) Insert or deposit a slug in a coin machine, with purpose to defraud;
 - (2) Make, possess or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.
- (b) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree. (ORC 2913.33)

545.12 TAMPERING WITH COIN MACHINES.

- (a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.
- (b) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of Ohio R.C. 2911.32 or of any theft offense, tampering with coin machines is a felony and shall be prosecuted under appropriate State law. (ORC 2911.32)

545.13 CRIMINAL SIMULATION.

- (a) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:
- (1) Make or alter any object so that it appears to have value because of antiquity, rarity, curiosity, source, or authorship, which it does not in fact possess;

- (2) Practice deception in making, retouching, editing, or reproducing any photograph, movie film, video tape, phonograph record, or recording tape;
- (3) Falsely or fraudulently make, simulate, forge, alter, or counterfeit any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, falsely or fraudulently cause to be made, simulated, forged, altered, or counterfeited any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, or use more than once any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303.
- (4) Utter, or possess with purpose to utter, any object that the person knows to have been simulated as provided in subsection (a)(1), (2) or (3) of this section.

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

545.14 TAMPERING WITH RECORDS.

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

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

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

545.15 SECURING WRITINGS BY DECEPTION.

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

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

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

545.16 PERSONATING AN OFFICER.

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

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

545.17 DEFRAUDING CREDITORS.

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

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

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

545.18 RECEIVING STOLEN PROPERTY.

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

(b) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

(c) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree. Receiving stolen property is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property involved is one thousand dollars (\$1,000) or more; or
 - (2) The property involved is:
 - A. Listed in Section 545.03; or
 - B. A motor vehicle as defined in Ohio R.C. 4501.01; or
 - C. A dangerous drug as defined in Ohio R.C. 4729.01.
 - D. A special purchase article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.
- (ORC 2913.51)

545.19 POSSESSION OF CRIMINAL TOOLS.

(a) No person shall possess or have under the person's control any substance, device, instrument, or article, with purpose to use it criminally.

(b) Each of the following constitutes prima-facie evidence of criminal purpose:

- (1) Possession or control of any dangerous ordnance, or the materials or parts for making dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials, or parts are intended for legitimate use;
- (2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use;
- (3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.

(c) Whoever violates this section is guilty of possessing criminal tools, a misdemeanor of the first degree. If the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony and shall be prosecuted under appropriate State law.
(ORC 2923.24)

545.20 FORGERY OF IDENTIFICATION CARDS.

(a) No person shall knowingly do either of the following:

- (1) Forge an identification card;
- (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.
- (3) As used in this section, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card" or other similar words appear on the card.

(b) Whoever violates subsection (a) hereof is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this subsection, forging or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or Ohio R.C. 2913.31 (B), forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars (\$250.00).
(ORC 2913.31)

545.21 IDENTITY FRAUD.

(EDITOR'S NOTE: Former Section 545.21 has been deleted from the Codified Ordinances. Ohio R.C. 2913.49, from which Section 545.21 was derived, has been reclassified from a misdemeanor to a felony offense.)

545.99 PENALTY.

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

CHAPTER 549
Weapons and Explosives

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| <p>549.01 Definitions.</p> <p>549.02 Carrying concealed weapons.</p> <p>549.03 Using weapons while intoxicated.</p> <p>549.04 Improperly handling firearms in a motor vehicle.</p> <p>549.05 Failure to secure dangerous ordnance.</p> <p>549.06 Unlawful transactions in weapons.</p> <p>549.07 Underage purchase of firearm.</p> | <p>549.071 Carrying weapons onto school property.</p> <p>549.08 Discharging firearms.</p> <p>549.09 Throwing or shooting missiles.</p> <p>549.10 Fireworks possession, sale or discharge prohibited; exceptions.</p> <p>549.11 Defacing identification marks of a firearm; possessing a defaced firearm.</p> <p>549.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 License or permit to possess dangerous ordnance - see
 Ohio R.C. 2923.18
 Hunting prohibited - see GEN. OFF. 505.11(a)
 Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)
 Property destruction by tear gas device, etc. - see GEN.
 OFF. 541.04

549.01 DEFINITIONS.

As used in this chapter:

- (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.
- (b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.
- (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (c) "Handgun" means any of the following:
 - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 - (2) Any combination of parts from which a firearm of a type described in subsection (c)(1) of this section can be assembled.

- (d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.
- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:
 - (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitrolycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pectretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
 - (5) Any firearm muffler or suppressor;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.
- (l) "Dangerous ordnance" does not include any of the following:
 - (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;

- (3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
 - (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
 - (5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.
 - (6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C.921(a)(4), as amended, and regulations issued under that Act.
- (m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.
- (n) (1) "Concealed handgun license" or "license to carry a concealed handgun" means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
- (2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a licence to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

- (o) “Valid concealed handgun license” or “valid license to carry a concealed handgun” means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.
- (p) “Misdemeanor punishable by imprisonment for a term exceeding one year” does not include any of the following:
 - (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;
 - (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.
- (q) “Alien registration number” means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien’s permanent resident card and may also be commonly referred to as the “USCIS number” or the “alien number”.
(ORC 2923.11)

549.02 CARRYING CONCEALED WEAPONS.

- (a) No person shall knowingly carry or have, concealed on the person’s person or concealed ready at hand, any of the following:
 - (1) A deadly weapon other than a handgun;
 - (2) A handgun other than a dangerous ordnance;
 - (3) A dangerous ordnance.
- (b) No person who has been issued a concealed handgun license, shall do any of the following:
 - (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;
 - (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person’s hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
 - (3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person’s hands in plain sight.

- (1) It will constitute hazards and dangers to the personal safety of the participants or other park visitors.
- (2) Endangers peace and good order in the parks.
- (3) Interferes with the regular and normal use of the facilities and activities by park visitors.
- (4) Is inconsistent with the use of the parks for park purposes.
(Ord. 6-84. Passed 2-7-84.)

563.08 INTOXICANT AND CHANCE.

No person shall play at games of chance, consume or display the presence of beer, wine, malt liquor, malt beverage, intoxicating liquor or liquor in any park without prior authorization by the Director under the conditions deemed appropriate.
(Ord. 0087-2009. Passed 5-4-09.)

563.09 ABUSIVE LANGUAGE, CONDUCT.

No person shall use obscene, profane, or abusive language, or engage in any conduct that interferes with the peace or good order of the people within the park.
(Ord. 6-84. Passed 2-7-84.)

563.10 SOLICITING; UNLAWFUL SALES.

No person shall sell, offer or solicit for sale any goods or merchandise without a written permit from the Director.
(Ord. 6-84. Passed 2-7-84.)

563.11 ENTERING TOILET FACILITIES.

No person except park maintenance employees on duty shall enter a toilet room set aside for the opposite sex.
(Ord. 6-84. Passed 2-7-84.)

563.12 ADVERTISING; SIGNS.

No person shall expose, distribute, or place any sign, advertisement, circular, notice or statement or display any banner, emblem, or design within the parks without a specific permit from the Director.
(Ord. 6-84. Passed 2-7-84.)

563.13 ORDERS BY EMPLOYEES; COMPLIANCE.

(a) Parks and Recreation Department employees are authorized to issue reasonable orders or directives to park visitors when, in their opinion, an activity being conducted by the visitor constitutes a hazard, endangers the personal safety of the participant or other park visitors, or endangers peace and good order in the parks.

(b) No person shall refuse to comply with any reasonable order or directive given in the performance of duty by any authorized agent of the Parks and Recreation Department; nor shall any person commit a nuisance or obstruction or use abusive, profane or insulting language toward such employee of the Parks and Recreation Department; and upon continued disregard of such lawful order, directive or prohibition, such person may be ejected from the park.
(Ord. 6-84. Passed 2-7-84.)

563.14 CAMPS AND CAMPING.

No person shall establish or maintain any camp or other temporary lodging or sleeping place within the park without a specific written permit from the Director.

(Ord. 6-84. Passed 2-7-84.)

563.15 FIRES.

No person shall start a fire in the parks except small fires for cooking in park grills or privately owned grills, or fires in the areas approved by the Director.

(Ord. 6-84. Passed 2-7-84.)

563.16 HOURS OF OPERATION.

(a) Hours Closed. No person shall be permitted to enter, remain, stop or park within the confines of a park or any other open space under the jurisdiction of the Department of Parks and Recreation one-half hour after sunset to one-half hour before sunrise except as listed below.

(b) Exceptions.

- (1) Lighted facilities at Academy Park, McCorkle Park, Friendship Park and Creekside Island will close at 11:00 p.m. and re-open one-half hour before sunrise.
- (2) Creekside Park Plaza will close at 11:00 p.m. for events and permitted park use. The grounds of the park may be used for egress by visitors from the Creekside complex businesses until 3:30 a.m. The park will re-open for all purposes one-half hour before sunrise.
- (3) Persons participating in a scheduled Department of Parks and Recreation Program or members of groups who have reserved facilities beyond normal operating hours are permitted in the parks after the closing hours stated in subsection (a) hereof. Parks are to remain open beyond hours stated for special events upon the authorization of the Director of the Department of Parks and Recreation.

(c) Special Closing of Areas. No person shall be permitted to remain, stop or park within areas of the parks which have been closed by the Director or other officials of the Department of Parks and Recreation. (Ord. 0045-2008. Passed 3-3-08.)

563.17 HUNTING, TRAPPING, COLLECTING OR MOLESTING WILDLIFE.

No person shall hunt, collect, pursue in any manner, trap or in any other way molest any wild bird or other animal found within the confines of the parks, rob or molest any nest or den, or take or handle the eggs or young of any bird or other animal.

(Ord. 6-84. Passed 2-7-84.)

563.18 FISHING.

In all park creeks fishing shall be permitted subject to the statutes of the State. Fishing at any City owned park pond will be catch and release only except for special programming authorized by the Director of Parks and Recreation.

(Ord. 0120-2014. Passed 9-15-14.)

563.19 PETS.

No person shall bring into the parks any pets except dogs or cats. Dogs and cats are permitted only in the open areas, parking areas, and roadways and shall be controlled at all times on a leash not more than six feet long. The Director of Parks and Recreation, with the approval of the Parks Board, may designate certain areas of any park as animal free zones. These zones may be permanent, for specified periods of time, or for special events. Said areas will be posted with appropriate signage by the Parks and Recreation Department. Dogs are permitted to be off

TITLE THREE - Public Utilities

- Chap. 919. Water and Sewer Internal Review Board.
- Chap. 921. Sanitary Sewer Connections and Rental Rates.
- Chap. 923. Utility Contracts With Columbus.
- Chap. 925. Surface Water Discharge.
- Chap. 927. Storm Sewers.
- Chap. 928. Sewer Districts.
- Chap. 929. Water Connections and Rates.
- Chap. 931. Comprehensive Rights of Way Ordinance.
- Chap. 933. Backflow Prevention.
- Chap. 935. Public Water System.

**CHAPTER 919
Water and Sewer Internal Review Board**

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| <p>919.01 Organization.</p> <p>919.02 Jurisdiction.</p> <p>919.03 Appeal review procedure.</p> | <p>919.04 Limitations.</p> <p>919.05 Report to Council.</p> |
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CROSS REFERENCES

- Department of Public Service and Engineering - see ADM. Ch. 135
- Sewer rental rates - see S. & P.S. Ch. 921
- Water rates - see S. & P. S. Ch. 929

919.01 ORGANIZATION.

There is hereby created a Water and Sewer Internal Review Board which shall be organized by the Director of Public Service, who shall serve as Chairman, and shall consist of two additional members to be appointed by the Chairman.
(Ord. 0157-2014. Passed 11-17-14.)

919.02 JURISDICTION.

The Water and Sewer Internal Review Board shall have the power to hear and decide appeals for the waiver of penalties on water, sanitary sewer and storm sewer bills, adjustments on water, sanitary sewer, and storm sewer bills and to review any complaints or problems which cannot be resolved at division or departmental levels.
(Ord. 0157-2014. Passed 11-17-14.)

919.03 APPEAL REVIEW PROCEDURE.

(a) In order to have an appeal or complaint reviewed by the Water and Sewer Internal Review Board, a request shall be submitted to the Board stating the name, address, account number, the nature of the appeal and the reason. Such request shall be submitted on a form furnished by the Department of Public Service and Engineering. Forms for appeals or complaints can be acquired from the Utility Billing office.

(b) Each appeal or complaint received by the Water and Sewer Internal Review Board shall be scheduled for review at the next meeting of the Board. Person or persons making such appeal or complaint may attend the meeting of the Water and Sewer Internal Review Board at the time their request is reviewed.

(c) Meetings of the Water and Sewer Internal Review Board shall be held at the call of the Chairman and at such other times the Board may determine.

(d) Notifications shall be made to person or persons making such appeal or complaint at least five days prior to Board review.
(Ord. 0157-2014. Passed 11-17-14.)

919.04 LIMITATIONS.

(a) Waiver of penalty charge may be granted by the Water and Sewer Internal Review Board if, in the Board's opinion, such waiver is deemed to be appropriate and justified, but not more than one time for any one property owner/tenant.

(b) The Water and Sewer Internal Review Board may grant adjustments to water and sewer bills if, in the Board's opinion, such adjustments are appropriate and justified.

(c) Adjustments will not be made further than one calendar year from the date of the applicant's appeal form.
(Ord. 0157-2014. Passed 11-17-14.)

919.05 REPORT TO COUNCIL.

The Water and Sewer Internal Review Board shall submit a written report to Council on or before December 31 of each year or at the request of Council, stating the following information: name and address of person or persons filing, nature of appeal or complaint, decision rendered by the Water and Sewer Internal Review Board, and the total amount of adjustments granted in each case. (Ord. 0157-2014. Passed 11-17-14.)

CHAPTER 921
Sanitary Sewer Connections and Rental Rates

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| <p>921.01 Definitions.</p> <p>921.02 Property owner required to install; notice; failure to comply.</p> <p>921.03 Permit required; fee; multiple use connections prohibited.</p> <p>921.04 Sewerage system capacity charge.</p> <p>921.05 Sewer footage fees.</p> <p>921.06 Sewer installer license.</p> <p>921.07 Materials and construction.</p> <p>921.08 Inspections.</p> | <p>921.09 General provisions.</p> <p>921.10 Prohibitions.</p> <p>921.11 Sewer rental rates.</p> <p>921.12 Unpaid bills.</p> <p>921.13 Partial payment.</p> <p>921.14 Application, administration and enforcement of Columbus sewer usage ordinances.</p> <p>921.99 Violations.</p> |
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CROSS REFERENCES

- Power to license sewer tappers and vault cleaners - see Ohio R.C. 715.27
 Compulsory sewer connections - see Ohio R.C. 729.06
 Sewerage rates - see Ohio R.C. 729.49, 729.52
 Management and control of sewerage system - see Ohio R.C. 729.50

921.01 DEFINITIONS.

For the purposes of this chapter:

- (a) "Sewer service connections" means the complete sewer line from the City sewer main in the street, alley, private right of way or easement to a connection with the plumbing at the building.
- (b) "Sewer main" means the sewer pipe located in a street, alley or easement in which the waste water from the sewer service connection is delivered to a treatment facility.
- (c) "Sewer system" means all City facilities for storing, pumping, and transporting waste water.
- (d) "Owner" means any person, group of persons, corporation, partnership, or firm which holds title to a lot or parcel of land adjacent to the sewer system.
(Ord. 0158-2014. Passed 11-17-14.)

921.02 PROPERTY OWNER REQUIRED TO INSTALL; NOTICE; FAILURE TO COMPLY.

The owner or owners of any house, cottage or other building which is adjacent to a sanitary sewer main, which contains a toilet, kitchen sink or laundry facilities producing liquid wastes, shall, within ninety days after receipt of a notice from the Director of Public Service to install a sanitary sewer service connection, make application to the City for an appropriate permit and construct such connection. In the event such property owner or owners fail to apply for such permit or fail to construct such sewer service connection within the time limit, the City shall proceed to construct or cause to be constructed such sanitary sewer service connection and shall assess the cost of such construction, including acreage fees, front foot fees, permit fees and all other related costs to the property owner. (Ord. 0158-2014. Passed 11-17-14.)

921.03 PERMIT REQUIRED; FEE; MULTIPLE USE CONNECTIONS PROHIBITED.

(a) No connection with any part of the City sanitary sewer system, nor the repair or removal thereof, nor any excavation thereof shall be started without first securing a permit from the Department of Public Service. Such permit must be on the premises where such sewer service connection is being constructed, prior to the beginning of such work and during the continuation thereof. A charge of eighty United States dollars (\$80.00) shall be made for such permit to cover the cost of issuance and inspections. Such amount shall be deposited in the Treasury to the credit of the Sewer Fund. The charge for such permit is nonrefundable.

(b) No permit shall be issued which contemplates the construction or installation of any multiple use connection. Each commercial, industrial, residential, occupied structure, etc., shall have a separate sewer service connection to the sanitary sewer system, whether or not such facilities are owned by one person. Multiple structures shall have separate connections for each unit, except where this would create a manifest hardship, in which case the Director of Public Service may grant special written permission to the owner to use a single connection. (Ord. 0158-2014. Passed 11-17-14.)

921.04 SEWERAGE SYSTEM CAPACITY CHARGE.

(a) Before any permit is issued for a sanitary sewer connection, there shall be exacted and collected by the City, a sanitary sewer system capacity charge for all property which is, or will be tributary, directly or indirectly, to any trunk sanitary sewer built by the City. The charge shall be exacted and collected only upon the granting of permission to connect a property to the sanitary sewer system.

(b) The charge so exacted shall be determined in accordance with the following and reviewed annually by the Director of Public Service with recommendation to Council for necessary code changes. In the event that an existing water tap is subsequently enlarged, the difference between the charges for the two tap sizes shall be paid:

Domestic Supply Water Tap Size <u>(Inches)</u>	<u>System Capacity Charge</u> <u>Effective Charge Beginning 2006</u>
3/4	\$ 5,327
1	8,880
1-1/2	17,757
2	28,413
3	56,826
4	88,790
6	177,581
8	284,130

(c) Any tap larger than 8" shall be based on the same appropriate relationship to that charged by Columbus, so that the City keeps the same percentage of revenue as incorporated in the previous table beyond Columbus' charges. This section shall be charged should Columbus increase their capacity charge.

(d) The funds received from the charges herein imposed shall be deposited in the Treasury, shall be credited to the Sanitary Sewer Capital Fund, and shall be available for the construction, operation, maintenance, management, repair, extension or enlargement of the sanitary sewer system, and for the payment of principal and interest on any debt incurred for the construction, improvement, repair, or extension of any part of such sanitary sewer system. (Ord. 0158-2014. Passed 11-17-14.)

921.05 SEWER FOOTAGE FEES.

(a) Front Footage Fee. Before issuing any permit to tap, as set forth in this chapter, a charge of thirty United States dollars (\$30.00) per front foot of the property to be served shall be made and collected, provided that such property has not been specially assessed for the cost of construction of a sewer to provide a lateral sewer benefit, or provided that such lateral sewer is not constructed under a private sewer agreement. Lots or parcels of ground which have the same width at the front and rear and the same depth on each side shall be charged on the basis of actual frontage. However, where the depth of such lot or parcel of ground abuts on a street or other public way and the owner elects to construct a building fronting on the street or public way abutting such depth, the fee shall be exacted for such depth.

In the event the lot or parcel of ground is irregular in shape, the front footage shall be measured on a line forty feet from the front lot line and parallel to the center line of the street. However, where the frontage is curved, it shall be measured on a line parallel to and forty feet distant from a line tangent to such curved frontage at a point midway between the sides of the lot or parcel of ground.

A deduction shall be made from the charges herein imposed, wherever, and to the extent that the owner of the property concerned can show that a special assessment has been paid for such or similar trunk sanitary sewer benefit, provided that such deduction shall be limited to the amount of such special assessment so paid.

All amounts so collected shall be deposited in the Treasury and credited to the Sewer System Capital Improvement Fund, Front Footage Fees Account.

(b) Subtrunk Sewer Fees. Before connecting any property to a subtrunk sewer constructed through undeveloped lands, acreage fees shall be charged to the property to be served by such connection. The acreage fees shall be determined and charged on a per acre basis, except under the following conditions:

- (1) Such property has been specially assessed for the cost of the sewer;
- (2) Such sewer has been constructed by the owner of such property and such owner's predecessors in interest under a private sewer agreement;
- (3) Such sewer has been constructed by the owner of such property or such owner's predecessors in interest under a separate special agreement.

These fees are to be reviewed annually by the Director of Public Service.

All amounts so collected shall be deposited in the Treasury and credited to the Sewer System Capital Improvement Fund, Front Footage Fees Account. (Ord. 0158-2014. Passed 11-17-14.)

921.06 SEWER INSTALLER LICENSE.

Any person, firm or corporation desiring to engage in the business of installing sewer service connections to any part of the sanitary sewerage system shall make application to the Department of Public Service for an installer's license. The application for such license shall be furnished by the City and shall be executed by the applicant and submitted together with sufficient evidence of prior experience, a performance bond on an approved company in the amount of not less than five thousand United States dollars (\$5,000), proof of Worker's Compensation Insurance, a liability insurance policy in an amount approved by the Director of Public Service and an application fee of seventy-five United States dollars (\$75.00). The license shall not be transferable and shall expire on December 31 of the year in which it is issued. The installer shall carry such license and shall exhibit the same to any authorized agent of the City on demand. No sewer service connections shall be installed by any person, firm or corporation without an installer's license. Poor workmanship or violation of any of the regulations herein shall be sufficient cause for revocation of the license. The application fee shall not be refundable should the license be voided for any reason. (Ord. 0158-2014. Passed 11-17-14.)

921.07 MATERIALS AND CONSTRUCTION.

(a) All material used and work performed in making sanitary sewer service connections must conform with regulations and standard drawings approved by the City Engineer and issued by the Department of Public Service. Substitutions shall not be made without specific written approval of the Director of Public Service.

(b) Traps shall not be placed in the main line of the sewer service connections and any change in direction shall be made only with approved fittings. Basement floor drains shall be permitted only when they connect to a trap with a permanent waterseal between them and the sewer service connection. Vents shall be so constructed as to prevent foreign objects from being introduced into the sanitary sewerage system. Tee intersections shall not be permitted in any part of a sewer service connection. (Ord. 0158-2014. Passed 11-17-14.)

921.08 INSPECTIONS.

Each sewer service connection must be inspected, in its entirety and before being backfilled, by a duly authorized representative of the Department of Public Service, serving as Sewer Inspector. Twenty-four hours' notice must be given the Department of Public Service before starting construction of the sewer service connection. The sewer service connection must be constructed in accordance with the City specifications. (Ord. 0158-2014. Passed 11-17-14.)

921.09 GENERAL PROVISIONS.

(a) Within five calendar days after inspection by the agent of the City, the stone, brick, earth, concrete, asphalt or other material which may have been excavated or disturbed, shall be replaced by the sewer installer as nearly as possible to the same condition in which it was found. All rubbish and excess material shall be immediately removed, and the restored area shall be maintained by the sewer installer for a period of one year.

(b) The sewer installer shall use care not to injure or break any other pipe or drain tile encountered during the construction. In case any such pipes, conduit or tiles are damaged, they shall be restored or replaced in as good condition as originally found, at the expense of the sewer installer.

(c) The owner and the sewer installer shall at all times have the sole responsibility to protect each opening or excavation made by such installer in the public streets, roads or alleys, with sufficient barriers and caution lights to effectually guard the public from accidents and damages.

(d) It shall be the responsibility of the owner to properly install the sewer service connection, and inspection shall not, in any way, relieve the owner of maintaining, operating and repairing the connection, nor shall the City, its agents or employees be liable for any damages arising from the installation or use of the sewer service connection.

(e) Plumbing for all buildings having sewer service connections to the sanitary sewer system shall be installed strictly in accordance with the City and State Building and Plumbing Codes. (Ord. 0158-2014. Passed 11-17-14.)

921.10 PROHIBITIONS.

(a) The sanitary sewer system and connections thereto shall be used exclusively for drainage of waterborne wastes from water closets, urinals, lavatories, bath tubs and showers, laundry tubs, washing machines, refrigerator drips, automatic dishwashers, drinking fountains, sinks, floor drains of all types, soda fountains and for no other purpose whatever. However, garage floor drains, when receiving oil, grease or gasoline shall not be connected to the sanitary sewer system and the residue therefrom must be disposed of by the owner.

(b) Any wastes which may cause damage to, or stoppage of the sanitary sewer system or which may interfere with the purification or treatment of sewage, shall not be permitted to enter the sanitary sewer system. If any such waste is found, the sewer connection or connections discharging the same shall be disconnected at the expense of the owner.

(c) The connection of foundation drains in any way or manner, direct or indirect, shall not be permitted under any circumstances. All such drains found to be connected shall be immediately disconnected at the owner's expense and such use shall be discontinued.

(d) The connection of downspout or gutter drains, or of any roof water, either directly or indirectly, shall not be permitted under any circumstances. Any such connections shall be immediately disconnected at the owner's expense and such use shall be discontinued.

(e) The entrance of any surface water shall not be permitted, regardless of the amount or the method of entrance. Any person or the officers of any firm or corporation deliberately introducing surface water into the sanitary sewer system shall suffer the penalties hereinafter set forth.

(f) No person, group of persons, firm or corporation shall maintain a private sewer system within the City, except where the sanitary sewerage system is not available for use. All buildings accessible to the sanitary sewer system shall, upon order of the Director of Public Service, be required to connect to the sanitary sewer system in accordance with this chapter and the private sewers, septic tanks, or other forms of household sewage treatment systems shall be properly abandoned per Franklin County Health Code requirements. (Ord. 0158-2014. Passed 11-17-14.)

921.11 SEWER RENTAL RATES.

(a) All lots and land served by the sanitary sewer system shall be charged rental at the following rate, as recommended by the sewer rate study, with the table modified to include the surcharge in the basic rates as shown in the following tables:

Sewer Rental Table (In USD)

EFFECTIVE DATE	BASE RATE CHARGE PER 1,000 GALLONS WATER	CAPITAL IMPROVEMENT FUND PER 1,000 GALLONS	TOTAL BASE CHARGE PER 1,000 GALLONS	SEWER SURCHARGE FOR CITY OF COLUMBUS CONSENT ORDER PROJECTS PER EQUIVALENT RESIDENTIAL UNIT (ERU)	TOTAL CHARGE CALCULATION FORMULA
JANUARY 1, 2014	5.38	0.35	5.73	2.54/MONTH/ERU	TOTAL BASE CHARGE PER 1,000 GALLONS PLUS 2.54/MONTH/ERU FOR COLUMBUS SURCHARGE
JANUARY 1, 2015	\$5.92	\$0.35	\$6.27	\$2.60/MONTH/ERU	TOTAL BASE CHARGE PER 1,000 GALLONS PLUS \$2.60/MONTH/ERU FOR COLUMBUS SURCHARGE

GALLONS OF WATER PER QUARTER - FIRST 3,000 OR LESS (IN USD)

<u>Effective Date</u>	<u>Base Total Fee</u>	<u>Sewer Surcharge for City of Columbus Consent Order Projects Per Equivalent Residential Unit (ERU)</u>	<u>Total Charge Calculation Formula</u>
JANUARY 1, 2014	17.19	2.54/MONTH/ ERU	BASE TOTAL FEE PLUS 2.54/MONTH/ERU FOR COLUMBUS SURCHARGE
JANUARY 1, 2015	18.81	2.60/MONTH/ERU	BASE TOTAL FEE PLUS \$2.60/MONTH/ERU FOR COLUMBUS SURCHARGE

(b) The City adopts the Columbus Low Income Discount Program and the Director of Public Service is authorized to create regulations for administering said program. So long as the City of Columbus offers the Low Income Discount Program, or similar programs, to master meter communities, the City of Gahanna may offer the program to its qualified users.

(c) Additional billing charges may be incurred due to industrial use classification changes, which shall be charged to the individual customer(s) affected in accordance with the industrial user class charges established in Columbus City Code, Section 1147.08. These additional charges shall become a part of the quarterly bill.

(d) Quarters shall consist of three-month periods with billings commencing on a schedule to be determined by the Director of Public Service. The quarter bill, including all penalties, shall be due and payable thirty days from the date of mailing. A ten percent (10%) penalty shall be assessed to all accounts paying after the due date. A delinquent notice granting an additional fourteen days before discontinuance of service shall be mailed to those accounts not paid in the thirty day period.

(e) Final bills shall be due and payable within fourteen days from the date of mailing.

(f) Bills shall be sent on a time schedule to be determined by the Director of Public Service, but no less frequently than a quarterly basis, with the water bills, to the address given by the owner. The owner shall be responsible for promptly notifying the City of any change of address and no consideration shall be given for failure to do so.

(g) Any property owner who uses or intends to use the City sanitary sewer system, but does not use the water system of such City, shall be required to purchase a water meter from the City and install the same on the private water system line, in order to determine the proper sewer rental charges to be assessed. The owner shall permit inspection and testing of this meter at any reasonable time by a duly authorized representative of the City and shall keep the meter and transmitter in good operating condition.

(h) The Sanitary Sewer Capital Improvement Fund shall be used primarily for the retirement of bonds and notes issued for the purpose of financing sewer system capital improvements, and no moneys therein shall be used for any other purpose until and unless the Director of Finance of the City certifies that there are sufficient moneys within the Fund to make all payments necessary to retire the bonds and notes. In the event the Director of Finance so certifies, then the excess funds may be used for capital improvements and maintenance of the sewer system. Once the Director of Finance certifies that bonds and notes have been retired, the remaining moneys within the Fund, if any, shall be transferred to the General Sewer Fund.

(i) The sewer surcharge for City of Columbus consent order projects is mandated to address wet weather issues caused by rain and snow melt overwhelming the sanitary sewer system through inflow and infiltration. (Ord. 0158-2014. Passed 11-17-14.)

921.12 UNPAID BILLS.

(a) Each sewer charge rendered under or pursuant to this chapter is hereby made a lien upon the corresponding lot, parcel of land, building or premises served by a connection to the sanitary sewerage system of the City. If the same is not paid within sixty (60) days after said sewer charge becomes due and payable, in addition to any other remedies available to the City, said sewer charge may be certified to the Auditor of the county in which the property is located, who shall place the certified amount on the real property tax list and duplicate of the property served by the connection. The certified amount to include the interest and penalties allowed by law and shall be collected as other taxes are collected.

(b) It shall be the responsibility of the buyer and seller, where property is sold, to assure that a final reading of water consumption, for purposes of calculating the sanitary sewer charge, is made and provisions agreed to for payment; otherwise, the responsibility for payment for any sanitary sewer charge whatsoever shall reside with the current owner of such property. (Ord. 0158-2014. Passed 11-17-14.)

921.13 PARTIAL PAYMENT.

Partial payments may be accepted. In accepting such partial payments, the amount owing shall be considered delinquent and the moneys paid shall be applied in the following order:

- (a) Refuse;
- (b) Penalty/miscellaneous;
- (c) Storm water management;
- (d) Sewer improvement;
- (e) Water improvement;
- (f) Columbus consent order;
- (g) Sewer; and
- (h) Water.

(Ord. 0158-2014. Passed 11-17-14.)

921.14 APPLICATION, ADMINISTRATION, AND ENFORCEMENT OF COLUMBUS SEWER USAGE ORDINANCES.

So long as the City of Gahanna discharges its sewage, industrial waste, water and other liquid waste into the transportation, pumping and treatment system of the City of Columbus, all of the provisions of Chapter 1145 of the Columbus City Code, both as they exist and as they are hereafter amended, relating to the regulation of sewage use are hereby adopted by reference and made applicable to the City sewerage system. In the event of conflict between the provisions of this chapter and Chapter 1145 of the Columbus City Code, the provisions of Chapter 1145 of the Columbus City Code shall prevail. Officers and employees of the City of Columbus are hereby empowered to enforce such provisions of the Columbus City Code within the boundaries of the City of Gahanna. (Ord. 0158-2014. Passed 11-17-14.)

921.99 VIOLATIONS.

Any person violating any provision of this chapter shall be charged with a minor misdemeanor on the first offense and for each subsequent offense shall be charged with a misdemeanor of the fourth degree. (Ord. 0158-2014. Passed 11-17-14.)

**CHAPTER 927
Storm Sewers**

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CROSS REFERENCES

- Untreated sewage - see Ohio R.C. 3701.59
 Interference with sewage flow - see Ohio R.C. 4933.24
 Sewer connections and rental rates - see S. & P. S. Ch. 921
 Surface water discharge - see S.U. & P.S. Ch. 925

927.01 APPROVAL OF PLANS; INSPECTION.

No storm sewer shall be constructed within the corporate limits of the City and connected to the public storm sewer system of such City, unless and until the City Engineer or his designee has approved the plans, specifications and profiles for the same, and not until the builder has arranged for inspection of the construction of the same by the City Engineer or his designee. (Ord. 0161-2014. Passed 11-17-14.)

927.02 GENERAL.

The purpose of the stormwater management provision contained in this chapter and other related provisions contained elsewhere in the Code is to provide for effective management and financing of a stormwater system within the City.

- (a) In order to accomplish the purpose of the effective administration of a stormwater system within the City, the chapter shall:
- (1) Establish and maintain fair and reasonable stormwater management service charges for each lot or parcel in the City which bears a substantial relationship to the cost of providing stormwater management services and facilities. Such service charges shall be charged because each property contributes to stormwater runoff and benefits from effective management of stormwater by the City.
 - (2) Ensure that similar properties pay similar stormwater management service charges which reflect the area of each property and its intensity of development, since these factors bear directly on the peak rate of stormwater runoff.
Charges for residential properties (one dwelling unit) shall reflect the relatively uniform effect that such development has on runoff. Charges for all other properties shall be in proportion to residential properties, utilizing both relative area and intensity of development in setting rates.
 - (3) Provide a mechanism for consideration of specific or unusual service requirements of some properties, and special and general benefits accruing to or from properties as a result of providing their own stormwater management facilities.
 - (4) Provide for a service charge adjustment process to review stormwater charges when unusual circumstances exist which alter runoff characteristics, when either service or benefit varies from a normal condition or is of greater significance than contribution to runoff or to periodically ensure that rates reflect the current costs of effective stormwater management; and
 - (5) Utilize stormwater management funds throughout the City, except where activities or facilities are clearly unusual and in excess of the normal level of service Citywide and where developers are responsible for providing any new stormwater facilities required for their project.
- (b) In order to maintain its effectiveness, this chapter shall:
- (1) Establish a mechanism for appeals and amendments to its provisions.
 - (2) Provide a procedure for abatement of conditions or activities which are not in the interest of public health, safety or welfare.
 - (3) Provide for its continuous validity through severability of its various portions; and
 - (4) Provide penalties for violations of its provisions.
(Ord. 0161-2014. Passed 11-17-14.)

927.03 DEFINITIONS.

For the purpose of this chapter, the words and phrases shall be defined as follows, unless the context clearly indicates or requires a different meaning:

- (a) "Abatement" means any action taken to remedy, correct, or eliminate a condition within, associated with or impacting a drainage system.
- (b) "Appeals Board". The Water and Sewer Internal Review Board shall be the Appeals Board.
- (c) "City" means the City of Gahanna, Ohio.
- (d) "City Engineer" means a professional engineer designated by and representing the City of Gahanna.

- (e) "Council" means the Council of the City of Gahanna, Ohio.
- (f) "Credit" means an on-going (as long as the various circumstances which produced the credit have not changed) reduction in a utility service charge given for certain qualifying activities which reduce either the impact of increased stormwater runoff or reduces the City's costs of providing stormwater facilities.
- (g) "Detention facility" means a facility which, by means of a single control point, provides temporary storage of stormwater runoff in ponds, parking lots, depressed areas, rooftops, buried underground vaults or tanks, etc., for future release, and is used to delay and attenuate flow.
- (h) "Developer" means a person, firm, partnership or corporation, which otherwise improves a specific parcel or tract of land, performs construction work of any kind in the "project area" as defined in this section or holds or is required to obtain a "permit" as defined in this section.
- (i) "Director". The "Director" shall be the Director of Public Service.
- (j) "Embankment" means the difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade; a fill or the material used to make an embankment. This can be caused when earth, sand, gravel, rock, or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface or cut and shall include the conditions resulting therefrom.
- (k) "Engineer, professional" means a person holding a certificate of registration under O.R.C. §§4733.14 or 4733.19.
- (l) "Equivalent Residential Unit (ERU)" means a value of measured impervious area and is equal to the average amount of impervious area of typical single family residential properties within the City.
- (m) "Excavation" means the difference between a point on the original ground and designated point of lower elevation on the final grade; cut or the material removed in excavation. This can be caused when earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom.
- (n) "Facilities" means various drainage works that may include inlets, conduits, manholes, energy dissipation structures, public stormwater open channels, outlets, retention/detention basin, and other structural components.
- (o) "Grading" means any stripping, cutting, filling, stockpiling, or any combination thereof and shall include the land in its cut or filled condition.
- (p) "Impervious area" means land areas that have been paved and/or covered with buildings and materials which include, but are not limited to, concrete, asphalt, rooftop, blacktop, and other materials, or artificially compacted so as to provide, in the judgment of the Director, a non-pervious surface.
- (q) "Municipal" means property or facilities owned by the City of Gahanna, Ohio.
- (r) "Notice" means a written or printed communication conveying information or warning.
- (s) "Order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) or any matter issued by the Director or person designated by them pursuant to any provisions of this chapter.
- (t) "Owner" means any person or other legal entity which has rightful or legal title to real property.
- (u) "Permit" means the "stormwater management permit" required by this chapter.
- (v) "Premises" means a lot or parcel and the buildings and improvements situated thereon.

- (w) "Private" means property or facilities owned by individuals, corporations, and other organizations and not by municipal, county, township, state or federal government.
- (x) "Project area" means the land lying within the geographical limits of the tract(s) or parcel(s) under consideration and on which the work is to be performed.
- (y) "Public stormwater open channel" means all open channels which convey, in part or in whole, stormwater, and are owned, operated or maintained by the City; or a stormwater open channel which has a permanent drainage/stormwater easement owned by the City and drains an area which includes City owned property or right of way. A public stormwater open channel does not include roadside ditches which convey only immediate right of way drainage.
- (z) "Public" means property or facilities owned by municipal, county, township, state, or federal governments.
- (aa) "Retention facility" means a facility which provides storage of stormwater runoff and is designed to eliminate subsequent surface discharges.
- (bb) "Storm, stormwater" means rainfall runoff, snow melt runoff and surface runoff and drainage. "Storm" and "stormwater" as used in this chapter are interchangeable terms.
- (cc) "Storm sewer, storm drain" means a sewer or drain which carries stormwaters, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than unpolluted cooling water. Storm sewers begin at the grating or opening where water enters the structure, through the sewer and conduits to the outlet structure where water enters a channel or naturel watercourse.
- (dd) "Stormwater Management Code" means Chapter 1193 of the Codified Ordinances of the City.
- (ee) "Stormwater Management Design Manual" means the latest edition of the Handbook of Design Methods, Standards, and Requirements for the Design, Construction, Maintenance and Use of Stormwater Facilities published by the Mid-Ohio Regional Planning Commission.
- (ff) "Stormwater management system" means all man-made facilities, structures, and natural watercourses used for collecting, transporting, detaining, storing or disposing of stormwater to, through, and from drainage areas to the points of final outlet including, but not limited to any and all of the following: inlets, conduits, and appurtenant features, canals, creeks, public stormwater open channels, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, retention or detention basin, dams, floodwalls, levees, and pumping stations.
- (gg) "Total area" means the square footage of a lot or parcel measured or estimated by using the outside boundary dimensions, in feet, converted to acres (one acre equals 43,560 square feet), to obtain the total enclosed area, without regard for topographic features of the enclosed surface, as used in Section 927.17 for the purpose of determining the rate class for lot(s) or parcel(s) of real property. The boundary dimensions in feet of the enclosed surface area may be established by either of the following methods selected by the utility for each lot or parcel:
 - (1) On-site or photogrammetric measurements of the apparent outside boundary dimensions of the lot or parcel of real property made by the City or on its behalf; or

- (2) Computation of the area using dimensions of lot or parcel of real property and/or existing area measurements which are set forth and contained in the records of the office of the County Recorder or Auditor.
- (hh) "Utility" means the Stormwater Management Utility provided for by this chapter.
- (ii) "Watercourse" means a permanent or intermittent stream, river, brook, creek, public stormwater open channel, swale or ditch for water whether natural or manmade. (Ord. 0161-2014. Passed 11-17-14.)

927.04 ORGANIZATION OF THE UTILITY.

(a) The Utility shall be administered by the Director who shall have the responsibility for planning, developing, and implementing stormwater management or sediment control plans; financing, constructing, maintaining, rehabilitating, inspecting, and managing existing and new stormwater facilities; collecting fees and charges for the utility; implementing and enforcing the provisions of this Code; and other related duties.

(b) The Utility may avail itself of the services of other City departments necessary for the discharge of its responsibilities. (Ord. 0161-2014. Passed 11-17-14.)

927.05 STORMWATER FACILITIES.

(a) The Utility shall monitor the design, operation, maintenance, inspection, construction and use of all storm sewers, storm drains, and stormwater facilities in the City. The Utility shall be responsible for the design and construction of public stormwater facilities in the City and shall inspect, operate and maintain them as prescribed in Section 927.10.

(b) The Utility may accept overriding responsibility for permanent maintenance of stormwater facilities designed to control erosion when the benefiting area involves two or more property owners. The Utility may require facilities to be designed to reduce maintenance costs and will require adequate easements. (Ord. 0161-2014. Passed 11-17-14.)

927.06 MULTIPLE FUND PROJECTS.

Where a public improvement is funded by the City and other agencies or organizations, and storm drainage is not a primary part of that project, the Utility's responsibility for the storm drainage costs shall be in proportion to the City's share of the total cost of the project unless otherwise determined by Council. (Ord. 0161-2014. Passed 11-17-14.)

927.07 PRIVATE FACILITIES.

Any owner of private property upon which stormwater drainage facilities exist for the purpose of collecting, conveying, retaining or detaining stormwater within that property and which are not public facilities pursuant to Section 927.08, shall be responsible for the maintenance of these facilities as required to ensure proper operation, maintaining property in litter-free manner; and maintaining grass and weeds.

When the Utility accepts responsibility for design, construction, inspection, operation or maintenance of private facilities in accordance with Section 927.08, all expenses incurred therewith shall be the responsibility of the Utility.

The City reserves the right to cooperatively work with property owners in an area to fix a common problem related to stormwater. This means that financial arrangements may be agreed to between the City and property owners which result in an equitable arrangement that benefits all parties. (Ord. 0161-2014. Passed 11-17-14.)

927.08 PUBLIC FACILITIES.

The Utility shall be responsible for stormwater drainage facilities, and watercourses on all streets, boulevards, sidewalks, curbing, streets, and other municipal property and public easements, and highway structures and appurtenances belonging to the City.

Where public facilities and watercourses are located in easements on private property, the owner of the property is responsible for aesthetic maintenance such as lawn mowing, litter pick-up, and the like. The owner shall neither place nor allow structures or plantings that interfere with the operation and maintenance of such drainage facilities and watercourses.
(Ord. 0161-2014. Passed 11-17-14.)

927.09 ANCILLARY IMPROVEMENTS.

The Utility may authorize the construction of curbs, pavements, public stormwater open channels, watercourses, conduits, culverts, or other structures on municipal property or public easements necessary to properly operate and maintain new and existing stormwater facilities.
(Ord. 0161-2014. Passed 11-17-14.)

927.10 ROUTINE AND REMEDIAL MAINTENANCE.

The Utility shall provide for inspection and routine maintenance of facilities that may have been accepted for maintenance by the Utility. Maintenance may include catch basin cleaning, grating and casting repair, bridge surface drainage systems cleaning, public stormwater open channel clearing, erosion repair, and other incidentals. The Utility shall provide for remedial maintenance of facilities based upon the severity of stormwater problems and potential hazard to the public. Remedial maintenance of bridge surface drainage systems shall remain the responsibility of agencies other than the Utility.
(Ord. 0161-2014. Passed 11-17-14.)

927.11 LAND AND FACILITIES AFFECTED BY LANDS OUTSIDE THE CITY.

Where stormwater drains from lands outside the City, facilities within the City shall be designed in accordance with this chapter as if the entire drainage area was within the City, as determined by the Director or the Director's designee. (Ord. 0161-2014. Passed 11-17-14.)

927.12 RULES AND REGULATIONS.

In order to accomplish the purpose of this chapter to protect the drainage facilities, improvements, and properties owned and maintained by the City, to secure the best results from the construction, operation and maintenance thereof, and to prevent damage and misuse of any of the drainage facilities, improvements or properties within the City, the Utility shall utilize existing rules, regulations or codes and may make and enforce additional rules and regulations that are approved by Council. The purpose of the rules and regulations shall be:

- (a) To prescribe the manner in which storm sewers, watercourses, public stormwater open channels, and other stormwater facilities are to be designed, installed, adjusted, used, altered or otherwise changed;
 - (b) To recommend inspection and certain other fees permitted by this chapter;
 - (c) To prescribe the manner in which such facilities are operated;
 - (d) To facilitate the enforcement of this chapter;
 - (e) To prescribe the collection procedures and timing of service charge bills;
 - (f) To protect the City stormwater management system, improvements, and properties controlled by the Utility, and to prescribe the manner of their use by any public or private person;
 - (g) To protect the public health, safety and welfare.
- (Ord. 0161-2014. Passed 11-17-14.)

927.13 RIGHT OF ENTRY FOR SURVEY, EXAMINATION AND MAINTENANCE.

After presenting proper credentials and securing permission, the Director or the Director's designees, including contractors and their employees or consultants and their employees, may enter upon lands within the City to make surveys and examinations to accomplish the necessary findings to establish a Master Plan, for detailed analysis to prepare final plans and specifications for proposed improvements or for inspection or maintenance of stormwater facilities.

(Ord. 0161-2014. Passed 11-17-14.)

927.14 FUNDING.

Funding for the Utility shall include, but not be limited to:

- (a) Stormwater Management Service Charges;
- (b) Direct Charges. This charge will be collected from owners, developers and other responsible parties for the cost of designing and constructing stormwater facilities, and for administrative costs and related expenses where the utility designs and/or constructs or contracts for the construction of such facilities, including costs associated with abatement procedures undertaken by the Utility;
- (c) Direct Assessment. This charge will be collected from owners in localized areas that desire stormwater drainage facilities not considered a part of the regional development or where an improvement is desired ahead of the priority status;
- (d) Other income obtained from federal, state, local and private grants, or revolving funds. (Ord. 0161-2014. Passed 11-17-14.)

927.15 STORMWATER UTILITY FUND.

All revenues generated by or on behalf of the Utility including stormwater management service charges and direct charges shall be deposited in the Stormwater Management Fund and used exclusively for Utility purposes. (Ord. 0161-2014. Passed 11-17-14.)

927.16 STORMWATER MANAGEMENT SERVICE CHARGE.

A stormwater management service charge is imposed on each lot and/or parcel of land within the City, and the owner thereof, excepting only streets, boulevards, sidewalks, curbing, street crossings, grade separations, and other public ways and easements, and highway structures belonging to the City, state and federal government. If individual adjacent lot(s) or parcel(s) are all owned by the same owner, they shall be considered to be a single parcel for determination of service charges.

- (a) Public road and freeway rights-of-way shall be exempt from the stormwater management service charge because they function as part of the stormwater collection and conveyance system. Private rights-of-way will be charged as described herein.
- (b) Properties that have existing stormwater detention facilities may have their stormwater management service charges reduced as determined by the Utility, in accordance with generally accepted engineering standards and practices to more accurately reflect the contribution to runoff from the property and the level of service provided to such property. The detention facilities must be in accord with the hydrologic, hydraulic, and structural design requirements of the rules and regulations. Facilities of a temporary nature will not be allowed a decrease in their charges.
- (c) The Utility may reduce or waive requirements for an individual detention/retention basin if a common or regional basin of adequate design is available or if the Utility is reasonably certain one will be constructed and if the major drainage system from the project area to such common or regional basin is such that the public health, safety and welfare will not be in jeopardy.

(Ord. 0161-2014. Passed 11-17-14.)

927.17 CLASSIFICATION OF PROPERTY AND ERU ASSIGNMENT AND RATE.

All properties having impervious area within the City shall be assigned an equivalent residential unit (ERU) or a multiple thereof, which will be at a minimum one ERU. There shall be two classifications of property for determination of the stormwater management service charge-variable charge:

- (a) Class R. Single family residential properties assigned one ERU. The annual stormwater management service charge for Class R lot(s) shall be in accordance with the following schedule:

2012: Class R: \$12.00 per quarter less any applicable credits.

Beginning 2013: Class R: \$13.00 per quarter less any applicable credits.

- (b) Class C. All properties having an impervious area which are not single family residential properties assigned by the Director an ERU multiple based upon the properties estimated impervious area (in square feet) divided by 3064 square feet (one ERU) calculated to the second decimal place. The annual stormwater management charge for Class C lots and parcels shall be calculated as follows:

2012: Class C: \$12.00 per ERU per quarter less any applicable credits.

Beginning 2013: Class C: \$13.00 per ERU per quarter less any applicable credits.

(Ord. 0161-2014. Passed 11-17-14.)

927.18 COLLECTION OF STORMWATER MANAGEMENT SERVICE CHARGE.

The stormwater management service charge shall be paid, by the owner of each lot or parcel which is subject to this charge, on a periodic basis. Partial payments may be accepted. In accepting such partial payments, the amount owing shall be considered delinquent and the moneys paid shall be applied in the following order:

- (a) Refuse;
- (b) Penalty/miscellaneous;
- (c) Stormwater management;
- (d) Sewer improvement;
- (e) Water improvement;
- (f) Columbus Consent Order;
- (g) Sewer; and
- (h) Water.

(Ord. 0161-2014. Passed 11-17-14.)

927.19 ADJUSTMENT CHARGE; APPEAL.

Anytime the runoff situation on a parcel of property changes, the Stormwater Utility reserves the right to correspondingly adjust the stormwater management service charge.

Owners who consider the charges applicable to their lot or parcel to be unjust or inequitable may apply, within 30 days after receipt of the charge, to the Water and Sewer Internal Review Board for adjustment thereof, stating in writing the grounds of the complaint.

The Water and Sewer Internal Review Board shall cause appropriate investigation thereof and determine whether an adjustment of the charges for any such lot or parcel is necessary to provide for the just and equitable application of the stormwater management service charge, and adjust such charge if appropriate. (Ord. 0161-2014. Passed 11-17-14.)

927.20 DELINQUENT CHARGES.

- (a) All delinquent fees shall be assessed as provided by the Utility, or as provided by the Utility's contract billing agent, if any.

(b) Each stormwater service charge rendered under or pursuant to this chapter is hereby made a lien upon the corresponding lots, parcels of land, buildings or premises that are tributary directly or indirectly to the stormwater system of the City. If the same is not paid within sixty (60) days after said stormwater charges become due and payable, in addition to any other remedies available to the city, said stormwater charges may be certified to the auditor of the county in which the property is located, who shall place the certified amount on the real property tax list and duplicate of the property served. Certified amount to include the interest and penalties allowed by law and shall be collected as other taxes are collected.

(c) It shall be the responsibility of the buyer and seller, where property is sold, to assure that all storm water utility charges have been paid in full or provisions agreed to for payment; otherwise, the responsibility for payment for any stormwater charges whatsoever shall reside with the current owner of such property. (Ord. 0161-2014. Passed 11-17-14.)

927.21 APPEALS BOARD.

(a) The Water and Sewer Internal Review Board may serve as the Appeals Board to hear and determine any appeal filed under Section 927.23.

(b) The Appeals Board shall, in harmony with the general purpose of this chapter and to secure the public health, safety and welfare, have the power to affirm, modify or revoke any notice or order and may grant an extension of time for the performance of any act required by this chapter where there is practical difficulty or undue hardship connected with the performance of such notice or order, and its decision shall be final.
(Ord. 0161-2014. Passed 11-17-14.)

927.22 APPEALS.

Any owner may appeal decisions or interpretations of the Director or the Director's designee, issued in connection with the enforcement of any provisions of this chapter provided that such owner shall file in the office of the Director a written request to the Appeals Board as provided below.

(a) The Director shall upon receipt of a request set a time and place for a public hearing and shall give the owner written notice thereof. At the hearing, the owner shall be given an opportunity to be heard and show cause why any decision, interpretation or any item appearing on a notice or order should be modified.

After a hearing, the Appeals Board shall sustain, modify or deny any item appealed by majority vote, depending on its findings as to whether the provisions of this chapter have been complied with, and the owner and the Director shall be notified in writing of such findings.

The proceedings at such hearings, including the findings and decision of the Appeals Board and reasons therefor, shall be summarized and reduced to writing and entered as a matter of public record in the office of the Director. The record shall also include a copy of every notice or order issued in connection with the matter.

(b) The failure of the owner or his representative to appear and state his case at any hearing shall constitute a denial of the appeal.

(c) Filing fees as required shall be in addition to the payment of the permits and inspection fees and any other fee which thereafter may occur, and no portion of such filing fee shall be refunded whatever the outcome of the appeal.

(Ord. 0161-2014. Passed 11-17-14.)

927.23 CONTENTS OF APPEAL REQUEST.

The owner shall set forth in the request for appeal, the interpretation, ruling or order appealed from, and the related provisions of this chapter or related laws or ordinances, and shall state wherein the interpretation, ruling, or order is erroneous.

Requests to the Appeals Board, in appeals filed in accordance with Section 927.22(a), may only be based on whatever the interpretation, ruling or order is erroneous or constitutes an erroneous application of the particular provisions of this chapter or other related laws or ordinances pertaining to stormwater management and finance, or is otherwise contrary to law. (Ord. 0161-2014. Passed 11-17-14.)

927.24 ILLICIT NON-STORMWATER DISCHARGE AND ILLEGAL CONNECTION TO THE STORM SEWER SYSTEM.

(a) **Purpose and Scope.** The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of the City through the regulation of illicit discharges to the Municipal Separate Storm Sewer System (MS4). This regulation establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process as required by the Ohio Environmental Protection Agency (Ohio EPA). The objectives of this regulation are:

- (1) To prohibit illicit discharges and illegal connections to the MS4.
- (2) To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.

(b) **Applicability.** This regulation shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands in the City, except for those discharges generated by the activities detailed in Section 927.24 (g)(1)A. to (1)C. of this regulation.

(c) **Definitions.** The words and terms used in this regulation, unless otherwise expressly stated, shall have the following meaning:

- (1) **BEST MANAGEMENT PRACTICES (BMPS):** means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to storm water. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (2) **COMMUNITY:** means the City of Gahanna, its designated representatives, boards, or commissions.
- (3) **ENVIRONMENTAL PROTECTION AGENCY OR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA):** means the United States Environmental Protection Agency, including but not limited to the Ohio Environmental Protection Agency (OEPA), or any duly authorized official of said agency.
- (4) **FLOATABLE MATERIAL:** in general this term means any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles, and paper products.

- (5) **HAZARDOUS MATERIAL:** means any material including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (6) **ILLICIT DISCHARGE:** as defined in the Code of Federal Regulations (C.F.R.) at 40 C.F.R. 122.26 (B)(2) means any discharge to an MS4 that is not composed entirely of storm water, except for those discharges to an MS4 pursuant to a NPDES permit or noted in Section 927.24 of this regulation.
- (7) **ILLEGAL CONNECTION:** means any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.
- (8) **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** as defined at 40 C.F.R. 122.26 (B)(8), municipal separate storm sewer system means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
- A. Owned or operated by a state, city, town, borough, county, parish, district, municipality, township, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over sewage, industrial wastes, including special districts under state law such as a sewer district, or similar entity, or an indian tribe or an authorized indian tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act that discharges to waters of the united states;
 - B. Designed or used for collecting or conveying storm water;
 - C. Which is not a combined sewer; and
 - D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.
- (9) **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** means a permit issued by the EPA (or by a state under authority delegated pursuant to 33 United States Constitution (USC) § 1342(B)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (10) **OFF-LOT DISCHARGING HOME SEWAGE TREATMENT SYSTEM:** means a system designed to treat home sewage on-site and discharges treated wastewater effluent off the property into a storm water or surface water conveyance or system.
- (11) **OWNER/OPERATOR:** means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.
- (12) **POLLUTANT:** means anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.

- (13) **STORMWATER:** any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (14) **WASTEWATER:** the spent water of a community. From the standpoint of a source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

(d) Disclaimer of Liability. Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

(e) Conflicts, Severability, Nuisances & Responsibility.

- (1) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the City of Gahanna, shall prevail.
- (2) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
- (3) This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.
- (4) Failure of the City to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting there from, and shall not result in the City, its officers, employees, or agents being responsible for any condition or damage resulting there from.

(f) Responsibility for Administration. The City shall administer, implement, and enforce the provisions of this regulation. The City may contract with other agencies to conduct inspections and monitoring and to assist with enforcement actions.

(g) Discharge and Connection Prohibitions.

- (1) Prohibition of Illicit Discharges. No person shall discharge, or cause to be discharged, an illicit discharge into the MS4. The commencement, conduct, or continuance of any illicit discharge to the MS4 is prohibited except as described below:
 - A. Line flushing; landscape irrigation; diverted stream flows; rising water ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; small charity car washes; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from fire fighting activities. These discharges are exempt until such time as they are determined by the City of Gahanna to be significant contributors of pollutants to the MS4. Additional, other water sources not containing pollutants may be considered at the discretion of the City Engineer.

- B. Discharges specified in writing by the City of Gahanna as being necessary to protect public health and safety.
 - C. Discharges from off-lot household sewage treatment systems permitted by the Franklin County Public Health District for the purpose of discharging treated sewage effluent unless such discharges are deemed to be creating a public health nuisance by the Franklin County Public Health District. In compliance with the City of Gahanna Storm Water Management Program, discharges from all off-lot household sewage treatment systems must either be eliminated or have coverage under an appropriate NPDES permit issued and approved by the Ohio Environmental Protection Agency. When such permit coverage is available, discharges from household sewage treatment systems will no longer be exempt from the requirements of this regulation.
- (2) Prohibition of Illegal Connections. The construction, use, maintenance, or continued existence of illegal connections to the MS4 is prohibited.
- A. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - B. A person is considered to be in violation of this regulation if the person connects a line conveying illicit discharges to the MS4, or allows such a connection to continue.
- (h) Industrial or Construction Activity Discharge.
- (1) Industrial or Construction Activity Discharge. Any person subject to an industrial or construction activity NPDES Stormwater Discharge Permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Gahanna prior to allowing discharges to the Municipal Separate Storm Sewer System.
- (2) Portable Toilets.
- A. Property owners, occupants, managers or other persons in charge of any premises, office, business establishment, institution, industry, or similar facility, including construction or demolition sites, shall be responsible for the placement and sanitary maintenance of portable toilets.
 - B. Portable toilets shall be installed in a level position and be easily accessible to users.
 - C. Where possible, portable toilets shall not be located upon any street or public right-of-way. Portable toilets shall not be located on, or within twenty (20) feet of a storm drain, or within one hundred (100) feet from any body of water including but not limited to project ponds with over flow devices. Portable toilets shall not be located within eleven (11) feet of a curb and / or gutter. If portable toilet placement is for a period of time lasting longer than one week, and is determined by the city to be vulnerable to tipping from wind, or vandalism, the portable toilet shall be secured by staking or cabling.

- D. Where possible, portable toilets shall be located upon natural ground and not on an impervious surface such as concrete or asphalt.
 - E. Portable toilets shall not be located whereby a spill or runoff will directly enter into storm drains or any water system.
 - F. Portable toilets are not to be washed down whereby allowing contamination runoff to pollute soil and water resources and create potential human health issues and/or aquatic degradation. However, washing the outside of the unit is allowed as long as no contaminants are present there.
 - G. Portable toilets must be cleaned and serviced by a licensed service company at least once per week or when needed to maintain sanitary conditions. Cleaning and sanitizing shall include the use of a sanitizing solution for cleaning urinals and toilet seats, removing waste from containers, recharging containers with an odor-controlling solution and installing an adequate supply of toilet paper. Removal of waste shall be handled in a clean and sanitary manner by means of a vacuum hose and received by a leak proof tank truck. All ports on the tank shall be valved and capped.
 - H. Special events: City or privately sponsored special events may be required to submit a plan showing the location of the portable toilets to the City Service Department for review and approval. These portable toilets for the event shall be considered temporary for a duration no longer than five (5) days after which time they must be removed and the location plan shall be considered expired.
- (i) Monitoring of Illicit Discharges and Illegal Connections.
- (1) Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: The City Service Department or its designee shall establish a program to detect and eliminate illicit discharges and illegal connections to the MS4 in compliance with general permitting requirements of the OEPA.
 - (2) Inspection of Residential, Commercial, Industrial, or Institutional Facilities.
 - A. The City Service Department or its designee shall be permitted without prior notice to enter and inspect facilities subject to this regulation as often as may be necessary to determine compliance with this regulation.
 - B. The City Service Department or its designee shall have the authority to set up at facilities subject to this regulation such devices as are necessary to conduct monitoring and/or sampling of the facility's storm water discharge, as determined by the City of Gahanna.
 - C. The City Service Department or its designee shall have the authority to require the facility owner/operator to install monitoring equipment as necessary. This sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the facility owner/operator at the owner/operator's expense. The City Service Department or its designee shall have the authority to calibrate said devices used to measure storm water flow and quality to ensure their accuracy.

- D. Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the facility's owner/operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the facility owner/operator.
 - E. Unreasonable delays in allowing the City access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation.
 - F. If the City is refused access to any part of the facility from which storm water is discharged, and the City demonstrates probable cause to believe that there may be a violation of this regulation, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this regulation or any order issued hereunder, or to protect the public health, safety, and welfare, the City may seek issuance of a search warrant, civil remedies including but not limited to injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction.
 - G. Any costs associated with these inspections shall be assessed to the facility owner/operator.
- (j) Notification of Accidental Discharges and Spills.
- (1) Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4, state waters, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.
 - (2) Said responsible person shall notify the authorized enforcement agency in person, by phone, or other method no later than twenty-four (24) hours of the nature, quantity and time of occurrence of the discharge. Notifications shall be confirmed by written notice addressed and mailed to the City within three (3) business days. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.
 - (3) In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified. Failure to provide notification of a release as provided above is a violation of this ordinance.

(k) Enforcement.

- (1) Notice of Violation. When the City finds that a person has violated a prohibition or failed to meet a requirement of this regulation, the City of Gahanna may order compliance by written notice of violation. Such notice must specify the violation and shall be hand delivered, and/or sent by registered mail, to the owner/operator of the facility. Such notice shall require one or more of the following actions:
- A. The performance of monitoring, analyses, and reporting;
 - B. The elimination of illicit discharges or illegal connections;
 - C. That violating discharges, practices, or operations cease and desist;
 - D. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- or
- E. The implementation of source control or treatment BMPs.
- (2) If abatement of a violation and/or restoration of affected property is required, the notice of violation shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the facility owner/operator fail to remediate or restore within the established deadline, a legal action for enforcement may be initiated.
- (3) Any person receiving a notice of violation must meet compliance standards within the time established in the notice of violation.
- (4) Appeal: If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, the City shall schedule an appeal before the Board of Zoning and Building Appeals to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the appeal shall be hand delivered to the owner/operator of the facility and/or sent registered mail.
- (5) Injunctive Relief: It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this regulation pursuant to Ohio R.C. 3709.211. If an owner/operator has violated or continues to violate the provisions of this regulation, the City may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation.

(l) Remedies Not Exclusive. The remedies listed in this regulation are not exclusive of any other remedies available under any applicable federal, state or local law and it is in the discretion of the City of Gahanna to seek cumulative remedies.

(m) Violations. Any person violating any provision of this chapter shall be charged with a minor misdemeanor on the first offense and for each subsequent offense shall be charged with a misdemeanor of the fourth degree.

(Ord. 0161-2014. Passed 11-17-14.)

927.25 FLOODING; LIABILITY.

Floods from stormwater runoff may occasionally occur which exceed the capacity of storm drainage facilities constructed, operated, or maintained by funds made available under this chapter. This chapter does not imply that property subject to the fees and charges established herein will always be free from stormwater flooding or flood damage, or that stormwater systems capable of handling all storm events can be cost effectively constructed, operated or maintained. Nor shall this chapter create a liability on the part of, or cause of action against, the City or any officer or employee thereof for any flood damage that may result from such storms or the runoff thereof. Nor does this chapter purport to reduce the need or the necessity for obtaining flood insurance. (Ord. 0161-2014. Passed 11-17-14.)

927.99 PENALTY.

Any person violating any provision of this chapter shall be charged with a minor misdemeanor on the first offense and for each subsequent offense shall be charged with a misdemeanor of the fourth degree. (Ord. 0161-2014. Passed 11-17-14.)

CHAPTER 929
Water Connections and Rates

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929.02	Permit required; multiple use connections prohibited.	929.12	Water rates.
929.03	Water tap charge.	929.13	Unpaid bills.
929.04	Water main extension.	929.14	System capacity rates.
929.05	Charge for extension of water mains.	929.15	Private fire protection service.
929.06	Installer's license.	929.16	Separability of provisions.
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929.08	Meter service license.	929.18	Charge for renewal of service.
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929.10	General provisions.	929.99	Violations.

CROSS REFERENCES

Compulsory water connections - see Ohio R.C. 729.06, 743.23
 Management and control of water works - see Ohio R.C. 743.02 et seq.
 Weekly deposit of water works money collected - see Ohio R.C. 743.06
 Unauthorized connections - see Ohio R.C. 4933.22

929.01 DEFINITIONS.

For the purposes of this chapter:

- (a) "Water service connection" means the water pipe extending from the water main to the connection with the plumbing at the building served.
- (b) "Water main" means the water pipe located in a street, alley or easement from which the domestic water supply is delivered to the service pipe leading to the water service connection.
- (c) "Water system" means all City facilities for supplying, treating, storing, pumping and distributing potable water.

- (d) "Owner" means any person, group of persons, corporation, partnership or firm which holds title to a lot or parcel of land adjacent to the water system, or desires to purchase water from the City.
- (e) "Fixture" means any valve, valve box, hydrant, meter, curb stop, curb box, tank, building or any other physical article owned or operated by, or essential to the operation of the water system.
- (f) "Front footage" means the frontage which abuts on the street right of way. On corner parcels, it shall be the shortest frontage so abutting. Front footage shall be measured at the building line where lots are irregular in shape. When the property to be served does not abut upon a street right of way, front footage means the smaller of the parcel dimensions, but in no event shall be less than the required frontage for the zoning of that parcel. (Ord. 0159-2014. Passed 11-17-14.)

929.02 PERMIT REQUIRED; MULTIPLE USE CONNECTIONS PROHIBITED.

(a) No connection with any part of the City water system, nor the repair or removal thereof, nor any excavation thereof shall be started without first securing a permit from the Department of Public Service. Such permit must be on the premises where such water service connection is being constructed, prior to beginning such work and during the continuation thereof. A charge of eighty United States dollars (\$80.00) shall be made for such permit, to cover the cost of issuance and inspections. Such amount shall be deposited in the Treasury to the credit of the Water Fund. The charge for such permit is non-refundable.

(b) No permit shall be issued which contemplates the construction or installation of any multiple use connections. Each commercial, industrial, residential, occupied structure, etc., shall have a separate water service connection to the water system, whether or not such facilities are owned by one person. Multiple structures shall have separate connections for each unit, except where this would create a manifest hardship, in which case the Director of Public Service may grant special written permission to the owner to use a single connection. Where such permission is granted for double units to use a single connection, it must provide that such connection shall not be less than one inch in diameter, and that separate curb stops and boxes, and separate meters are installed.

(c) The Director of Public Service shall review these permit fees annually and submit a written report to Council, recommending that this fee either be maintained or modified. (Ord. 0159-2014. Passed 11-17-14.)

929.03 WATER TAP CHARGE.

(a) The Division of Water shall maintain the water tap which shall remain the property of the City. The tap charges shall be paid in advance as follows:

DIAMETER OF TAP (in inches)	TAP CHARGE (effective January 1, 2006)
3/4 or less	\$ 770.00
1	900.00
1-1/2	1,155.00
2	1,540.00

(b) The water tap charges, set forth above, shall be reviewed each year by the Director of Public Service, who shall submit a written report to Council, recommending needed adjustments based upon actual cost.

(c) All water taps in subdivisions or developments must be installed at the time the water mains are installed.

(d) Every property owner shall be required to install a tap for each lot or parcel immediately prior to the paving of any street when ordered by the Director.

(e) Taps may be installed by a contractor licensed by the City upon issuance of a permit by the Division of Water. Such installation must conform to the standards and specifications of the Division of Engineering and must be approved by the Division of Water.

(f) Before issuing any permit to tap, as set forth in this chapter, a charge of thirty United States dollars (\$30.00) per front foot of the property to be served shall be made and collected, provided that such property has not been specially assessed for the cost of construction of the water main to be tapped, or provided that such water main is not constructed under a private water line agreement. Lots or parcels of ground which have the same width at the front and rear, and the same depth on each side shall be charged on the basis of actual frontage, except where the depth of such lot or parcel of ground abuts on a street or other public way and the owner elects to construct a building fronting on the street or public way abutting such depth, the fee shall be exacted for such depth.

(g) All amounts so collected for front footage shall be credited to the Water System Capital Improvements Fund.

(h) The Director shall review these water tap charges and front footage fees annually and submit a written report to Council, recommending that these fees either be maintained or modified. (Ord. 0159-2014. Passed 11-17-14.)

929.04 WATER MAIN EXTENSION.

The Director of Public Service is authorized to provide water service to new consumers when the Director determines that the water main extension is feasible both economically and from an engineering standpoint and will not be detrimental to the best interest of the City having given consideration to the overall effect on the total water system and to the long term plans and probable future growth of the water system of the City.
(Ord. 0159-2014. Passed 11-17-14.)

929.05 CHARGE FOR EXTENSION OF WATER MAINS.

(a) All water main extensions in the City shall be paid for by the applicants or developer requesting such extension. Water main extensions will be of the same diameter as the existing main being extended unless otherwise required by the City.

(b) The Director of Public Service shall determine from the Division of Engineering records, or other sources, the cost of the pipe, fittings and valves and this determination shall be final.

(c) The Director of Public Service may authorize water main extensions to be installed by a qualified developer and the Director shall determine whether the water main shall be installed by the City or by the applicant or developer.

(d) For each water main extension requested and installed by the City, the Division of Engineering shall make an estimate of the total costs involved and the applicants or developer shall make a deposit to the City that is sufficient to cover the estimated cost of the water main extension. If the actual cost of the extension is higher or lower than the deposit, the applicants or developer will be refunded the amount of any excess deposit or shall pay the City any deficit that may exist in the deposit, as the case may be.

(e) When water main extensions are installed by the City, the cost may be assessed against the abutting property owners, with the approval of Council. Such assessment shall be in an amount equal to the total installation cost unless the line is required by the City to be larger than eight inches. When the water main is required by the City to be installed larger than eight inches, the amount assessed shall be the total installation cost less 110 percent (110%) of the difference in the cost of the pipes, fittings and valves between the installation of an eight-inch water main and the water main installed. The costs shall be determined as prescribed in subsection (b) hereof.

(f) The specifications and standards of construction for all water main extensions shall be prepared by the City Engineer. Plans and installation shall be subject to approval by the Division of Engineering.

(g) The size of all water mains shall be determined by the Director of Public Service and shall be large enough not only to serve the areas under immediate consideration but also to serve areas which are likely to be developed and which should be served by the water main under consideration. Unless otherwise required by the Director of Public Service, no water main shall be smaller than eight inches nominal diameter.

(h) All extensions of water mains shall include the installation of all taps, valves and fire hydrants. The number and location of fire hydrants shall be in accordance with the requirements of the City. The number and location of all taps and valves shall be as required by the Director of Public Service.

(i) All water mains and appurtenances shall be owned, operated and maintained by the City, with title to be vested in the City upon completion and written acceptance of the water main.

(j) No water mains shall be installed except by the City, unless authorized by an agreement between the City and the developer or applicants. Where water mains are installed by a developer or applicant and abut on parcels not owned by the developer or applicant not included in the agreement, the developer or applicant shall be entitled to reimbursement when such parcels are connected to the water main within ten years after the completion of the water main from the funds collected by the City for such connections pursuant to Section 929.03(f).

(k) To be eligible for this reimbursement, the developer or applicant must file with the Division of Water within ninety days after the completion of the water main or such further time as may be authorized by the Director of Public Service in accordance with the standards and specifications, receipts for all labor and material used in connection with the construction of the water main, together with final, as-built plans, properly referenced for future location of the work. (Ord. 0159-2014. Passed 11-17-14.)

929.06 INSTALLER'S LICENSE.

Any person, firm or corporation desiring to engage in the business of installing water service connections shall make application to the Department of Public Service for an installer's license, as set forth in Section 921.06. The license issued under such section shall authorize the person to whom granted to install both sewer and water service connections. All pertinent parts of Section 921.06 are incorporated by reference in this section, as if fully written herein. (Ord. 0159-2014. Passed 11-17-14.)

929.07 INSPECTIONS.

Each water service connection must be inspected, in its entirety and before being backfilled, by a duly authorized representative of the Department of Public Service, serving as Water Inspector. Twenty-four hours notice must be given the Department before starting construction of the water service connection. The water service connection must be constructed in accordance with the City specifications. (Ord. 0159-2014. Passed 11-17-14.)

929.08 METER SERVICE FEE.

(a) When a permit is issued for a water service connection or a change in meter size, the meter shall be installed by the City, and a fee equal to the cost of the meter and remote plus ten percent (10%) shall be paid.

(b) Where the meter is one and one-half inches or larger in nominal diameter, the fee shall be equal to the cost of the meter and remote plus ten percent (10%) with installation of meter to be made by the applicant under the inspection and approval of the Division of Water. Remote reading devices will be required on all meters and installed by the Division of Water.

(c) After the meter is procured and before the curb stop is opened, the meter shall be set and installed in an easily-accessible position in a manner approved by the City, and shall not thereafter be moved, removed or otherwise tampered with, except upon express written approval of a duly authorized agent of the City.

(d) The meter service fee as set forth, shall be reviewed each year by the Director of Public Service, who shall recommend to Council any needed adjustments based upon actual cost.

(e) All water meters exclusive of deducting meters, shall be maintained by and remain the property of the City.

(f) The installation of a meter transceiving unit will be required where such readers are deemed necessary by the Director of Public Service.

(g) Sewer adjustment meters for the purpose of deducting water not entering the sanitary sewer system from the sewer portion of the bill shall be permitted. Such meters shall be purchased from the City at a rate of cost plus 10%. Additionally, a transmitter shall be purchased from the city at a rate of cost plus 10%. All deducting meters must meet the specifications established by the City and shall be owned and maintained by the property owner. The meters shall be installed in such manner as to register water that does not enter the sanitary sewer system in any way. Such installation shall meet with the standards of the Division of Water and Sewer and shall be inspected by its representative upon completion. Sewer adjustment credits will only be allowed after inspection and approval of the meter by the City. Any usage from the date of installation to the date of inspection and approval will not be subject to a reduction. The fee for said inspection shall be forty dollars (\$40.00). (Ord. 0159-2014. Passed 11-17-14.)

929.09 MATERIALS AND CONSTRUCTION.

All material used and work performed in making water service connections must conform with regulations and standard drawings approved by the City Engineer and issued by the Department of Public Service. Substitutions shall not be made without the specific written approval of the Director of Public Service.
(Ord. 0159-2014. Passed 11-17-14.)

929.10 GENERAL PROVISIONS.

(a) It shall be the responsibility of the owner to properly install the water service connection. Inspection shall not, in any way, relieve the owner of maintaining, operating and repairing the connection, nor shall the City or its agents or employees be liable for any damage arising from the installation or use of the water service connection.

(b) The owner shall maintain the service pipe from the curb stop to the meter, the meter and transmitter in good condition and shall permit inspection and testing of the same at any reasonable time by a duly authorized representative of the Division of Water. In the event such service pipe is determined to be defective and leaking, service may be discontinued immediately until repair or replacement of such pipe is made.

(c) Within five calendar days after inspection by the agent of the City, the stone, brick, earth, concrete, asphalt or other material which may have been excavated or disturbed, shall be replaced by the water installer as nearly as possible to the same condition in which it was found. All rubbish and excess material shall be immediately removed, and the restored area shall be maintained by the water installer until all possible trench settlement has taken place.

(d) The water installer shall use care not to damage or break any other pipe, drain tile or conduit encountered during construction. In case any such pipes, conduit or tiles are damaged, they shall be restored or replaced in as good condition as originally found, at the expense of the water installer.

(e) The owner and the water installer shall at all times have the sole responsibility of protecting each opening or excavation made by the installer in the public streets, roads or alleys, with sufficient barriers and caution lights to effectually guard the public from accidents and damages.

(f) Plumbing for all buildings having water service connections to the water system shall be installed strictly in accordance with the City and State Building and Plumbing Codes. (Ord. 0159-2014. Passed 11-17-14.)

929.11 PROHIBITIONS.

(a) Except as otherwise provided herein, no person, group of persons, firm or corporation shall connect or cause to be connected to the water system any pipe, hose, conduit or fixture for the purpose of using water from the system without the use of a properly installed and approved meter. All water so used for any purpose whatsoever shall be billed at the rate hereinafter established. Failure to comply with this regulation in all respects shall subject the violator to loss of water service and other penalties prescribed herein.

(b) No cross connections shall be installed or maintained between the water system and any private water supply. Any premises using both the water system and a private water supply shall be subject to periodic inspection to ascertain whether or not such cross connections are being or have been maintained.

(c) No person, other than the Director of Public Service or the Director's authorized agent, shall operate, manipulate or tamper with any fixture of the water system.

(d) No persons shall install a private water supply system for domestic use within the City, except where the City water system is not available. All existing buildings, other than residential, accessible to the water system, upon recommendation of the Director of Public Service, shall be required to connect to the City water system, and have the private water supply disconnected from the City water system in such building. All existing residential buildings shall be exempted from the requirements of this section for so long as the existing private water supply is safe and potable and in sufficient quantity to meet the reasonable needs of the residents without supplementation. (Ord. 0159-2014. Passed 11-17-14.)

929.12 WATER RATES.

(a) The following rates (in USD) shall apply to water service within the City:

EFFECTIVE DATE	BASE RATE PER THOUSAND GALLONS	PLUS CAPITAL IMPROVEMENT PER THOUSAND GALLONS	BILLING RATE PER THOUSAND GALLONS
JANUARY 1, 2014	6.68	.89	7.57
JANUARY 1, 2015	6.68	0.89	7.57

- (1) The “billing rate per thousand gallons” in the above table shall be applied to the first nine million gallons of water purchased per user per quarter. Quantities beyond nine million gallons purchased per user per quarter shall be charged an amount equal to the supply cost.
- (2) Minimum base rate water charges per quarter (in USD).

Meter Diameter	2014 January 1	2015 January 1
(inches) Less than 3	\$22.71	\$22.71
3	\$104.97	\$136.26
4	\$215.41	\$174.48
6	\$325.35	\$272.52
8	\$436.90	\$363.36
10	\$498.31	\$454.20

(b) The City of Gahanna adopts the Columbus Low Income Discount Program and the Director of Public Service is authorized to create regulations for administering said program. So long as the City of Columbus offers the Low Income Discount Program, or similar programs, to master meter communities, the City of Gahanna may offer the program to its qualified users.

(c) The Water Improvement Fund Number 1, created pursuant to Ordinance No. 48-63, shall be used for the retirement of bonds and notes issued for the purpose of financing water system capital improvements, and no moneys therein shall be used for any other purpose until and unless the Finance Director of the City of Gahanna certifies that there are sufficient moneys within the fund to make all payments necessary to retire the bonds and notes. In the event the Finance Director so certifies, then the excess funds may be used for capital improvements and maintenance of the water system.

Once the Finance Director certifies that bonds and notes have been retired, the remaining moneys within the fund, if any, shall be transferred to the General Water Fund.

(d) Quarters shall consist of three-month periods with billings commencing on a schedule to be determined by the Director of Public Service. The quarter bill, including all penalties, shall be due and payable thirty days from the date of mailing. A ten percent (10%) penalty shall be assessed to all accounts paying after the due date. A delinquent notice granting an additional fourteen days before discontinuance of service shall be mailed to those accounts not paid in the thirty day period.

(e) Final bills shall be due and payable within fourteen days from the date of mailing.

(f) Bills shall be sent on a time schedule to be determined by the Director of Public Service, but no less frequently than a quarterly basis to the address given by the owner, who shall be responsible for promptly notifying the Division of Water of any change of address, and no consideration shall be given for failure to so do.

(g) The Director of Public Service shall review these water rates annually and shall submit a written report to Council, recommending either that this rate schedule be maintained or modified. (Ord. 0159-2014. Passed 11-17-14.)

929.13 UNPAID BILLS.

(a) Each water charge rendered under or pursuant to this chapter is hereby made a lien upon the corresponding lot, parcel of land, building or premises served by a connection to the water system of the City. If the same is not paid within sixty (60) days after said water charge becomes due and payable, in addition to any other remedies available to the City, said water charge may be certified to the auditor of the county in which the property is located, who shall place the certified amount on the real property tax list and duplicate of the property served by the connection. The certified amount to include the interest and penalties allowed by law and shall be collected as other taxes are collected.

(b) It shall be the responsibility of the buyer and seller, where property is sold, to assure that a final reading of water consumption is made and provisions agreed to for payment; otherwise, the responsibility for payment for any water usage whatsoever shall reside with the current owner of such property.
(Ord. 0159-2014. Passed 11-17-14.)

929.14 SYSTEM CAPACITY RATES.

(a) The following rates shall be charged for each water service connection made to any property and shall be paid at the time a permit is issued for the water service connection. No person shall make a water service connection or any part thereof, unless he has been issued a permit by the Director of Public Service. In the event a tap is subsequently enlarged, the difference between the charges for the two sizes shall be paid:

Tap Diameter (Inches)	Tap Charge (in USD) Effective Date (January 1, 2006)
3/4	\$1,593
1	3,312
1-1/2	8,568
2	14,699
3	30,624
4	47,775
6	108,529
8	191,100

(b) For all taps used to supply fire protection only, the rate shall be one-half the rate specified in this section.

(c) The Director of Public Service shall review these system capacity rates annually and submit a written report to Council, recommending either that this rate schedule be maintained or modified. (Ord. 0159-2014. Passed 11-17-14.)

929.15 PRIVATE FIRE PROTECTION SERVICE.

(a) For all fire protection service installations made after the effective date of Ordinance 70-73, requiring a separate fire service line, the consumer shall install at his expense, subject to the inspection and approval of the City, all of the piping system necessary to extend from the consumer's system and connect to the City's existing water main.

(b) All separate fire service lines shall have installed, before service is established, an approved meter installation. Such meter and the installation shall meet the specifications and approval of the City and the entire installation shall be at the expense of the consumer. The applicable rates as prescribed in Section 929.12 shall be paid for metered fire service lines.

(c) The City reserves the right to order the installation of a meter on an existing fire protection line upon violation of applicable ordinances and the rules and regulations of the Director of Public Service.

(d) No charge except the minimum charge will be made for any measured water flow resulting from the use of water for fire fighting purposes when such fire has been reported to the fire department serving the area involved.

(e) Where an unmetered tap for a fire service line exists, the following charge shall be paid per quarter prescribed below:

Fire Tap Diameter (Inches)	2014 CHARGE PER QUARTER (METER SIZE MINIMUM PLUS 10%)	2015 CHARGE PER QUARTER (METER SIZE MINIMUM PLUS 10%)
4	\$236.98	\$174.48
6	\$357.89	\$272.52
8	\$480.59	\$363.36
10	\$548.14	\$454.20

(f) When a property is served with both an unmetered fire protection service and water service, the amount to be paid for the combined service shall be the charge computed by using the applicable commodity rate established in Section 929.12 in addition to the table above.

(g) When a property is served by more than one fire protection service and such service provides water to a common interconnected fire protection system, the services shall be considered a single fire protection service with the rates or charges to be based on the largest tap or meter.

(h) When a property is served with one or more fire protection services and one or more water services, the owner or contract holder may notify the Utility Billing Division at the time of application for service or as of January 1, of each year, which commodity service shall be combined with which of the fire protection services for billing purposes. In the event no such notice is received, the Utility Billing Division shall make such determination.

(i) All outlets, except sprinkler heads, on unmetered fire protection service shall be sealed under the supervision of the Division of Water. No person shall break a seal, or withdraw water from any unmetered fire protection system, except in the case of fire, without prior approval of the Director of Public Service.

(j) The Director of Public Service shall review these water rates annually and submit a written report to Council, recommending either that this rate schedule be maintained or modified. (Ord. 0159-2014. Passed 11-17-14.)

929.16 SEPARABILITY OF PROVISIONS.

Each section and each part of each section of this chapter is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent that if any such section or part of a section, or any provision thereof, or the application thereof to any person or circumstances, is held to be invalid, the remaining sections or parts of sections and the application of such provisions to any other person or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

It is hereby declared to be the legislative intent that these sections or parts of sections would have been adopted independently of such sections or parts of a section so held to be invalid. (Ord. 0159-2014. Passed 11-17-14.)

929.17 SPECIAL CHARGES.

The following charges shall be paid for the specified special services furnished by the City:

- | | | |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| (a) | Trip to place door hanger
notifying of turn off if account
not paid: | \$ 12.00 |
| (b) | Trip to turn off service for
nonpayment of account during
regular work hours: | \$ 36.00 |
| (c) | Trip to turn on service after
turn-off for nonpayment during
regular work hours: | 36.00 |
| (d) | Trip to turn on or off service
at curb box at request of customer
after regular working hours: | 125.00 |
| (e) | Trip to service meter and/or transmitter damaged by
negligence, vandalism, freezing,
or hot water or to service
transmitter due to negligence
or vandalism | 50.00
plus cost to repair or replace. |
| (f) | Trip to turn off service as a
result of fraud or illegal diversion
of water, unauthorized turn
on of water meter tampering,
bypass of meter, or other violation of the
rules and regulations of the Director
of Public Service: | 250.00 |
| (g) | Testing of meter at the request
of consumer: | |
| (1) | Where meter tests
Outside the American
Water Works Association
Standard, which is
98.5% to 101.5%: | 0.00 |

- | | | |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| (2) | Where meter tests within
The American Water
Works Association
Standard, which is
98.5% to 101.5%: | 80.00 |
| (3) | Where meter is 1-1/2 inch or larger
in diameter, the meter shall be
removed, transported to and from a
meter shop, and reinstalled by the
consumer, with permission, under the
inspection and approval of the
Division of Water: | 75.00 |
| | plus actual cost to test, repair or replace. | |
| (h) | Permit to use water from fire hydrant: | 25.00 |
| | plus water used, charged at regular
rate plus 15%. | |

The Director of Public Service shall review these water rates annually and submit a written report to Council, recommending either that this rate schedule be maintained or modified. (Ord. 0159-2014. Passed 11-17-14.)

929.18 CHARGE FOR RENEWAL OF SERVICE.

In all cases where the Director of Public Service has ordered a discontinuance of water service for a violation of any rule or regulation there shall be charged the fees prescribed in Section 929.17 for renewal of the water service. (Ord. 0159-2014. Passed 11-17-14.)

929.19 PARTIAL PAYMENT.

Partial payments may be accepted. In accepting such partial payments, the amount owing shall be considered delinquent and the moneys paid shall be applied in the following order:

- (a) Refuse;
- (b) Penalty/miscellaneous;
- (c) Storm water management;
- (d) Sewer improvement;
- (e) Water improvement;
- (f) Columbus consent order;
- (g) Sewer; and
- (h) Water.

(Ord. 0159-2014. Passed 11-17-14.)

929.99 VIOLATIONS.

Any person violating any provision of this chapter shall be charged with a minor misdemeanor on the first offense and for each subsequent offense shall be charged with a misdemeanor of the fourth degree. (Ord. 0159-2014. Passed 11-17-14.)

TITLE FIVE - Other Public Services

- Chap. 941. Garbage and Rubbish Collection.
 Chap. 943. Sanitary Regulations.
 Chap. 945. Weeds and Grass.
 Chap. 947. Building Contractors' Responsibilities.

CHAPTER 941
Garbage and Rubbish Collection

- | | | | |
|---------------|-------------------------------------------------------|---------------|------------------------------------|
| 941.01 | Definitions. | 941.13 | Report of costs to Council. |
| 941.02 | Garbage, rubbish receptacles required. | 941.14 | Return to County Auditor. |
| 941.03 | Placement of garbage, rubbish and receptacles. | 941.15 | Pickup and disposal fees. |
| 941.11 | Service of notice. | 941.16 | Payment schedule. |
| 941.12 | Failure to comply; remedy. | 941.17 | Partial payment. |
| | | 941.18 | Unpaid bills. |
| | | 941.99 | Violations. |

CROSS REFERENCES

- Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01
 Disposal and transportation upon public ways - see Ohio R.C. 3767.20 et seq.
 Employment of scavengers - see Ohio R.C. 3707.39
 Littering and deposit of garbage and rubbish - see GEN. OFF. 517.08

941.01 DEFINITIONS.

For the purposes of this chapter:

- (a) "City" means the City of Gahanna, Ohio.
- (b) "Director" means the City's Director of Public Service.
- (c) "Garbage" means any refuse accumulation of any matter or substance or refuse therefrom used in the preparation, cooking, dealing in or storage of meats and fowl, fruits and vegetables.
- (d) "Rubbish" means all household waste matter other than garbage, such as paper, straw, excelsior, rags, bottles, wearing apparel, corn husks and cobs, tin cans, food containers, ashes, grass trimmings from lawns, trimmings from small shrubs, limbs and other waste from trees, and brush and other waste matter accumulated about dwellings. All waste materials accumulated in the construction, remodeling or repairing of buildings is excluded in this definition.
- (e) "Receptacle" means a watertight, galvanized iron or other suitable material, container with a fitting lid, which shall be so maintained in position at all times as to prevent the contents of such receptacle from becoming wet, from escaping therefrom, and to prevent the ingress and egress of flies, rodents and other animals. Such receptacles shall be of such size as to permit the proper containment of all waste materials between collections.
 (Ord. 0160-2014. Passed 11-17-14.)

941.02 GARBAGE, RUBBISH RECEPTACLES REQUIRED.

(a) It shall be the duty of every owner, tenant, agent, lessee, occupant and person in charge of any and every building, premises or place of business in the City forthwith to provide or cause to be provided, and at all times thereafter to keep or cause to be kept and provided for the exclusive use of such building, premises or place of business, receptacles for receiving and holding without leakage, all garbage and rubbish, so long as such garbage and rubbish remains upon or in such building, premises or places of business, or the portion thereof of which such person may be owner, tenant, lessee or occupant in charge.
(Ord. 0160-2014. Passed 11-17-14.)

941.03 PLACEMENT OF GARBAGE, RUBBISH AND RECEPTACLES.

(a) When the premises abut on any alley, a rear alley entrance must be provided and receptacles placed on the side of the rear lot line, directly adjacent to such entrance. When it is impractical to make collections from such locations, receptacles shall be placed at such a point as may be designated by the Director of Public Service. All containers shall be as close to the collection point as possible.

(b) No person shall throw, place, or deposit any garbage whatsoever in any trash burner.

(c) No person shall throw or deposit any rubbish whatsoever in or upon any street, alley, or public place, or place or maintain any receptacle for rubbish in or upon any street, alley, or other public place.

(d) Garbage or rubbish shall be placed at the point of collection by the time and in the proper manner as defined and agreed upon in the refuse contract.

(e) No person shall place any garbage or rubbish at the curb point of collection prior to 5:00 p.m. of the day preceding regular collection day.

(f) All refuse customers shall be required to participate in the City wide recycling program and shall place recyclables in a bin provided, to be collected by the refuse/recycling hauler. Refusal to participate in the recycling program shall constitute a violation and be subject to penalties prescribed in Section 941.99. (Ord. 0160-2014. Passed 11-17-14.)

(EDITOR'S NOTE: Sections 941.04 to 941.10 are reserved for future legislation.)

941.11 SERVICE OF NOTICE.

Property owners, lessees, agents or tenants may request such services, or the Director of Public Service shall cause written notice to be served upon the owners, lessees, agents or tenants having charge of such lots and lands referred to in Section 945.01, notifying them that garbage and rubbish gathered on such lots, lands and/or upon or in such buildings must be eliminated, removed and disposed of within one calendar week after the service of such notice.

If such owner, or other person having charge of such lands or buildings is a nonresident whose address is known, such notice shall be sent to his address by certified mail. If the address of such owner, whether a resident or a nonresident is unknown, it shall be sufficient to publish such notice once in a local newspaper. After completion of notice, the Director shall make due return thereon, setting forth the cost of service. (Ord. 0160-2014. Passed 11-17-14.)

941.12 FAILURE TO COMPLY; REMEDY.

Upon failure of any owner, lessee, agent or tenant having charge of the lots, land, and/or upon or in such buildings under the provisions of Section 945.01 to comply with the notice within the period of time stipulated under the provisions of Section 945.02, the Director of Public Service shall cause such garbage and rubbish to be eliminated, removed and disposed of by the direct employment of labor, or authorize some person to eliminate, remove or dispose of such garbage or rubbish on behalf of the City.
(Ord. 0160-2014. Passed 11-17-14.)

941.13 REPORT OF COSTS TO COUNCIL.

Upon the performance of the labor under the provisions of Section 941.12, the Director of Public Service shall report to Council the cost thereof with respect to each lot or parcel of land and/or building, including the cost of investigation, handling of garbage and rubbish complaints and costs of service and notification. (Ord. 0160-2014. Passed 11-17-14.)

941.14 RETURN TO COUNTY AUDITOR.

Upon receipt of the report under the provisions of Section 941.13, and approval thereof by Council, the Auditor shall make a return in writing to the Auditor of Franklin County of such charges which shall be entered upon the tax duplicate of the County, all in accordance with Ohio R.C. 731.54. (Ord. 0160-2014. Passed 11-17-14.)

941.15 PICKUP AND DISPOSAL FEES.

(a) The Director of Public Service shall charge and every household or the owner or tenant of such household shall pay for weekly garbage and rubbish pickup at the following monthly rates:

	Monthly (In USD)	Quarterly (In USD)
Effective January 1, 2013:		
Curb pickup	\$17.39	\$52.17
Carryout service	25.34	76.02
Effective January 1, 2015:		
Curb pickup	\$16.73	\$50.19
Carryout service	36.73	110.19

(b) The City adopts the refuse hauler's Low Income and Senior Discount programs and the Director of Public Service is authorized to create regulations for administering said programs. So long as the refuse hauler offers the Low Income and Senior Discount Programs, or similar programs, the City may offer the programs to its qualified users.

(c) In cases other than normal weekly pickup where household pickup is necessary or pursuant to Section 941.12 the Director shall charge, and every household or the owner or tenant of such household shall pay, fifty dollars (\$50.00) per one-half hour minimum and a charge of one hundred dollars (\$100.00) per hour.

(d) If included as a part of the City's refuse agreement, there may be a fuel price adjustment to the base rate. (Ord. 0160-2014. Passed 11-17-14.)

941.16 PAYMENT SCHEDULE.

Each household or the owner or tenant of such household shall pay in advance in installments as determined by the Director of Public Service the fees imposed pursuant to Section 941.15. Billings shall be mailed on a schedule to be determined by the Director and may be included as part of the water and sewer billings. The bill, including all penalties shall be due and payable thirty (30) days from the date of mailing. A ten percent (10%) penalty shall be assessed to all accounts paying after the due date. (Ord. 0160-2014. Passed 11-17-14.)

941.17 PARTIAL PAYMENT.

Partial payments may be accepted. In accepting such partial payments, the amount owing shall be considered delinquent and the moneys paid shall be applied in the following order:

- (a) Refuse;
- (b) Penalty/miscellaneous;
- (c) Stormwater management;
- (d) Sewer improvement;
- (e) Water improvement;
- (f) Columbus Consent Order;
- (g) Sewer; and
- (h) Water.

(Ord. 0160-2014. Passed 11-17-14.)

941.18 UNPAID BILLS.

(a) Each refuse charge rendered under or pursuant to this chapter is hereby made a lien upon the corresponding lot, parcel of land, building or premises served by the City. If the same is not paid within sixty (60) days after said refuse charge becomes due and payable, in addition to any other remedies available to the City, said refuse charge may be certified to the auditor of the county in which the property is located, who shall place the certified amount on the real property tax list and duplicate of the property served. Certified amount to include the interest and penalties allowed by law and shall be collected as other taxes are collected.

(b) It shall be the responsibility of the buyer and seller, where property is sold, to assure that all refuse charges have been paid in full or provisions agreed to for payment; otherwise, the responsibility for payment for any refuse charges whatsoever shall reside with the current owner of such property. (Ord. 0160-2014. Passed 11-17-14.)

941.99 VIOLATIONS.

Any person violating any provision of this chapter shall be charged with a minor misdemeanor on the first offense and for each subsequent offense shall be charged with a misdemeanor of the fourth degree. (Ord. 0160-2014. Passed 11-17-14.)

ARTS, ENTERTAINMENT AND RECREATION

712	MUSEUMS, HISTORICAL SITES, AND SIMILAR INSTITUTIONS
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ACCOMMODATIONS AND FOOD SERVICES

7221	FULL-SERVICE RESTAURANTS
7222	LIMITED-SERVICE EATING PLACES
7223	SPECIAL FOOD SERVICES
7224	DRINKING PLACES

OTHER SERVICES (EXCEPT PUBLIC ADMINISTRATION)

8112	ELECTRONIC AND PRECISION EQUIPMENT REPAIR AND MAINTENANCE
8114	PERSONAL AND HOUSEHOLD GOODS REPAIR AND MAINTENANCE
8121	PERSONAL CARE SERVICES
8123	DRYCLEANING AND LAUNDRY SERVICES
8129	OTHER PERSONAL SERVICES

RELIGIOUS, GRANTMAKING, CIVIC, PROFESSIONAL, AND SIMILAR ORGANIZATIONS

8132	GRANTMAKING AND GIVING SERVICES
8133	SOCIAL ADVOCACY ORGANIZATIONS
8134	CIVIC AND SOCIAL ORGANIZATIONS
8141	PRIVATE HOUSEHOLDS

RESIDENTIAL	SINGLE FAMILY, TWO FAMILY, MULTI-FAMILY
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(b) Conditional Uses. The following may be considered, but must first be approved by Planning Commission:

DRIVE-IN FACILITY	DRIVE-IN OR OUTDOOR SERVICE FACILITIES DEVELOPED IN ASSOCIATION WITH ANOTHER PERMITTED OR CONDITIONAL USE
441	MOTOR VEHICLE AND PARTS DEALERS
447	GASOLINE STATIONS
622	HOSPITALS
623	NURSING AND RESIDENTIAL CARE FACILITIES
6241	INDIVIDUAL AND FAMILY SERVICES
721	ACCOMMODATIONS
8111	AUTOMOTIVE REPAIR AND MAINTENANCE
8131	RELIGIOUS ORGANIZATIONS IF NOT PRIMARY USE

(Ord. 0026-2015. Passed 3-2-15.)

1150.06 OLDE GAHANNA RECREATION DISTRICT.

The purpose of this District is to preserve natural green spaces and to provide active and passive family-oriented recreational activities:

(a) Permitted Uses.

	Public parks.
	Public golf courses.
	Public sports fields.
	Public swimming pools.
	Public water craft.

(b) Conditional Uses.

713910	Private Golf Courses.
713940	Private Swimming Pools.
	Outdoor Entertainment Space.
7999	Amusement and Recreation Services.
813410	Civic, social and fraternal organizations.

(Ord. 0211-2011. Passed 12-27-11.)

CHAPTER 1155
OCT Office, Commerce and Technology District

1155.01	Purpose and intent.	1155.08	Utilities and lighting.
1155.02	Permitted uses.	1155.09	Environmental standards.
1155.03	Conditional uses.	1155.10	Signage.
1155.04	Site planning.	1155.11	Special requirements.
1155.05	Building appearance.	1155.12	Non-conforming uses.
1155.06	Landscaping and screening.	1155.99	Penalty.
1155.07	Outdoor storage areas.		

1155.01 PURPOSE AND INTENT.

(a) This chapter is meant to supersede the M-1 Manufacturing zoning code in existence prior to its enactment.

(b) The City of Gahanna recognizes the importance of incorporating various types of businesses within the City to promote a healthy, balanced economy, and create opportunities for residents to work in the same community in which they live. The OCT district is a zoning classification that will allow for the development of various types of manufacturing, warehouse, office, and retail uses, and creates uniform development standards for each use. Uniform development standards will allow a variety of uses to co-exist with minimal impact on each other and the surrounding land uses. (Ord. 0141-2009. Passed 9-21-09.)

1155.02 PERMITTED USES.

(a) Reference to NAICS Classification.

- (1) The 2007, or as amended, North American Industry Classification System, which is a United States governmental system for classifying business establishments, shall be used to identify all permitted and conditional uses. The NAICS classification is incorporated by reference in Chapter 1155. This classification system may be electronically accessed at <http://www.census.gov/naics>.
- (2) Uses shall be identified by their corresponding number, and unless otherwise noted, all uses falling within that sub heading shall be permitted. (For example: if reference is made to section 11-Agriculture, Forestry, Fishing and Hunting then all sub headings under section 11 shall apply. If reference is made to section 111- Crop production then only uses under 111 would apply. Further if reference is made to section 111114 - Wheat farming, then only wheat farming would be permitted in the district.
- (3) In the event that it is unclear as to where a proposed use falls into the NAICS classification system, the City of Gahanna Planning and Zoning Administrator shall make the final determination.

(b) Permitted Uses - The following uses shall be permitted according to the NAICS system of classification:

- 1114 - Greenhouse, Nursery and floriculture production
- 22112 - Electric Power Transmission, Control and Distribution
- 23 - Construction
- 311 - Food manufacturing; with the exception of the following uses, which shall be prohibited:
 1. 3116 - Animal Slaughtering and Processing
 2. 3117 - Seafood Product Preparation and Packaging
- 3121 - Beverage Manufacturing
- 313 - Textile Mills
- 314 - Textile Product Mills
- 315 - Apparel Manufacturing
- 3162 - Footwear Manufacturing
- 3212 - Veneer, Plywood and Engineered Wood Product Manufacturing
- 3219 - Other Wood Product manufacturing
- 3222 - Converted Paper Product Manufacturing
- 3231 - Printing and Related Support Activities
- 3254 - Pharmaceutical and Medicine Manufacturing
- 3261 - Plastics Product Manufacturing
- 3271 - Clay Product and Refractory Manufacturing
- 3272 - Glass and Glass Product Manufacturing
- 3279 - Other Nonmetallic Mineral Product Manufacturing
- 332 - Fabricated Metal Product Manufacturing; with the exception of the following uses, which shall be prohibited:
 1. 332992 - Small Arms Ammunition Manufacturing
 2. 332993 - Ammunition(except small arms)Manufacturing
 3. 332995 - Other Ordnance and Accessories Manufacturing
- 333- Machinery Manufacturing
- 334 - Computer and Electronic Product manufacturing
- 335 - Electrical Equipment, Appliance and Component Manufacturing;
- 336 - Transportation Equipment Manufacturing;
- 337 - Furniture and Related Product Manufacturing
- 339 - Miscellaneous Manufacturing
- 42 - Wholesale Trade; with the exception of the following uses, which shall be prohibited:
 1. 42314 - Motor Vehicle Parts (used) Merchant Wholesalers
 2. 42452 - Livestock Merchant Wholesalers
- 44 through 45 - Retail Trade;
- 48 Through 49 - Transportation and Warehousing;
- 51 - Information
- 52 - Finance and Insurance
- 53 - Real Estate Rental and Leasing
- 54 - Professional, Scientific and Technical services
- 55 - Management of Companies and Enterprises
- 56 - Administrative and Support and Waste Management and Remediation Services;
- 61 - Educational Services; with the exception of the following uses, which shall be prohibited:
 1. 6111 - Elementary and Secondary Schools
- 62 - Health Care and Social Assistance; with the exception of the following uses, which shall be prohibited:

1. 623 - Nursing and residential Care Facilities
2. 62422 - Community Housing Services
- 71 - Arts, Entertainment and Recreation; with the exception of the following uses, which shall be prohibited:
 1. 711212 - Racetracks
 2. 71213 - Zoos and Botanical gardens
 3. 7131 - Amusement Parks and Arcades
 4. 7132 - Gambling Industries
- 722 - FOOD SERVICES AND DRINKING
- 81 - Other Services (Except Public Administration); with the exception of the following uses which shall be prohibited:
 1. 8123 - Dry Cleaning and Laundry Services
Business volume restrictions. - dry cleaning establishments will be limited in size and volume to those typically located in retail buildings and providing convenience services to the general public. High volume commercial dry cleaning facilities shall not be permitted.
 2. 814 - Private households
- 92 - Public Administration
(Ord. 0026-2015. Passed 3-2-15.)

1155.03 CONDITIONAL USES.

(a) The following uses shall be allowed in the OCT district subject to approval in accordance with Chapter 1169:

- (1) 4247 - Petroleum and Petroleum Products Merchant Wholesalers
- (2) 486 - Pipeline Transportation
- (3) 45393 - Manufactured (Mobile) Home Dealers
- (4) 45431 - Fuel Dealers
- (5) 486 - Pipeline Transportation
- (6) 48841 - Motor Vehicle Towing
- (7) Any commercial use, similar to those listed herein as permitted uses, which is deemed accessory or advantageous to the primary use.
- (8) Any industrial use, similar to those herein listed as permitted uses, which is considered non-objectionable and not involving operations which are obnoxious or offensive by reason of dust, odor, smoke, gas, fumes, refuse, noise or vibration.
- (9) Outdoor storage area meeting the regulations defined in Section 1155.07.
- (10) 721 ACCOMMODATIONS WITH THE EXCEPTION OF THE FOLLOWING USES, WHICH SHALL BE PROHIBITED:
 1. 72112 - CASINO HOTELS
 2. 7212 - RV (RECREATIONAL VEHICLE) PARKS AND RECREATION CAMPS
 3. 7213 - ROOMING AND BOARDING HOUSES

(b) Application for Conditional Use. The intent of the procedure for authorizing a conditional use is to set forth the development standards and criteria for locating and developing a conditional use in accordance with the nature of the surrounding area, conditions of development, and with regard to appropriate plans.

- (1) Written application shall be made to the Planning and Zoning Administrator who shall transmit such application to the Planning Commission. See Section 1169.03. (Ord. 0026-2015. Passed 3-2-15.)

1155.04 SITE PLANNING.

Reference is made to the U.S. Green building Council's (USGBC) LEED® for New Construction & Major Renovations, Version 2.2 in various sections of this code. The City's intention is to encourage, but not mandate, the inclusion of sustainable design practices in the planning and execution of building projects within the boundaries of the OCT district. Other nationally recognized industry standards relative to sustainable and energy efficient design and construction, which now exist or may be adopted in the future, may be considered as supporting documentation for equivalent alternative designs.

(a) Minimum Lot Standards.

- (1) Minimum Street Frontage. All lots shall abut a public street or private drive, and have sufficient lot width at the building setback line to provide for the use proposed, and the yard space required by these development standards.

- (2) Minimum Lot Size. Lot size shall, at a minimum be one acre, and adequate to provide for the use proposed, yard space required by these development standards, and the following provisions.

A. A use allowed in this district shall entirely enclose its primary operation within a structure. Open storage and service areas, and loading docks shall be screened by walls or fences as defined in 1155.06.

B. A lot shall be adequate in size to provide for all storm water and utility provisions necessary to serve the property. In the event of a planned development, shared storm water detention will be permitted as approved by the City Engineer.

- (b) Yards Required. All lots or uses shall have established minimum yard setbacks from all right of way lines and property lines. Yards required herein shall be established to minimize impacts from building and development on adjacent parcels and rights of way, as well as preserve areas around the perimeter of each parcel, or use to create buffer zones between each parcel. No building or structure shall be permitted, constructed, modified or expanded within the required yard space as defined herein. Accessory uses and structures shall not be permitted within the required yard space; however, parking and circulation may be permitted subject to the required paving parking setbacks listed herein.

CODIFIED ORDINANCES OF GAHANNA
PART THIRTEEN - BUILDING CODE

- Chap. 1301. Ohio Building Code.**
- Chap. 1303. Residential Building Code.**
- Chap. 1305. Property Maintenance Code.**
- Chap. 1307. Division of Building and Zoning Regulation.**
- Chap. 1309. Responsibilities of Owners and Occupants.**
- Chap. 1311. Registration.**
- Chap. 1312. Permits and Fees.**
- Chap. 1315. Electrical Inspector.**
- Chap. 1317. Local Construction Provisions.**
- Chap. 1319. Apartment Security Regulations. (Repealed)**
- Chap. 1321. Numbering Buildings.**
- Chap. 1325. Swimming Pools.**
- Chap. 1329. Storage Buildings and Sheds. (Repealed)**
- Chap. 1331. Safe and Sanitary Maintenance of Dwelling Units.**
- Chap. 1333. Satellite Earth Station. (Repealed)**

CHAPTER 1311
Registration

1311.01	Definitions.	1311.05	Registration renewal.
1311.02	Contractor registration required.	1311.06	Appeal to Director of Planning and Development.
1311.03	Application fee and insurability.	1311.99	Penalty.
1311.04	Qualifications of applicants.		

CROSS REFERENCES

Power to license - see Ohio R.C. 715.27

Duties of Chief Building Official - see BLDG. 1307.03(b)(9)

1311.01 DEFINITIONS.

- (a) "Person" means only a natural person.
- (b) "Registered contractor" means a person or a corporation, partnership, proprietorship, firm or other such business organization which has as its employee, partner or principal, a person who has been registered to perform work in this City, pursuant to this chapter. For purposes of this chapter, a contractor is not thereby a registered contractor if he/she contracts with a subcontractor who is registered, nor is a subcontractor registered if he/she contracts with a registered contractor to perform work in this City pursuant to this chapter.
- (c) "Registered heating and air conditioning contractor" means a contractor registered to perform heating and air conditioning work.
- (d) "Heating and air conditioning work" means the installation, maintenance, alteration or repair of air conditioning and refrigeration systems, or heating systems.
- (e) "Plumbing contractor" means a contractor registered to perform plumbing work.
- (f) "Plumbing work" means the construction, installation, alteration or repairing of any plumbing drain, vent, sump, water closet, sink, lavatory or other plumbing fixture, but shall not include repairs not affecting sanitation, such as mending leaks in faucets, valves or water supply pipes, mending of broken fixtures, tanks, water heaters, releasing frozen pipes or rodding and flushing of any house sewer or drain.
- (g) "Registered electrical contractor" means a contractor registered to perform electrical work.

(h) "Electrical work" means the installation, maintenance, alteration, or repair of electrical equipment, except repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bare joints, repairing drop cords, repairing electrical parts or any appliance or electrical equipment.

(i) "Gas piping contractor" means a contractor registered to perform gas piping work.

(j) "Registered remodeling contractor" means a contractor registered to perform remodeling work.

(k) "Remodeling work" means the repair, replacement, remodeling, alteration, conversion, modernization or improvement of the land and building used as a commercial building and/or as a residence and a dwelling place, including, but not limited to: driveways, swimming pools, porches, garages and fallout shelters attached to a commercial building and/or a residence and a dwelling place, but shall not include new homes or landscaping.

(l) "Sign" means the definition as stated within Chapter 1165 of these Codified Ordinances. (Ord. 0186-2014. Passed 1-2-15.)

1311.02 CONTRACTOR REGISTRATION REQUIRED.

No person, partnership, corporation, contractor or business organization for consideration shall perform HVAC, electrical, plumbing, gas piping, remodeling work, sign or fence erection unless he/she is a registered contractor in each phase of the work. Fence erection registration is not required if the contractor holds a current home improvement registration. Gas piping registration may be included under plumbing or HVAC registration. (Ord. 0186-2014. Passed 1-2-15.)

1311.03 APPLICATION FEE AND INSURABILITY.

(a) Any person seeking to perform heating and air conditioning, electrical, plumbing, gas piping, sign, or remodeling work shall make application to the Chief Building Official and enclose therewith an application fee as established in the Development Fee Schedule set forth in Section 148.12 in Part One of these Codified Ordinances and proof of insurability for the faithful performance of his work in a reasonable amount of liability insurance as determined by the Chief Building Official.

(b) The applicant seeking to perform HVAC, plumbing, gas piping, electrical or remodeling work shall have relevant experience, or be a journeyman in the trade in which he seeks to perform, or be a registered contractor to perform such work in the City of Columbus or the County of Franklin, Ohio.

(c) Homeowners shall not be required to be registered for performing work for the dwelling which they occupy or intend to occupy. Homeowners shall obtain required permits and inspections for each phase of the work. (Ord. 0186-2014. Passed 1-2-15.)

1311.04 QUALIFICATIONS OF APPLICANTS.

(a) In determining whether to issue the registration for an applicant, the Chief Building Official shall consider the following factors:

- (1) The applicant's training and other licenses and registrations granted applicant.
- (2) The applicant's insurability to perform work faithfully.
- (3) The applicant's reputation as to honesty, and competent and qualified work.

(b) If the Chief Building Official determines that the applicant is unqualified, the Chief Building Official shall so notify the applicant in writing and shall state the reasons therefor.

(c) If the Chief Building Official determines that the applicant is qualified, the Chief Building Official shall so notify the applicant, who within forty-five days of the date of such notice, shall present proof of adequate liability insurance and his/her performance bond in the amount determined sufficient by the Chief Building Official to the Chief Building Official, who shall then issue the registration, which shall be valid for not longer than December 31 of the year in which the registration was issued, so long as the registered contractor retains his/her bond.

(d) The Chief Building Official shall determine the qualifications of the applicant within sixty days of the filing of the application.
(Ord. 0186-2014. Passed 1-2-15.)

1311.05 REGISTRATION RENEWAL.

(a) A registered contractor may renew his/her registration by filing within thirty days after the expiration of his/her existing valid registration an application for renewal and enclosing therewith a filing fee as established in the Development Fee Schedule set forth in Section 148.12 in Part One of these Codified Ordinances and his/her bond for the faithful performance of his/her work in a reasonable amount as determined by the Chief Building Official.

(b) Unless the Chief Building Official notifies the applicants within thirty days of the filing of the application that the renewal is denied, the Chief Building Official shall issue the applicant a license. (Ord. 0186-2014. Passed 1-2-15.)

1311.06 APPEAL TO DIRECTOR OF PLANNING AND DEVELOPMENT.

(a) An applicant whose application has been denied pursuant to Sections 1311.04 or 1311.05 may appeal that decision within fifteen days of receipt of notice of denial to the Director of Planning and Development, who shall re-determine the application, taking into account the decision of the Chief Building Official and the factors described in Section 1311.04(a).

(b) Within sixty days from the filing of the appeal, the Director of Planning and Development shall notify both the applicant and the Chief Building Official of his/her decision which shall be final. If the Director of Planning and Development determines that the applicant is qualified, he/she shall order the Chief Building Official to issue a registration upon the applicant's presenting the Chief Building Official with proof of adequate liability insurance and a bond as required. (Ord. 0186-2014. Passed 1-2-15.)

1311.99 PENALTY.

Any person violating any provision of this chapter shall be charged with a minor misdemeanor on the first offense and for each subsequent offense shall be charged with a misdemeanor of the fourth degree. (Ord. 0186-2014. Passed 1-2-15.)

CHAPTER 1319
Apartment Security Regulations (Repealed)

EDITOR'S NOTE: Former Chapter 1319 was repealed
by Ordinance 0186-2014.

(NOTE: The next printed page is page 45.)

CHAPTER 1329
Storage Buildings and Sheds (Repealed)

EDITOR'S NOTE: Former Chapter 1329 was repealed
by Ordinance 0186-2014.

1331.03 PAINTING EXTERIOR WOOD SURFACES.

All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements by paint or other protective covering or treatment that adheres in all places.
(Ord. 0140-2007. Passed 7-16-07.)

1331.04 FLOORS, INTERIOR WALLS AND CEILINGS.

Floors, interior walls and ceilings shall be sound and in good repair. All interior walls and ceilings of rooms and hallways shall provide:

- (a) A suitable base for decorative finish, and
- (b) A waterproof and hard surface for spaces subject to moisture. There shall not be noticeable surface irregularities or cracking so as to be a safety hazard.
(Ord. 0140-2007. Passed 7-16-07.)

1331.05 TOXIC PAINTS ARE PROHIBITED ON INTERIOR SURFACES.

Toxic coatings, including those paints, lacquers, or any other coatings that contain a higher level of lead than permitted in the Federal Government's Lead Based Paint Poisoning Prevention Act, Public Law 91-695, and any amendments thereto, are prohibited.
(Ord. 0140-2007. Passed 7-16-07.)

1331.06 GRADING TO ELIMINATE WATER SEEPAGE.

Every premise shall be graded, drained, free of standing water, and maintained in a clean, safe and sanitary condition. Grading shall be done to assure drainage away from basement walls.
(Ord. 0140-2007. Passed 7-16-07.)

1331.07 KITCHEN AND BATHROOM FLOORS.

Floors in kitchens and bathrooms shall be of a durable, waterproof, nonabsorbent material. Wood finish flooring that is evidenced not to be impervious for these rooms is not acceptable and shall be covered with an impervious material.
(Ord. 0140-2007. Passed 7-16-07.)

1331.08 STAIRS AND PORCHES.

Every inside and outside stair, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.
(Ord. 0140-2007. Passed 7-16-07.)

1331.09 RAIN CARRIERS.

The owner of any structure shall be responsible for the installation and maintenance of adequate rain carriers where such rain carriers are required by the Building Code of the City of Gahanna or where the absence thereof creates a structural or a health hazard, or unsightly appearance of walls and windows.
(Ord. 0140-2007. Passed 7-16-07.)

1331.10 OPENINGS TO BE INSECT-PROOF.

Every window, exterior door and hatchway or similar devices shall be rodent-proof and reasonably water-tight and weather-tight, and shall be kept in working condition and good condition and good repair.

- (a) During that portion of the year when there is a need for protection against mosquitoes, flies and other flying insects, every door opening directly from a dwelling unit to outside space used or intended to be used for ventilation, (or where ventilation or cooling is not provided by mechanical means), shall have supplied properly fitting screens having at least sixteen (16) mesh; and every window or other device with openings to outdoor space (exempting nonoperable windows or where ventilation or cooling is provided by mechanical means), used or intended to be used for ventilation, shall be supplied with screens; except that such screens shall not be required during such period:
 - (1) In rooms deemed by the Chief Building Official or his legally designated representative to be located high enough in the upper stories of a building so as to be free from such insects; and
 - (2) In rooms located in areas of this City of Gahanna which are deemed by the Chief Building Official or his legally designated representative to have so few insects as to render screens unnecessary.
- (b) Every window located at or near ground level used or intended to be used for ventilation and every other opening located at or near ground level which might provide an entry for rodents, shall be supplied with adequate screen or such other devices as will effectively prevent their entrance.
(Ord. 0140-2007. Passed 7-16-07.)

1331.11 RATPROOFING.

Every structure, dwelling unit, and rooming unit and the premises on which it is located shall be maintained in a rat-free and ratproof condition in areas of heavy rat infestation.

- (a) All openings in the exterior walls, foundations, basements, ground or first floors and roofs which have a half-inch diameter or more opening shall be ratproofed in an approved manner if they are within forty-eight (48) inches of the existing exterior ground level immediately below such openings, or if they may be reached by rats from the ground by climbing unguarded pipes, wires, cornices, stairs, roofs, and other items such as trees or vines or by burrowing.
- (b) Skirting, lattice, or other non-ratproofed enclosure creating a possible rat harborage under a porch or any portions of a building shall be ratproofed at all locations where a rat could find, burrow, or gnaw an access opening.
- (c) All doors shall be constructed so that the space between the lower edge of the door and the threshold shall not exceed three-eighths (3/8) inch; provided further that the space between sections of folding and sliding doors when not closed shall not exceed three-eighths (3/8) inch.
- (d) Interior floors of basements. Cellars and other areas in contact with the soil shall be paved with concrete or other rat impervious material such as to prevent rodent access to the interior.

- (e) In areas of heavy rat infestation, the Chief Building Official or his legally designated representative shall require that the lower eight (8) inches of wooden exterior doors be covered with an impregnable material. Metal shall be formed into a cuff and channel so that no wood edges are exposed and so that all exposed metal edges are rolled or folded to eliminate any hazard; an alternate method shall be acceptable if it is equally ratproof. Bolts for attaching sheet metal to the door shall not project more than one-sixteenth (1/16) inch beyond the fastening nuts.
- (f) In areas of heavy rat infestation, the Chief Building Official or his legally designated representative shall require that every exterior door be equipped with an automatic closing device, or with a screen door which shall be equipped with such a device and shall be fitted as specified in this Code.
- (g) In areas of heavy rat infestation, all window openings or other lighting or ventilating openings below grade, or within forty-eight (48) inches above ground level, or otherwise accessible to rats, shall be ratproofed in an approved manner by an impregnable material attached to sturdy frames and so fabricated that no exposed wood is accessible for gnawing.
- (h) Openings for outside stairways, elevator shafts, coal holes, etc., below grade shall be provided with tight fitting metal covers and frames flashed with twenty-four (24) gauge galvanized sheetmetal or other approved materials unless they are of the open type, and, in this case, they shall have the door or window opening in the foundation protected as required above for doors or window openings. Walls of such portions of any structure shall be of ratproof material.
- (i) All sewers, pipes, drains, or conduits through which rats may pass shall be closed with a properly secured device designed to allow water to pass through but to prevent the access of rats.
- (j) All openings for pipes, conduits, and other utility services accessible to rats shall be closed solidly for the full thickness of the wall, floor, roof, etc., with an approved ratproof material or fitted with a collar or shield, securely fastened to the wall or floor, of not less than twenty-four (24) gauge galvanized sheetmetal or other approved materials, extending at least three (3) inches beyond all sides of the opening.
- (k) Skylights shall be designed to fit tightly and shall be constructed of approved ratproof materials. Adjustable skylights which may be opened shall be screened with hardware cloth or expanded metal.
- (l) Roof ventilators, chimneys, pipe vents, downspouts, etc., shall be protected against entry by impregnable material or other acceptable ratproof material.
- (m) The following specifications shall apply to the installation of all ratproof walls:
 - (1) Ratproof walls of concrete construction or other material permitted by the Building Code shall be required beneath the exterior wall of every building or enclosed part thereof and every enclosed shed, porch, bay, or other enclosed structure which is not supported on a continuous masonry foundation wall.
 - (2) All ratproof walls shall be at least four (4) inches thick and extend at least twelve (12) inches above grade and to a depth of twenty-four (24) inches below grade at all points.

- (3) The concrete used in ratproof walls shall not be inferior to a mixture of one (1) part cement to six (6) parts of combined aggregate (sand and gravel) by volume. This is approximately equivalent to the commercial "five-bag-per-cubic-yard" mix. Nothing shall be put into the trenches except fresh concrete of this quality, and each section of the wall must be placed in one (1) "pour" without interruption.
- (n) If the space between two (2) buildings is too small to permit inspection of the exterior walls of such building, such space shall be sealed so as to prevent the entrance of rats. Provisions shall be made in the ratproofing in such cases that drainage is not obstructed.
- (o) After extermination, all of the rat holes or burrows in the ground shall be eliminated or filled with earth or other suitable material.
(Ord. 0186-2014. Passed 1-2-15.)

1331.12 FENCES.

All fences provided by the owner or agent on the premises and/or all fences erected or caused to be erected by an occupant shall be constructed and maintained subject to Chapter 1171 of these Codified Ordinances.

(Ord. 0140-2007. Passed 7-16-07.)

1331.13 ACCESSORY STRUCTURE.

Accessory structures shall be structurally sound, and be maintained in good repair and free of insects and rats, or such structures shall be removed from the premises. The exterior of such structures shall be made weather resistant through the use of decay resistant materials or the use of paint or other preservatives.

(Ord. 0140-2007. Passed 7-16-07.)

1331.14 DISCONTINUANCE OF UTILITIES IS PROHIBITED.

No owner, operator, or occupant shall cause any service, facility, equipment or utility which is required under this chapter to be removed from or shut off from or discontinued for any occupied dwelling unit let or occupied; except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the appropriate authority.

(Ord. 0140-2007. Passed 7-16-07.)

1331.15 CONFORMANCE OF MEANS OF EGRESS.

All construction and materials, ways and means of egress, and installation and use of equipment shall conform with the appropriate statutes, ordinances, and regulations dealing with fire protection of the City of Gahanna and the State of Ohio.

(Ord. 0140-2007. Passed 7-16-07.)

1331.16 FLASHING.

All critical joints in exterior roof and wall construction shall be protected by sheetmetal or other suitable flashing material to prevent the entrance of water.

(Ord. 0140-2007. Passed 7-16-07.)

CHAPTER 1333
Satellite Earth Station (Repealed)

EDITOR'S NOTE: Former Chapter 1333 was repealed
by Ordinance 0186-2014.

