



NEWTON FALLS CITY COUNCIL
REGULAR MEETING AGENDA
 Wednesday, February 15, 2023; 6:00 PM
 COUNCIL CHAMBERS
 612 WEST BROAD STREET

CITY COUNCIL MEMBERS	
Ward 1	Gideon Fetterolf
Ward 2	John Baryak
Ward 3	Tesa Spletzer
Ward 4	Kevin Rufener
At- Large	Julie Stimpert
Mayor	Kenneth Kline

CITY ADMINISTRATION	
City Manager	Pamela Priddy
Law Director	Brad Bryan
Finance Director	Sean Housley
City Clerk	Michael Acomb

- I. **Call to Order**
- II. **Pledge of Allegiance / Silent Prayer**
- III. **Roll Call**
- IV. **Special Presentations by Staff Members or Invited Consultants**
- V. **Public Comments (Agenda Items Only)**
- VI. **Reports**
 - a. Mayor
 - b. Council Members
 - c. Finance Director
 - d. Law Director
 - e. City Manager

Changes To Tonight's Agenda

- VII. **Approval of Previous Minutes**
 Regular Meeting Minutes of February 1, 2023

VIII. **Public Hearings**

ORDINANCE 2023-03 *Sponsor: Councilperson Spletzer*
 AN ORDINANCE AMENDING SECTIONS 121.01(d) and 121.02(b) OF THE CODIFIED ORDINANCES RELATING TO THE TIME AND DATE OF REGULAR COUNCIL MEETINGS AND METHOD AND DEADLINE FOR DELIVERY OF COUNCIL MEETING AGENDAS TO THE MAYOR, COUNCIL, PERSONS ON THE VILLAGE NOTICE LIST, AND WEBMASTER

ORDINANCE 2023-04 *Sponsor: Mayor Kline*
 AN ORDINANCE APPROVING THE RECODIFICATION, EDITING, AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF NEWTON FALLS, OHIO

ORDINANCE 2023-07

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH TEREX UTILITIES, INC. TO PURCHASE A TEREX COMMANDER 4047 HYDRAULIC ROTATING DIGGER DERRICK FOR THE ELECTRIC DEPARTMENT

IX. Unfinished Business

ORDINANCE 2023-03

Sponsor: Councilperson Spletzer

AN ORDINANCE AMENDING SECTIONS 121.01(d) and 121.02(b) OF THE CODIFIED ORDINANCES RELATING TO THE TIME AND DATE OF REGULAR COUNCIL MEETINGS AND METHOD AND DEADLINE FOR DELIVERY OF COUNCIL MEETING AGENDAS TO THE MAYOR, COUNCIL, PERSONS ON THE VILLAGE NOTICE LIST, AND WEBMASTER

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X. New Business

RESOLUTION 01-2023

Co-sponsors: Mayor Kline, Councilpersons Fetterolf, Baryak, Spletzer, Rufener, & Stimpert

A RESOLUTION HONORING SEARGENT BRIAN FOOR FOR 30 YEARS OF SERVICE TO NEWTON FALLS

RESOLUTION 02-2023

Co-sponsors: Mayor Kline, Councilpersons Fetterolf, Baryak, Spletzer, Rufener, & Stimpert

A RESOLUTION HONORING WATER TREATMENT DEPARTMENT EMPLOYEE RAY KOVACS FOR 31 YEARS OF SERVICE TO NEWTON FALLS

ORDINANCE 2023-08

Sponsor: Councilperson Fetterolf

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH 12 POINT CONSULTING, LLC TO PROVIDE TEMPORARY OPERATION SERVICES TO THE WATER DEPARTMENT ON AN AS NEEDED BASIS

ORDINANCE 2023-09

Sponsor: Councilperson Baryak

AN ORDINANCE ESTABLISHING SECTION 153.01 OF THE ADMINISTRATIVE CODE PERTAINING TO HOLIDAYS

XI. Public Comments

XII. Closing Remarks

XIII. Motion to Recess into Executive Session (If Necessary)

XIV. Adjournment



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 COUNCIL CHAMBERS
 612 WEST BROAD STREET

CITY COUNCIL MEMBERS	
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Ward 2	John Baryak
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Ward 4	Kevin Rufener
At- Large	Julie Stimpert
Mayor	Kenneth Kline

CITY ADMINISTRATION	
City Manager	Pamela Priddy
Law Director	Brad Bryan
Finance Director	Sean Housley
City Clerk	Michael Acomb

I. Call to Order

Mayor Kline called the meeting to order at 6:00 pm.

II. Pledge of Allegiance / Silent Prayer

III. Roll Call

Council Present: Councilperson Fetterolf, Councilperson Baryak, Councilperson Spletzer, Councilperson Stimpert, Mayor Kline

Council Absent: None

Staff Present: City Manager Priddy, Clerk Acomb, Law Director Bryan, Finance Director Housley; City Administrator Smeiles

Staff Absent: None

IV. Special Presentations by Staff Members or Invited Consultants

Annual Reports - No annual reports were presented to Council.

V. Public Comments (Agenda Items Only)

Lyle Waddell – Fox Tail Drive, Myrtle Beach, SC

Mr. Waddell spoke against the meeting minutes of January, 18 2023 and Mr. Baryak's statements regarding Mr. Waddell at that meeting. Mr. Waddell spoke in support of the Rehab Center employees. He spoke about past economic development efforts by the Village, commended the previous Mayor and read from various emails to support his statements.

Julie Lemon – 609 Ridge Road

She spoke regarding Ordinance 2023-03 and asked for language to be added regarding the delivery of the agenda to the public via the website.

Adam Zimmermann – 515 Lemae Avenue

He spoke against Ordinance 2023-06 and asked for clarity regarding the language stating his belief that it unfairly targets business and citizens who may hand out harmless flyers, etc..... He

admonished economic development team for allowing an ordinance to be presented that would hurt businesses. He spoke about the meeting minutes of 01-04-2023 and stated that the list of council appointments has not been made public as they were missing from the agenda packet, when they were approved by Council.

Ana Eby – 50 W. 9th Street

She spoke about Ordinance 2023-04. She asked Council to be sure to explain this ordinance in detail.

John Richards – 212 Albert Street

He spoke against Ordinance 2023-06 citing no obvious outcry or problem in the community. He spoke about Ordinance 2023-07 and asked Council to explain in detail what the equipment is, what it replaces, and how the purchase is justified.

VI. Reports

a. Mayor

b. Council Members

- i. Ward 1 – Mr. Fetterolf - no report
- ii. Ward 2 – Mr. Baryak - no report
- iii. Ward 3 – Ms. Spletzer - The Parks and Recreation meeting for January was cancelled due to lack of quorum. The next meeting is February 28.
- iv. Ward 4 – Mr. Rufener - He spoke about a meeting with the Ohio EPA about how staffing was to occur at the water treatment plant. He stated that the EPA was more than pleased with the future course of action set by the administration. He relayed that the EPA stated inform the Village that upgrades and infrastructure changes will be necessary for the near future
- v. At-Large – Ms. Stimpert – The Fire Board meeting was held on January 17 and the next one is February 7. She has an annual report from the Fire Board that will be shared with Council via email. She announced the email has recently been repaired.

c. Finance Director

- i. Mr. Housley clarified and apologized for the early application of fees onto recent electric bills. This will be corrected in February by giving a credit for that month. The Village will resume the charge in March.

d. Law Director

- i. No report

e. City Manager

- i. Ms. Priddy spoke on several topics including (1) a Thank You received from the American Red Cross for a successful year whereas 41 units of blood were collected (123 lives impacted), (2) the first report from the Sheriff's dept and she provided a summary of the report, and (3) Richard Coss was promoted to Superintendent of the Street Department citing his initiative and commitment to improving the Department, while Justin Frendek has been appointed Crew Chief. She added that the Ohio EPA was pleased with the Village plan for the water treatment plant, but stated the need for future upgrades. OHM has been advised to pursue grant opportunities for those upgrades and are on the State's notification list when grants become available.

Changes To Tonight's Agenda

Mayor Kline asked for a Motion to add Resolution 03-2023 to the agenda.

Moved by: Mr. Baryak

Seconded by: Ms. Spletzer

No discussion.

Roll Call Vote: Ms. Stimpert-yes; Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes

The Motion passed 5-0. Resolution 03-2023 was added to New Business.

VII. Approval of Previous Minutes

Regular Meeting Minutes of January 18, 2023

Mayor Kline asked for a Motion to approve the Regular Meeting Minutes of January 18, 2023.

Moved by: Ms. Spletzer

Seconded by: Mr. Fetterolf

No discussion.

Roll Call Vote: Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes; Mr. Fetterolf-yes; Mr. Baryak-yes

The Motion passed 5-0. The minutes were approved.

VIII. Public Hearings

ORDINANCE 2023-03

Sponsor: Councilperson Spletzer

AN ORDINANCE AMENDING SECTIONS 121.01(d) and 121.02(b) OF THE CODIFIED ORDINANCES RELATING TO THE TIME AND DATE OF REGULAR COUNCIL MEETINGS AND METHOD AND DEADLINE FOR DELIVERY OF COUNCIL MEETING AGENDAS TO THE MAYOR AND COUNCIL

No public comment.

IX. Unfinished Business

ORDINANCE 2023-03

Sponsor: Councilperson Spletzer

AN ORDINANCE AMENDING SECTIONS 121.01(d) and 121.02(b) OF THE CODIFIED ORDINANCES RELATING TO THE TIME AND DATE OF REGULAR COUNCIL MEETINGS AND METHOD AND DEADLINE FOR DELIVERY OF COUNCIL MEETING AGENDAS TO THE MAYOR AND COUNCIL

Mayor Kline called for a motion to pass the ordinance.

Moved by: Ms. Spletzer

Seconded by: Mr. Baryak

Ms. Stimpert asked if the ordinance could be amended to ensure that the public receives the agenda at the same time as Council. Mr. Bryan asked the Clerk to clarify the current procedures. The Clerk said that a draft is emailed to Council on Saturdays by noon, feedback on the draft is received until Monday, and a final draft is emailed to Council, the administration, members of the public who appear on the "notice" list, and the website manager by noon on Mondays. The website manager varies in the length of time taken to post the agenda to the website. Ms. Stimpert made a motion to amend the ordinance to stipulate that Mondays at noon would also be the time at which the agenda is sent to the "notice list" and posted on the website. Mr. Bryan clarified that the law does not require the agenda to be provided to the public in any particular time period prior to meetings; however, he did indicate that Council could choose to be open to providing that information to the public at the same time that Council receives a final version. Mayor Kline called for a second to Ms. Stimpert's motion to amend. Mr. Rufener suggested to have the amendment say, "Mayor, Council, and Public". Mr. Rufener seconded the motion to amend. Ms. Spletzer spoke against Mr. Rufener's suggestion for

the amendment. Mr. Rufener clarified that by “Public” he meant posting it to the website for the public to access. Mr. Bryan clarified that the amendment would say that the agenda would be sent to the “Mayor, Council, members of the “notice list”, and the web manager for posting on the Village website” Mr. Baryak stated his desire to continue to receive a rough draft on Saturdays prior to the meeting. Ms. Stimpert spoke in support of Mr. Bryan’s suggestion for the amendment.

Mayor Kline called for a roll call vote on the proposed amendment.

Roll Call Vote: Mr. Fetterolf-no; Mr. Baryak-no; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes

The ordinance was amended 3-1.

Mr. Bryan recommended that Council could read the ordinance as amended tonight and pass the first reading; but the ordinance as amended will appear on the agenda for the next meeting for a final reading.

Mayor Kline called for a motion to pass the ordinance as amended.

Moved by: Mr. Rufener

Seconded by: Ms. Stimpert

Mr. Fetterolf asked for clarification regarding the legality of the “notice list” and the requirement of Council to comply with one. Mr. Bryan stated that a state law provides for a “notice list” and his belief that a similar provision appears in the legislative history of the village whereas the public can ask to be notified of meetings, certain topics, etc... and the practice is that the Clerk sends those things to the people on that list. Members of the public need to request to be on the list each new calendar year. Although not required by the Ohio Revised Code, this ordinance memorializes and formalizes current practice. Mr. Fetterolf spoke against the existence of a “notice list” and Mr. Bryan stated that the Ohio Revised Code does require Council to send the agenda to all that it currently does; but Council should comply with any requests that are made by the public. Mr. Bryan clarified for Mr. Baryak that the final version of meeting agenda will be sent by noon on Monday to Council, the Mayor, members of the notice list, and the website manager. Ms. Spletzer clarified that the rough draft of the agenda will still be sent to Council and the Mayor only on Saturdays.

Roll Call Vote: Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes; Mr. Fetterolf-yes

The ordinance was passed 5-0. First Reading as Amended.

The ordinance will be read for final reading at the next meeting.

X. New Business

RESOLUTION 01-2023

Co-sponsors: Mayor Kline, Councilpersons Fetterolf, Baryak, Spletzer, Rufener, & Stimpert

A RESOLUTION HONORING SEARGENT BRIAN FOOR FOR 30 YEARS OF SERVICE TO NEWTON FALLS

RESOLUTION 02-2023

Co-sponsors: Mayor Kline, Councilpersons Fetterolf, Baryak, Spletzer, Rufener, & Stimpert

A RESOLUTION HONORING WATER TREATMENT DEPARTMENT EMPLOYEE RAY KOVACS FOR 31 YEARS OF SERVICE TO NEWTON FALLS

Mayor Kline called for a motion to table Resolution 01-2023 and Resolution 02-2023 because neither person to be honored was able to attend the meeting.

Moved by: Mr. Baryak

Seconded by: Ms. Stimpert

No discussion.

Roll Call Vote: Ms. Stimpert-yes; Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes

The motion passed 5-0. The Resolutions were tabled.

ORDINANCE 2023-04

Sponsor: Mayor Kline

AN ORDINANCE APPROVING THE RECODIFICATION, EDITING, AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF NEWTON FALLS, OHIO

Mayor Kline called for a motion to pass the ordinance.

Moved by: Mr. Baryak

Seconded by: Ms. Spletzer

Mayor Kline asked for clarification from Ms. Priddy or the Law Director. Mr. Bryan explained its purpose in detail including that changes in state law (traffic and criminal sections) and the most recent charter amendments have taken place, and this ordinance allows the Village to officially incorporate those changes into the codified ordinances.

Roll Call Vote: Mr. Baryak-yes; Ms. Spletzer-yes; Ms. Stimpert-yes; Mr. Fetterolf-yes
Mr. Rufener abstained saying that he was not on Council when the changes took place.

The ordinance passed 4-0. First Reading.

ORDINANCE 2023-06

Sponsor: Councilperson Baryak

AN ORDINANCE AMENDING CHAPTER 701 OF THE BUSINESS REGULATION CODE PERTAINING TO ADVERTISING AND HANDBILLS, CIRCULARS, FLYERS, NEWSPAPERS, MAGAZINES, AND LIKE ITEMS AND MATERIALS

Mayor Kline called for a motion to pass the ordinance.

No motion was heard.

ORDINANCE 2023-07

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH TEREK UTILITIES, INC. TO PURCHASE A TEREK COMMANDER 4047 HYDRAULIC ROTATING DIGGER DERRICK FOR THE ELECTRIC DEPARTMENT

Mayor Kline called for a motion to pass the ordinance.

Moved by: Mr. Rufener

Seconded by: Ms. Stimpert

Ms. Priddy stated that the current digger truck is a 1996 model and is used to install telephone poles into the ground. The current truck has an extensive repair history and is long overdue for replacement. This purchase was delayed due to an emergency purchase of the boom truck some time ago that caused this purchase to be postponed despite having been in the budget the past couple years. The state contract price of \$350,000 is a fair price. The new truck will be able to set longer, larger poles, saving the expense of rental truck of \$5000 per rental. Mr. Baryak citing the ability of the new truck to set larger poles and the age of the current truck explained that a new truck would be expected to last 20 years but takes 18-24 months to arrive.

Roll Call Vote: Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes; Mr. Fetterolf-yes

The ordinance passed 5-0. First Reading.

RESOLUTION 03-2023

A RESOLUTION AUTHORIZING THE CITY MANAGER TO COLLECT AND EXPEND DONATED FUNDS FOR A CHILDREN'S EASTER EGG HUNT EVENT

Mayor Kline read the resolution in its entirety and called for a motion to pass it.

Moved by: Ms. Spletzer

Seconded by: Mr. Rufener

Ms. Stimpert and Ms. Priddy clarified that the event would take place outside at the Municipal Center, that it could be postponed for weather, and that a meeting will take place on February 9 with a number of in-town organizations to select an alternate rain

date, choose games, etc.... Ms. Priddy said that the Village is already getting donations, that donations can be made by anyone, and this resolution will authorize everything to move forward. She stated further that the schools, Tiger Tots, and other local organizations will be involved. She also clarified that the Girl Scouts no longer manages this event; but the Village wanted to keep it going.

APPOINTMENTS TO THE CHARTER REVIEW COMMISSION

The Clerk provided Council with a list of applicants. Council was instructed to circle no more than seven (7) applicants, sign the list, and give their list to the Clerk. The Clerk tallied the votes and read the names of the 7 highest vote getters. The 7 highest vote getters were: Condie Bright, Rick Kerlin, Brenda Kren, Julie Lemon, Bruce Moore, John Richards, and Craig Womer.

Mayor Kline called for a motion to accept the results of the voting process and to appoint the seven (7) highest vote-getters, as read by the Clerk, to seats on the Charter Review Commission.

Moved by: Mr. Baryak

Seconded by: Ms. Spletzer

Mr. Baryak said his belief that these seven (7) people represent an excellent balance of new members and seasoned veterans.

Roll Call Vote: Ms. Spletzer-yes; Mr. Rufener-yes; Ms. Stimpert-yes; Mr. Fetterolf-yes; Mr. Baryak-yes

The motion passed 5-0. Mr. Bright, Mr. Kerlin, Ms. Kren, Ms. Lemon, Mr. Moore, Mr. Richards, and Mr. Womer were appointed to the Charter Review Commission for 2023.

XI. Public Comments

Lyle Waddell – Fox Tail Drive, Myrtle Beach, SC

He spoke further to discredit what he claimed to be false and misleading statements by Mr. Baryak...He asserted that during his time of service the economic development committee did its job. He stated further that public records requests have not been filled and he urged Council to do so quickly to avoid potential lawsuits.

Julie Lemon – 609 Ridge Road

She spoke in support of the amendment to Ordinance 2023-03 and the explanations for Ordinance 2023-04. She advised Council that a number of dates on the website that displays the codified ordinances are suspected to be incorrect and should be researched and corrected, if necessary. She spoke about the Easter Egg Hunt and asked if anyone could donate to the cause.

Adam Zimmermann – 515 Lemae Avenue

He spoke against the appointment of Mr. Kren to the Charter Review Commission and stated that an advertisement needed to happen in order for that appointment to be valid. He spoke against Mr. Baryak's actions in the last meeting and admonished Council for not reprimanding Mr. Baryak at this meeting. He addressed Mr. Fetterolf directly and urged him to share a report at each meeting so the public knows he is working. He spoke in support of the public notification of the public of meetings. He spoke against the appointment of Brenda Kren to the Charter Review Commission citing that she did not properly apply for the position in writing.

Don Placer - 342 Oak Knoll

He spoke against Ms. Spletzer's responses to his wife about his wife's inquiry about an error on the electric bill. He stated that Ms. Priddy offered a quick and professional response to the same issue. He alleged that his wife has been subjected to unprovoked sexual harassment and insults by Ms. Spletzer via electronic messaging. He called for Council to discipline Ms. Spletzer and move for her immediate removal from Council.

Phillip Beer – 509 Ravenna Road

He addressed Ms. Spletzer directly and asked for her resignation.

Ashley Placer – 342 Oak Knoll

She addressed Ms. Spletzer directly asking for an apology. She alleged that Ms. Spletzer does not care about her position as a councilperson and should be removed from Council.

XII. Closing Remarks

Ward 1 – Mr. Fetterolf - He spoke in support of residents who wish to encourage and help Council. He spoke against the second public comments session citing poor behavior and “mud-slinging” by residents.

Ward 2 – Mr. Baryak - He spoke against the circulars and fliers that show up in people’s driveways and explained why he sponsored Ordinance 2023-06. He spoke against Mr. Waddell’s statements. He spoke against the use of Facebook and in support of passionate legislators who might sometimes make mistakes. He urged the community to accept Council’s efforts and recognize the positive things that Council has done. He thanked Council for their work.

Ward 3 – Ms. Spletzer - no report

Ward 4 – Mr. Rufener - no report

At-Large – Ms. Stimpert - no report

City Manager – Ms. Priddy - The city is taking donations for the egg hunt with no limit. Anyone can donate. She spoke about the city forum (Trash Talk) and encouraged all to take part in the forum so the issues with the trash collection contractor can be corrected. This will take place on February 7 at the Municipal Center.

Mayor – Mr. Kline – He expressed his thanks to everyone for a positive meeting. He stated that meetings with prospective business and state legislators have been held recently. He encouraged everyone to work together for the benefit of the Village.

XIII. Motion to Recess into Executive Session (If Necessary)

No Motion.

XIV. Adjournment

Mayor Kline called for a Motion to adjourn the Regular Meeting.

Moved by: Mr. Baryak

Seconded by: Ms. Spletzer

No discussion.

Roll Call Vote: Ms. Stimpert-yes; Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Rufener-yes

The motion passed 5-0. The regular meeting was adjourned at 7:16pm.

APPROVED:

Kenneth Kline, Mayor

ATTEST:

Michael Acomb, Council Clerk

CLERK TALLY SHEET

2/1/2023

Charter Review Commission Applicants 2023

MA

		F	St	B	SP	R
1	5	Condie Bright	1	1	1	1
	2	Catie Karl	1			1
6	4	Rick Kerlin	1	1	1	1
7	3	Brenda Kren	1	1	1	
2	5	Julie Lemon	1	1	1	1
3	5	Bruce Moore	1	1	1	1
4	5	John Richards	1	1	1	1
5	4	Craig Womer	1	1	1	
	2	Adam Zimmermann	1			1

TOP 7

fettered

WALE #1

Charter Review Commission Applicants 2023

Condie Bright

~~Catie Karl~~

Rick Kerlin

Julie Lemon

Bruce Moore

John Richards

Craig Womer

~~Adam Zimmermann~~

Brenda Kren

Charter Review Commission Applicants 2023

Condie Bright

Catie Karl

Rick Kerlin

Brenda Kren

Julie Lemon

Bruce Moore

John Richards

Craig Womer

Adam Zimmermann

A handwritten signature in black ink, appearing to read "J. R. Sanyal". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Charter Review Commission Applicants 2023

Condie Bright

Catie Karl

Rick Kerlin

Brenda Kren

Julie Lemon

Bruce Moore

John Richards

Craig Womer

Adam Zimmermann

Refered, Kevin

Charter Review Commission Applicants 2023

	<u>Date sub</u>
Condie Bright	17
Catie Karl	12
Rick Kerlin	12
Brenda Kren	23
Julie Lemon	20
Bruce Moore	16
John Richards	10
Craig Womer	late
Adam Zimmermann	8

Cylio Stimpert

Charter Review Commission Applicants 2023

Condie Bright

Catie Karl

Rick Kerlin

Brenda Kren

Julie Lemon

Bruce Moore

John Richards

Craig Womer

Adam Zimmermann

Stimpert

5/21/18 Job 2

Mr. Haney explained Ronyak was the low bidder coming in at \$46,358.40 we bid through the County. We received five bids.

ROLL CALL: Battisti aye, Baryak aye Stimpert aye Alberini abstain.

MOTION PASSED 3-0-1

Stimpert made a motion seconded by Baryak to approve the minutes.

ROLL CALL: Baryak aye Stimpert aye Alberini aye, Battisti abstain.

MOTION PASSED 3-0-1

Battisti made a motion seconded by Stimpert to accept the Finance Department April monthly report and attachments as presented.

ROLL CALL: Stimpert aye Alberini aye, Battisti aye, Baryak aye.

MOTION PASSED 4-0

Baryak made a motion seconded by Alberini to accept the Police Department April monthly report as presented.

ROLL CALL: Alberini aye, Battisti aye, Baryak aye Stimpert aye.

MOTION PASSED 4-0

4) Discussion on CSX Line Abandonment

Battisti made a motion seconded by Baryak to oppose the action of CSX Transportation, Inc. (CSXT) to abandon and discontinue service over an approximately 13.9-mile rail line on its Newton Falls Substation, between railroad milepost BGA 86.1 and railroad milepost BGA 100.00 all in Trumbull County. To further instruct the Law Director to send an objection on the abandonment to CSX Transportation Inc. Attorney Steven C. Armbrust Esq., 500 Water Street, Jacksonville FL 32202, Louis E. Gitomer, Esq. and Melanie B. Yasbin, Esq. at the law office of Louis E. Gitomer, Esq. LLC at 600 Baltimore Avenue, Suite 301, Towson, MD 21204, Attorneys for CSX Transportation, Inc, to Cynthia T. Brown, Chief of Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E. Street, S.W., Washington, D.C. 20423 and to further notify the Western Reserve Port Authority, Sara Lown 330-856-1537 and the Youngstown Warren Regional Chambers Sara Boyarko, 330-744-2131 of opposition to the abandonment and ask for their guidance. To further instruct the City Manager and Mayor to act on behalf of the City of Newton Falls to work with all groups concerned to maintain the integrity and usability of this rail line between the stated mile posts.

Mayor Waddell stated CSX is abandoning the super that comes out by the sewer plant and that is the lifeline to our economic development. We get inquiries on projects and a lot want rail. This is the last rail we have. In the past we talked that Bar Processing might want rail and we talked

PUBLIC COMMENTS:

John Baryak, 660 North Canal agreed that Council needs to do anything they can to show the people we need the money. He stated there are "feeders and eaters" and not to ask him to pay more when there or those that want to ride for free. He stated it was time to rise up and say we are proud to be from Newton Falls.

Mr. Baryak also said he was tired of hearing people say the City was doing a land grab with the annexation. It is not a land grab when people came to the City to ask to be annexed. He asked what the other townships have done for water, electric and utilities to improve the community and the lives of the residents. He felt the City should have looked at annexation a long time ago.

Mr. Baryak felt that this Council has done more than the last 20 years' worth of council to turn this community around.

9/8/15

John Baryak, 660 North Canal felt that the annexation would benefit people of Newton Falls and Braceville. He stated he owns property in the area and no one has ever approached him to see what they could do to help him. He commended the Mayor for his efforts and the tremendous amount of time he has put into this and thanked him. He said his goal is to make people proud to say they are from Newton Falls.

Economic Dev.

8/24/15

RECORD OF PROCEEDINGS

Minutes of

Meeting

BEAR GRAPHICS 830-325-8034 FORM NO. "C148"

Held

October 2

20 17

Beer stated with his limited hours he thought he was doing a great job. Before Mr. Godfrey a number of people tried to do his job and did not last. Mr. Godfrey has been good and consistent at this job. Beer also noted that Zoning is not something he can make a deal with someone. His job is to enforce the laws.

Alberini stated in his younger days he was a Zoning Inspector and was threatened when going through back yards. He asked Mr. Godfrey if he has ever been threatened. Mr. Godfrey stated quite frequently.

Zamecnik asked if the Police Department could enforce zoning issues. Attorney Fritz stated that zoning issues were not criminal issues and the Police Department could enforce them but would have to follow the same procedures as Mr. Godfrey.

Mayor Waddell said he was on Planning and Zoning years ago. He stated that the community is looking better but still has a long way to go. He also complemented the Planning and Zoning Commission for the work they do.

Changes to the Agenda

APPROVAL OF PREVIOUS MINUTES:

Beer made a motion seconded by Stimpert to adopt the minutes from the September 18, 2017 Regular meeting as submitted.

ROLL CALL: Beer aye, Baryak aye, Stimpert aye, Zamecnik aye, Alberini aye.
MOTION PASSED 5-0

Beer made a motion seconded by Stimpert to adopt the minutes from the September 18, 2017 Special meeting as submitted

ROLL CALL: Baryak aye, Stimpert aye, Zamecnik aye, Alberini aye, Beer aye.
MOTION PASSED 5-0

PUBLIC HEARINGS: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

Alberini made a motion seconded by Beer to schedule a Special meeting for Monday, October 16, 2017 immediately following the Regular meeting to discuss the 2018 budget.

ROLL CALL: Stimpert aye, Zamecnik aye, Alberini aye, Beer aye, Baryak aye.
MOTION PASSED 5-0

Alberini made a motion seconded by Stimpert to schedule a Special meeting for Tuesday, October 17, 2017 at 6:00 p.m. to discuss the 2018 budget.

ROLL CALL: Zamecnik aye, Alberini aye, Beer aye, Baryak aye, Stimpert aye.
MOTION PASSED 5-0

Baryak made a motion seconded by Beer to give the Economic Development team consisting of the Mayor and Alberini the authority to continue to work on annexation and economic development in the future until the end of their terms.

Alberini thanked Council for this opportunity and the encouragement he receives from them. He stated he this this team on Council is a great team and noted that

Police

Nature Code	Description	Number
ABC	ABANDONED 911 CALL	1
ABV	ABANDONED VEHICLE	1
AC	ANIMAL COMPLAINT	3
AD	ALARM DROP	16
C2P	CRASH PROPERTY DAMAGE	4
C4P	CRASH WITH REPORTED INJURIES	1
CD	CRIMINAL DAMAGING	2
CKW	CHECK WELFARE	10
CPS	COURT PAPER SERVICE	4
DAV	DISABLED VEHICLE	1
DIS	DISTURBANCE	3
DOM	DOMESTIC	3
EADP	ALARM DROP MEDICAL	3
EARP	ALLERGIC REACTION	1
EBPP	BLOOD PRESSURE	1
ECAP	CARDIAC ARREST	1
ECPP	CHEST PAINS	2
EDIABP	DIABETIC	2
EFALLP	FALL	4
EGIP	GENERAL ILLNESS	3
EHPP	HEART PROBLEM	1
ELAP	LIFT ASSIST	3
EMENTP	MENTAL	3
EMSP	EMERGENCY MEDICAL ASSISTANCE	3
ENVP	NAUSEA/VOMITING	2
EODP	OVERDOSE	2
ESEIZEP	SEIZURE	1
ESOBP	SHORTNESS OF BREATH	5
ESUIP	SUICIDE	1
EUFP	UNCONSCIOUS/FAINTED	2
EUPP	EMS UNKNOWN PROBLEM/UNCLASSIFIED	4
FFADP	FIRE ALARM DROP	2
FG	FORGERY	1
FODORP	ODOR INVESTIGATION	1
FSMIP	SMOKE INVESTIGATION	1
FVFP	VEHICLE FIRE	1
HAR	HARASSMENT	3
HS	HIT SKIP	1
IDT	IDENTITY THEFT	1
INF	INFORMATION	1
INV	INVESTIGATION	6
ITX	INTOXICATED PERSON	1
LO	LOCKOUT	1
MIS	MISDIALED 911 CALL	1
NEW	NEWTON TWP PATROL AREA	8
REPO	REPO	1
S19	RETURN PHONE CALL	14
SC	SPOT CHECK	6
SOL	SOLICITATION	1
SPA	SUSPICIOUS ACTIVITY	6
SPP	SUSPICIOUS PERSON	5
SPV	SUSPICIOUS VEHICLE	1
SS	SUBJECT STOP	1
STB	STANDBY	2
TH	TELEPHONE HARASSMENT	1

Police

Nature Code	Description	Number
THE	THEFT	1
THR	THREATS	1
TRA	TRANSPORT PERSON OR PRISONER	5
TRC	TRAFFIC REGULATION COMPLAINT	1
TS	TRAFFIC STOP	18
UNK	UNKNOWN PROBLEM	7
UW	UNWANTED PERSON OR PERSONS	2
VER	VERBAL DISPUTE	1
WAR	WARRANT SERVICE	4
GRAND TOTAL:		200

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-03
SPONSOR: Councilperson Spletzer

**AN ORDINANCE AMENDING SECTIONS 121.01(d) and 121.02(b) OF THE
CODIFIED ORDINANCES RELATING TO THE TIME AND DATE OF REGULAR
COUNCIL MEETINGS AND METHOD AND DEADLINE FOR DELIVERY OF
COUNCIL MEETING AGENDAS TO THE MAYOR, COUNCIL, PERSONS ON THE
VILLAGE NOTICE LIST, AND WEBMASTER**

WHEREAS, Council desires to amend Sections 121.01(d) and 121.02(b) of the Codified Ordinances relating to the time and date of Regular Council Meetings and method and deadline for delivery of Council meeting agendas to the Mayor, Council, persons on the Village notice list, and webmaster, in order to make the language of those sections conform to the current approved meeting schedule and method of delivery of the agendas.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Sections 121.01(d) and 121.02(b) of the Village Administrative Code are hereby amended as set forth in the attachment hereto that is incorporated herein by reference.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS 15TH DAY OF FEBRUARY, 2023.

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

121.01 MEETINGS.

* * *

(d) Regular Meetings. Regular Meetings of the Council shall be held on the first and third ~~Monday~~ Wednesday of each calendar month at ~~7~~6:00 p.m. local time. During the months of July and August Council may, at its discretion, dispense with one of the regularly scheduled monthly Council meetings. Regular meeting dates that are in conflict with other activities, such as legal holidays, may be changed by the Council at a previous meeting. Council shall designate the time and/or date of the meeting change.

* * *

121.02 OFFICERS AND STAFF.

* * *

(b) Council Staff. The City Manager, the City Clerk, the Director of Law, and the Director of Finance shall constitute the Council staff. The City Manager shall be the executive officer of the staff. The City Manager, with the help of the Council staff, the Mayor and Council, shall prepare the agenda for each regular and special Council meeting, together with necessary documentation. The agenda and such documentation shall be delivered to the Mayor and Council members, ~~at via email or to~~ their residence or place of business, and be sent via email to the persons on the Village notice list and the person tasked with placing the agenda packet on the Village website, by noon ~~Saturday~~ Monday prior to the ~~Monday~~ Wednesday Council meeting. Any addition to the prepared agenda governing the meeting shall be approved by a majority vote of Council members present, before it can be added to the agenda.

* * *

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-04
SPONSOR: Mayor Kline

**AN ORDINANCE APPROVING THE RECODIFICATION, EDITING,
AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE
VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF
NEWTON FALLS, OHIO**

WHEREAS, various ordinances of a general and permanent nature have been passed which should be included in the Codified Ordinances of Newton Falls, Ohio; and

WHEREAS, Council desires to amend the Village Codified Ordinances accordingly.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That the editing, arrangement, and numbering of those ordinances and resolutions enacted by Council from November 5, 2021 through December 1, 2022, are hereby approved and adopted as printed in the 2022 Replacement Pages to the Codified Ordinances prepared for the Village by the Walter Drane Company so as to achieve uniformity of style and classification.

SECTION 2. That the following sections of the Traffic, General Offenses, and Fire Prevention Code, as amended, are hereby approved and adopted as amended or enacted so as to conform to enactments of the Ohio General Assembly:

<u>Administrative Code</u>	
101.03	Rules of Construction. (Amended)
<u>Traffic Code</u>	
303.082	Private Tow-Away Zones. (Amended)
303.083	Impounding Vehicles on Public Property. (Added)
337.10	Lights, Emblems, and Reflectors on Slow-Moving Vehicles, Farm Machinery, Agricultural Tractors, and Animal-Drawn Vehicles. (Amended)
337.16	Number of Lights; Limitations on Flashing, Oscillating or Rotating Lights. (Amended)
<u>General Offenses Code</u>	
513.01	Drug Abuse Control Definitions. (Amended)
513.15	Sale of Dextromethorphan. (Added)
517.01	Gambling Definitions. (Amended)
517.02	Gambling. (Amended)
517.06	Methods of Conducting a Bingo Game; Prohibitions. (Amended)
517.08	Raffles. (Amended)
517.09	Charitable Instant Bingo Organizations. (Amended)
517.11	Bingo or Game of Chance Records. (Amended)
517.13	Bingo Exceptions. (Amended)

ORDINANCE NO. 2023-04
PAGE TWO

- 517.14 Instant Bingo Conduct by a Veteran's or Fraternal Organization. (Amended)
- 517.15 Skill-Based Amusement Machines. (Amended)
- 517.16 Electronic Instant Bingo; Prohibited Conduct. (Added)
- 529.01 Liquor Control Definitions. (Amended)
- 529.07 Open Container Prohibited. (Amended)
- 537.19 Hazing Prohibited. (Added)
- 549.02 Carrying Concealed Weapons. (Amended)
- 549.04 Improperly Handling Firearms in a Motor Vehicle. (Amended)
- 549.10 Possessing Replica Firearm in School. (Amended)
- 549.12 Concealed Handgun Licenses; Possession of Revoked or Suspended License; Additional Restrictions; Posting Signs Prohibiting Possession. (Added)

Fire Prevention Code

- 1519.01 Fireworks Definitions. (Amended)
- 1519.04 Possession, Sale or Discharge Prohibited; Exceptions. (Amended)
- 1519.05 Application. (Amended)
- 1519.06 Safety Requirements for Fireworks Showroom Structures. (Added)
- 1519.07 Manufacturing or Wholesale Sale without a License; Prohibitions. (Added)
- 1519.08 Purchase to Comply with Law; Unauthorized Purchases. (Added)

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS 15TH DAY OF FEBRUARY, 2023.

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

INSTRUCTIONS FOR INSERTING
2022 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES OF NEWTON FALLS

All new replacement pages bear the footnote "2022 Replacement".
Please discard old pages and insert these new replacement pages
immediately as directed in the following table.

Discard Old Pages

Insert New Pages

PRELIMINARY UNIT

Cover and Certification Page
3, 4
11 through 14
17 through 26
36C, 36D
40E

Cover and Certification Page
3, 4
11 through 14
17 through 26
36C, 36D
40E

CHARTER

Table of Contents Page, 2
13 through 22

Table of Contents Page, 2
13 through 27

PART ONE - ADMINISTRATIVE CODE

5 through 8
33

5 through 8A
33, 34

PART THREE - TRAFFIC CODE

13, 14
21 through 24C
103, 104
107 through 112

13, 14
21 through 24F
103, 104
107 through 112A

PART FIVE - GENERAL OFFENSES CODE

23 through 34B7 (Keep 34C thru 34J)
35 through 50L
67 through 68B
72A, 72B
72E, 72F
81, 82
86W, 86X
103 through 110H

23 through 34B9
35 through 50P
67 through 68B
72A, 72B
72E, 72F
81, 82
86W, 86X
103 through 110P

Discard Old Pages

Insert New Pages

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

31 through 35

41 through 44

46ZZ-5 through 46ZZ7

31 through 35

41 through 44

46ZZ-5 through 46ZZ-7

PART FIFTEEN - FIRE PREVENTION CODE

15 through 20

15 through 20E

**Codified
Ordinances
of the
City of
Newton Falls
Ohio**

Local legislation current through December 1, 2022

State legislation current through June 28, 2022

CERTIFICATION

We, Kenneth A. Kline, the Mayor, and Michael Acomb, City Clerk, of the City of Newton Falls, Ohio, pursuant to Ohio R.C. 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of Newton Falls, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of the City of Newton Falls, Ohio, 1994 as amended to December 1, 2022.

/s/ Kenneth A. Kline
Mayor

/s/ Michael Acomb
City Clerk

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

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The Walter H. Drane Company

NEWTON FALLS, OHIO

ROSTER OF OFFICIALS

(2022)

COUNCIL

Gideon Fetterolf	Ward 1
John Baryak	Ward 2
Tesa Spletzer	Ward 3
Kevin Rufener	Ward 4
Julie Stimpert	At-Large

ADMINISTRATION

Kenneth A. Kline	Mayor
Pamela Priddy	City Manager
Brad Bryan	Law Director
Michael Acomb	City Clerk
Sean Housley	Finance Director

The publisher
expresses its appreciation

to

MICHAEL ACOMB
City Clerk

and all other officers and employees
who gave their time and counsel
to this 1994 codification
and preparation of 2022
replacement pages.

- BICYCLE** (see also **MOTORCYCLE**)
- bell, signal device 373.05
 - brakes 373.06
 - defined 301.04
 - electric 373.21
 - freeway, on 303.06
 - handle bars 373.02
 - inspection 373.14
 - license; plate
 - application 373.13
 - fee; renewal 373.17
 - issuance 373.15, 373.16
 - required 373.12
 - lights 373.06
 - motorized 301.04(b), 373.10
 - parking 373.09
 - paths exclusively for bicycles 373.20
 - penalty 373.99
 - reckless operation 373.02(d), 373.08
 - records; ID 373.18
 - reflector 373.06
 - riding abreast 373.04
 - right side of street 373.07
 - seat, use 373.02
 - sidewalk, on 373.11
 - Traffic Code application 373.01
 - traffic rules, obedience 373.07
 - transfer of ownership 373.19
 - vehicle, attaching to 373.03
- BINGO**
- definitions 517.01(r) et seq.
 - exceptions 517.13
 - instant bingo
 - charitable organizations 517.09
 - conduct 517.07
 - electronic 517.16
 - location 517.10
 - veteran's or fraternal organization 517.14
 - methods of conducting 517.06
 - operator prohibitions 517.12
 - raffles 517.08
 - records 517.11
- BIRDS** (see **ANIMALS**)
- BLACKJACK** (see **WEAPONS**)
- BLASTING** (see also **EXPLOSIVES**)
- blasting caps 1521.08
 - compliance 1521.13
- BLASTING** (Cont.)
- detonating devices 1521.05
 - drill holes 1521.09
 - exceptions 1521.14
 - firing of charge 1521.11
 - handling of explosives 1521.12
 - liability insurance 1521.02
 - misfires 1521.10
 - notice required 1521.04
 - opening containers 1521.06
 - operational observation; hours 1521.03
 - penalty 1521.99
 - permit required; fee 1521.01
 - rules and regulations 1521.15
 - smoking, intoxicating liquor prohibited 1521.07
- BLIND PERSON**
- right of way 371.02
- BOARDS AND COMMISSIONS**
- Charter Review Commission Chtr. XI.1
 - Civil Service Commission (see **CIVIL SERVICE COMMISSION**)
 - Fair Housing Board 515.05
 - Parks and Recreation Board (see **PARKS AND RECREATION BOARD**)
 - Planning Commission (see **PLANNING COMMISSION**)
 - reports by Chtr. VI.5
 - Sewer Connection Appeals Board 921.09
 - Treasury Investment Board (see **TREASURY INVESTMENT BOARD**)
- BOOKMAKING** (see **GAMBLING**)
- BOUNDARIES** (see **WARDS AND BOUNDARIES**)
- BRAKES** (see **VEHICLE EQUIPMENT**)
- BRASS KNUCKLES** (see **WEAPONS**)
- BRIDGE**
- dropping objects onto
 - highway or waters 541.09
 - railroad cars, tracks, engine, etc. 553.04
 - parking on prohibited 351.03
 - pedestrian on 371.10
 - speed on 333.05

BUILDING (see also DWELLING)

- Codes (see BUILDING CODES)
- construction (see CONSTRUCTION)
- definitions 1147.02
- flood hazard area (see FLOOD HAZARD AREAS)
- height
 - district standards 1149.12
 - regulations 1153.07
- Housing Code ed. note Ch. 1321
- nonconforming (see USE REGULATIONS)
- one per lot 1153.03
- permits (see under PERMIT)
- setback
 - district standards 1149.12
 - R-1 and R-2 Districts; accessory buildings 1149.02(c)
 - recreation area, private 1155.07
 - R-MHP Mobile Home Park District 1149.04(d)
 - R-M Multi-Family District; accessory building 1149.03(f)

BUILDING CODES

- Ohio Building
 - adoption 1301.01
 - compliance 1301.04
 - conflict 1301.08
 - enforcement 1301.09
 - existing structures 1301.05
 - penalty 1301.99

BUILDING CODES (Cont.)

- Ohio Building (cont.)
 - purpose 1301.02
 - stop work order 1301.07
 - violations 1301.06
 - penalty, general 1313.99
 - Residential
 - adoption 1305.01
 - penalty 1305.99

BUILDING INSPECTOR

- appointment; term; reports 1311.01
- Flood Damage Prevention Administrator 1325.12
- qualifications; duties 1311.02
- records 1311.03
- right of entry 1311.04
- Zoning Inspector as ed. note Ch. 1311

BUILDING PERMIT (see under PERMIT)**BUMPERS** 337.29**BURNS** (see WOUNDS and BURNS)**BUS** (see also COMMERCIAL AND HEAVY VEHICLE)

- defined 301.05
- school bus
 - defined 301.35
 - discharging children 331.38
 - driving regulations 331.38
 - stopping for 331.38
 - stops, parking in 351.10

BUSHES (see WEEDS AND TREES)**BUSINESS DISTRICT** (see also ZONING DISTRICTS)

- defined 301.06
- speed 333.03

CABLE TELEVISION

- cable television commission 739.02
- customer service standards 739.01

CANDY			
adulterated	537.13		
CANVASSERS (see PEDDLERS AND SOLICITORS)			
CARRYING CONCEALED WEAPONS	549.02		
CAR SEAT, CHILDREN'S	337.26		
CAT (see ANIMALS)			
CATTLE (see ANIMALS)			
CATV (see COMMUNITY ANTENNA TELEVISION SYSTEM)			
CELL PHONE			
dissemination of private sexual image	533.15		
texting while driving prohibited	333.11		
use prohibited while driving	335.032		
CESSPOOL	921.03		
CERTIFICATE OF TITLE			
motor vehicle	335.08		
off-highway motorcycle, all purpose vehicle	375.08		
CHARTER			
amendments to	Chtr. X		
gender, use of	Chtr. I.5		
partial invalidity	Chtr. XII		
Review Commission	Chtr. XI		
CHEATING	517.05		
CHECKS			
authorized signatures	139.02		
passing bad	545.09		
CHILD CARE CENTER			
zoning regulations	1155.02		
CHILD RESTRAINT SYSTEM	337.26		
CHILDREN (see JUVENILE; MINOR)			
CHURCHES			
zoning regulations	1155.06		
CIGARETTES, TOBACCO OR ALTERNATE NICOTINE PRODUCTS			
illegal distribution to minors	537.16		
CITY			
Charter (see CHARTER)			
conflict of interest	Chtr. I.4		
Council (see COUNCIL)			
flag	103.01		
form of government	Chtr. I.3		
incorporation	Chtr. I.1		
abrogation of rights or immunities	111.08		
amounts recoverable	111.05		
appropriation for payment	111.04		
definitions	111.01		
CITY (Cont.)			
incorporation (Cont.)			
effective date	111.09		
insurance	111.06		
payment of claims; priority	111.03		
punitive damages	111.07		
severability	111.02		
Manager (see MANAGER, CITY)			
powers	Chtr. I.2		
statutory provisions	Chtr. VIII.9		
CIVIL RIGHTS			
ethnic intimidation	541.08		
interfering with	525.13		
CIVIL SERVICE COMMISSION			
appointment; members; term	Chtr. VI.1		
reports	Chtr. VI.5		
rules and regulations	145.01		
CLERK, CITY (see under COUNCIL)			
CODIFIED ORDINANCES (see also ORDINANCES AND RESOLUTIONS)			
conflicting provisions	101.06		
construction			
rules of	101.03		
section references	101.05		
definitions, general	101.02		
designation; citation; headings	101.01		
legislative intent	101.07		
penalty, general	101.99		
revivor; amendment, repeal	101.04		
severability	101.08		
COERCION	537.09		
COIN MACHINE			
definition	545.01		
slug use	545.11		
tampering	545.12		
COMMERCIAL AND HEAVY VEHICLE			
air cleaner required	337.25		
brakes	337.18		
chains, spikes or lugs	339.10		
explosives, transporting	339.06		
height, maximum	339.03		
highway maintenance vehicle	301.161		
length, maximum	339.03		
lights (see VEHICLE LIGHTS)			

COMMERCIAL AND HEAVY

VEHICLE (Cont.)

loads (see VEHICLE LOADS)	
local streets, use	339.02
mud flaps	339.05
mud, tracking	339.08
parking	1153.06
parks, prohibited in	991.02
permit, special	339.01, 339.02
road service vehicle	301.321, 333.031
route information on	
request	339.04
slower vehicles to use	
right lane	331.01
slow-moving, lights and	
emblem	337.10
State route, use	339.01, 339.02
towing requirements	339.07
truck defined	301.49
truck routes	339.02
wheel protectors	339.05
width, maximum	339.03

COMMERCIAL DISTRICTS (see also
ZONING DISTRICTS)

parking restrictions	351.15
----------------------	--------

COMMERCIAL DRIVERS

criminal offenses	341.05
definitions	341.01
employment	341.06
exemptions	341.02
operation	341.03
prohibitions	341.04

COMMUNITY ANTENNA

TELEVISION SYSTEM

bond; insurance	733.06
City rights	733.16
construction standards	733.09
definitions	733.01
franchise	
fee	733.11
forfeiture	733.17
granting	733.02
necessity	733.14
transfer; receivership;	
foreclosure	733.13
grantee's channel	
responsibilities	733.07

COMMUNITY ANTENNA

TELEVISION SYSTEM (Cont.)

investigation of complaints	733.04
miscellaneous provisions	733.19
poles; equipment	733.12
rates, charges; hearings	733.03
regulatory agencies	733.15
removal of facilities	
upon request	733.10
restrictions on other business	
activities	733.08
separability	733.20
service	733.18
two-way capacity	733.05

COMMUNITY CENTER

151.01

COMMUNITY REINVESTMENT AREA

creation	109.01
Housing Officer	109.01(c)
land reutilization program	109.02

COMPANIES (see ORGANIZATIONS)

COMPENSATION

improper	525.11
----------	--------

COMPLICITY

501.10

COMPOUNDING A CRIME

525.04

COMPUTER CRIMES

501.01, 545.01

CONSTRUCTION

Building Codes (see BUILDING
CODES)

building permits (see under PERMIT)

conformity with application	
and plans	1157.04
contractor's license	1313.02

excavations (see EXCAVATIONS)

flood hazard area (see FLOOD

HAZARD AREAS)

signs	1151.05
-------	---------

vehicular assault in

construction zone 537.021

CONTRACT

authority	Chtr. VIII.3
City Manager authority	133.03
garbage collection	981.03
interest, unlawful	525.10

CONTRACTORS

license; bond	1313.02
---------------	---------

CONTROL

physical	333.01
reasonable	331.34, 333.08

DRIVEWAY (Cont.)

- right of way
 - entering 331.17
 - leaving 331.22, 331.23
 - turning into 331.11

DRIVING

- accident (see ACCIDENT)
- allowing another to drive
 - illegally 335.05
- approaching stationary public safety,
 - emergency, road service vehicle 333.031
- assured clear distance 331.09, 333.03
- backing vehicle 331.13
- bicycle path use prohibited 373.20
- cell phone use prohibited 335.032
- certificate of title required 335.08
- change of course 331.14, 331.34
- closed road, on 331.26, 331.44
- construction zone,
 - vehicular assault in 537.021
- control of vehicle 331.34, 333.08
- crosswalk, obstructing 331.33
- distracted driving penalty 303.991
- divided street 331.31
- driver's view, control 331.25, 337.21
- drunk or drugged 333.01
- earplugs prohibited 331.43
- electronic wireless communication
 - device use prohibited while driving 335.032
- entering or crossing roadway from
 - other than roadway
 - duty to yield 331.22
 - stopping at sidewalk 331.23
- exhaust noises 331.36
- fire hose, over 331.28
- following
 - emergency or safety vehicle 331.27
 - too closely 331.09
- golf carts 331.45
- grade crossing 331.39, 331.40
- hazardous zones 331.07
- intersection
 - obstructing 331.33
 - right of way 331.16
 - shortcutting 331.41
 - turning at 331.10
- lanes, within 331.08
- lane-use control
 - signal indications 313.04
- left side of street 331.06
- one-way street 331.30

operate defined 301.201
DRIVING (Cont.)

- OVI suspension, under 335.071
- passing
 - left of center 331.05
 - left side 331.03
 - no passing zones 331.07
 - right side 331.02, 331.04
- racing motor 331.36
- reckless
 - failure to control 331.34, 333.08
 - full time and attention 331.34
 - prohibited 333.09
 - willful, wanton disregard 333.02
- right of way
 - funeral procession 331.24
 - intersections 331.16
 - public safety vehicle 331.21, 331.211
 - turning left 331.17
- right side of street 331.01
- rotary traffic island, around 331.30
- safety zone, through 331.29
- shortcutting 331.41
- sidewalk, street lawn, curb; on 331.37
- signals for turning or
 - stopping 331.14, 331.15
- speed (see SPEED)
- squealing tires 331.36
- starting vehicle 331.13
- stop signs
 - emergency or public safety vehicle 331.20
 - operation at 331.14, 331.19
- stopping vehicle 333.04
- street racing 333.07
- street under repair 331.26
- suspended license 335.074
- texting prohibited 333.11
- traffic signal indications 313.03
- turning
 - driveway, alley or building 331.11
 - intersection, at 331.10
 - left, right of way 331.17
 - right on red 313.03(c)
 - signals 331.14, 331.15
 - U turn 331.12
- unsafe vehicle 337.01
- water covered street, on 331.44
- weaving 331.34
- willful, wanton disregard 333.02
- wrongful entrustment
 - of a motor vehicle 335.05

DRIVING (Cont.)			ELECTIONS (Cont.)		
yellow line	331.07		referendum	Chtr. VII.2	
yield signs, operation at	331.18		removal of election officers	Chtr. VII.3	
DRUG ABUSE			ELECTRIC BICYCLE	373.21	
adulterated food	537.13		ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE	371.12	
controlled substance test; offender to pay	513.14		ELECTRIC SERVICE		
counterfeit controlled substances	513.13		lines; trees interfering with	985.02	
definitions	513.01		meter installation	1315.01	
dextromethorphan, sale of	513.15		rates		
driving under influence	333.01		Emergency Energy Conservation Plan	971.04	
drug paraphernalia	513.12		general provisions	971.01	
drug samples	513.08		Township service	971.02	
explosives; handling while under the influence	1521.07(b)		underground installation	971.03	
hypodermic, possession and dispensing	513.04, 513.10		reconnection; disconnection; other charges	911.02(a)	
instruments	513.04		service policy regulations	971.05	
intoxicants, harmful			three phase customers	1315.02	
nitrous oxide in vehicle	513.11		ELECTRONIC WIRELESS COMMUNICATION DEVICE		
possession or use	513.07		dissemination of private sexual image	533.15	
labels, prescription	513.09		texting while driving prohibited	333.11	
marihuana			use prohibited while driving	335.032	
gift	513.02		EMBLEM		
illegal cultivation	513.06		motor vehicle, illegal use	525.14	
paraphernalia	513.121		EMERGENCY		
possession or use	513.03		alarm system	141.03	
permitting	513.05		Energy Conservation Plan	971.04	
possession or use	513.03		false alarm	509.07	
steroids, anabolic	513.03		misconduct at	509.05	
walking on street under influence	371.09		misuse of 911 system	537.12	
weapon using while intoxicated	549.03		traffic direction	303.02	
DRUNK DRIVING	333.01		EMERGENCY VEHICLE (see also PUBLIC SAFETY VEHICLE)		
DUI	333.01		approaching when stationary	333.031	
DWELLING (see also BUILDING)			defined	301.11	
definitions	1147.02		exemptions	303.041	
mobile home parks	1149.04		following, parking near	331.27	
smoke detector required	1537.01		siren, whistle, bell	337.19	
water and sewer connection required	1149.01		speed exceptions	333.06	
E CIGARETTES	537.16		stop sign or signal, effect	331.20	
ELECTIONS			EMPLOYEES, MUNICIPAL		
Council	Chtr. III.1		compensation		
initiative	Chtr. VII.2		longevity pay	153.01	
Mayor	Chtr. II.1		service pay	153.04	
open primary	Chtr. VII.5		shift differential	153.05	
political signs	1151.02(h)		current/former officials hiring restrictions	121.02(c)	
procedures	Chtr. VII.1				
recall	Chtr. VII.4				

EMPLOYEES, MUNICIPAL (Cont.)		FAIR HOUSING (Cont.)	
editor's note	Ch. 153	policy	515.01
holidays	153.09	procedures; enforcement	515.06
insurance	153.02	scope	515.07
liability limits (see under CITY)		unlawful practices	515.03
lineman's boots	153.07	FALSE INFORMATION	
mileage reimbursement	153.10	traffic violation	303.11
part-time	153.11	FALSE REPORTS	
standard work week	153.03	fire alarms	509.07
uniform allowance	153.06	inducing panic	509.06
vacation	153.08	FALSIFICATION	
ENERGY CONSERVATION		driver's license application	335.04(e)
PLAN	971.04	license plate registration	335.09(f)
ENGINEER, CITY		prohibited	525.02
final plat approval	1109.02	FEE	
ENGINE RETARDERS		advertising license	701.02
prohibited	337.30	alarm system connection	141.03
EROSION AND SEDIMENT CONTROL		bicycle license	373.17
appeals	959.15	blasting permit	1521.01
application procedures	959.06	building permits	1313.01
bond	959.12	cable TV franchise	733.11
definitions	959.02	commercial and heavy	
enforcement	959.13	vehicle permit	339.02
fees	959.11	dish antenna permit	1329.03(c)
liability, disclaimer of	959.04	electricity rates (see under	
penalty	959.99	ELECTRIC SERVICE)	
performance standards	959.09	erosion and sediment control	959.11
scope	959.01	excavation permit	903.02
Storm Water Pollution Prevention		final subdivision plat	1109.03
Plans	959.05 et seq.	fireworks exhibition permit	1519.02(c)
violations	959.14	fortunetelling license	707.02
ETHNIC INTIMIDATION	541.08	garage sale license	709.02
EXCAVATIONS		mechanical amusement	
abandoned, protection	521.03	device license	735.04
backfill; repair of pavement	903.04	peddler's, solicitor's	
bond; insurance	903.03	permit	711.11, 711.15
parking near prohibited	351.03	schedule	See Chap. 155
penalty	903.99	sewer rates (see under SEWERS)	
permit		storm water management	958.14
fees	903.02	storm water utility	960.03, 960.04
required	903.01	street vendor's license	721.05
sewer	921.04	taxicab license	715.07
utility poles, setting	903.05	temporary store license	717.03
EXPLOSIVES (see also BLASTING;		video service provider	133.02
FIREWORKS)		water rates (see under WATER)	
defined	301.12, 549.01	zoning applications	
transporting	339.06	amendment	1161.01
FAIR HOUSING		variances	1159.08
Board	515.05		
definitions	515.02		
notices, posting	515.04		
other legal actions	515.08		
penalty	515.99		

FIRE TRUCK	
approaching stationary	333.031
following, parking near	331.27
FIREWORKS (see also EXPLOSIVES)	
application of provisions	1519.05
definitions	1519.01
exhibition permit; fee; bond;	
records	1519.02
manufacturing or wholesale sale	
without license;	
prohibitions	1519.07
parks, in	991.05(e)
penalty	1519.99
possession, sale, discharge	
prohibited	1519.04
purchasers to comply with law;	
unauthorized purchases	1519.08
showroom structures safety	
requirements	1519.06
unlawful conduct by	
exhibitor	1519.03
FIRE ZONE	143.07
FLAG, OFFICIAL	103.01
FLAMMABLE LIQUID	
defined	301.14
FLOOD DAMAGE REDUCTION	
administration	1325.03
appeals	1325.05
definitions	1325.02
development standards	1325.04
enforcement	1325.06
general provisions	1325.01
variances	1325.05
FOOD	
adulterated	537.13
FORGERY	
identification card	545.20
FORTUNETELLING	
license	
fee	707.02
penalty	707.99
required	707.01
parks, prohibited in	991.04
FOWL (see also ANIMALS)	
coloring; sale or display	505.12
running at large	505.01
FRAUD	
bad check passing	545.09
credit card	545.10
creditors	545.17
definitions	545.01
income tax	191.17

FRAUD (Cont.)		GOLF CARTS	331.45
insurance	545.07	GRASS (see WEEDS AND TREES)	
personating an officer	545.16	GUN (see WEAPONS)	
securing writings by deception	545.15	GUTTERS (see CURBS AND GUTTERS)	
FREEWAY (see STREET)		HALFWAY HOUSE OR COMMUNITY	
FUNERAL PROCESSION		RESIDENTIAL TREATMENT	
driving in	331.24	CENTERS	
GAMBLING		zoning regulations	1149.03(h)
bingo (see BINGO)		HALLOWEEN	
bookmaking	517.02	adulterated food	537.13
cheating	517.05	HANDBILLS (see ADVERTISING)	
definitions	517.01	HANDICAPPED PERSONS	
games of chance		mobility device	371.12
conducting	517.02(d)	parking locations	351.04
records	517.11	assistance dog, assaulting	525.15
operating house	517.03	HAWKERS (see PEDDLERS AND	
parks, prohibited in	991.04	SOLICITORS)	
prohibited conduct	517.02	HAZING	537.19
public gaming	517.04	HIGHWAY (see STREET)	
raffles	517.08	HITCHHIKING	371.06
skill-based amusement devices	517.15	HIT-SKIP (see ACCIDENT)	
GAME COURTS	1153.13	HOME OCCUPATIONS	
GARAGE SALES		defined	1147.02
defined	709.01	zoning regulations	1153.11
items allowed	709.04	HOMICIDE	
license; fee	709.02	failure to report	525.05(c)
number and length of sales	709.03	negligent	537.01
penalty	709.99	vehicular	537.02
GARBAGE AND RUBBISH (see also		HORN	337.19
SOLID WASTE)		HORSES (see ANIMALS)	
burning (see OPEN BURNING)		HOUSING	
containers		fair (see FAIR HOUSING)	
keeping on streets	981.10	HOUSING CODE	
providing; use of	981.02	editor note	Ch. 1321
sanitary requirements	981.06	HOUSING OFFICER	
contract with collector		City Manager as	109.01(c)
approval; bond	981.03	HUNTING	
assignment; transfer	981.11	prohibited	505.11
definitions	921.01 981.01	HYPODERMIC	
incineration permitted	981.04	possession, dispensing	513.04, 513.10
junk yards	1155.04	IDENTIFICATION CARD	
littering	981.10	forgery	545.20
parks, dumping in	991.04	misrepresentation	529.021
penalty	981.99	IDENTITY THEFT	
prohibited in sewer	921.05	utilities	911.05
responsibility for disposal		ILLICIT DISCHARGE AND ILLEGAL	
of collected garbage	981.07	CONNECTION CONTROL	
separating	981.09	administration	957.06
supervision; compliance	981.08	applicability	957.02
transporting prohibited	981.04	conflicts	957.05
trucks; sanitation	981.06	definitions	957.03
weekly collection required	981.05	disclaimer of liability	957.04
GAS WELLS (see OIL AND GAS WELLS)			

ILLICIT DISCHARGE AND ILLEGAL

CONNECTION CONTROL (Cont.)

enforcement	957.09
monitoring	957.08
nuisances	957.05
prohibitions	957.07
purpose	957.01
remedies	957.10
severability	957.05
scope	957.01

IMPERSONATION

law enforcement officer	
to defraud	545.16
peace officer	525.03

IMPORTUNING

533.05

IMPOUNDING

animals	505.02
junk car	523.04
private tow-away zones	303.082
vehicle	
private residential or agricultural	
property	303.081
public property	303.083
release; records; charge	303.081
traffic violation	303.08

IMPROVEMENTS

flood hazard areas (see FLOOD	
HAZARD AREAS)	
subdivision, in (see under	
SUBDIVISION REGULATIONS)	

INCOME TAX EFFECTIVE

JANUARY 1, 2016

administration of claims	191.15
amended return	191.11
annual return	191.05
assessment	191.14
audits	191.13
authority to levy	191.01
Board of Tax Review	191.21
collection at source	191.04
contractor/subcontractor	
provisions	191.26
credit	191.06
definitions	191.02
estimated taxes	191.07
fraud	191.17
imposition of tax	191.03
interest and penalties	191.18, 191.99
limitations	191.12
penalty	191.99
purpose	191.01
refunds	191.09, 191.10

INCOME TAX EFFECTIVE

JANUARY 1, 2016 (Cont.)

rental/leased property	191.23
rounding of amounts	191.08
rules and regulations	191.22
savings clause	191.24
Tax Administrator	191.19, 191.20
tax information confidential	191.16
violations; penalties	191.99

INDECENCY (see OBSCENITY; SEXUAL OFFENSES)

INDUSTRIAL DISTRICTS (see ZONING DISTRICTS)

INITIATIVE Chtr. VII.2

INSURANCE FRAUD 545.07

INTERSECTION

defined	301.17
obstructing	331.33
parking in	351.03
right of way	331.16, 331.17
shortcutting	331.41
stop signs	313.02, 331.19
subdivision, in	1111.10
turning at	331.10
visibility	1153.08

INTOXICANT, HARMFUL

possessing, using	513.07
trafficking	513.11

INTOXICANTS

consumption of	
hours	529.08
motor vehicle, in	529.04
definitions	529.01
manufacture permit	529.05
open container	529.07
parks, prohibited in	991.04
permit for sale or manufacture	529.05
sale	
hours	529.08
intoxicated persons, to	529.03
low-alcohol beverages	529.06
minors, to	529.02, 529.06
permit	529.05
purchase by minors	529.021, 529.06
securing public	
accommodations	529.02

INTOXICATION

criminal liability	501.07
disorderly conduct	509.03
driving while intoxicated;	
testing	333.01

INTOXICATION (Cont.)			LAW ENFORCEMENT OFFICER	
explosives; handling while			(Cont.)	
under the influence	1521.07(b)		failure to aid	525.06
fireworks exhibitor	1519.03(d)		hampering at emergency	509.05
parks, prohibited in	991.04		ignition key removal	303.03
walking on street	371.09		personating	545.16
weapon use	549.03		refusal to disclose personal	
INVASION OF PRIVACY			information to in public	
voyeurism	533.06		place	525.17
JAYWALKING	371.03		LIABILITY	
JUNK AND JUNK VEHICLES			City's limits (see under CITY)	
definitions	523.01		criminal	
impounding; disposition	303.08, 523.04		intoxication	501.07
penalty	523.99		organizational	501.11
public or private			personal	501.07
property	303.09, 303.10		LIBRARY	
removal notice; exceptions	523.03		rights; property damage	545.04
storage a public nuisance	523.02		LICENSE	
JUNK YARDS			advertising	701.01
zoning regulations	1155.04		bicycle	373.12
JURISDICTION	501.05		contractors	1313.02
JUVENILE (see also MINOR)			driving (see DRIVER'S LICENSE)	
curfew	509.08		fortunetelling	707.01
delinquency, contributing to	537.18		garage sale	709.02
fireworks, selling to	1519.04(d)		mechanical amusement device	735.02
material harmful to			sewer tapper	923.03
deception to obtain	533.12		street vendor	721.02
displaying	533.13		temporary store	717.02
disseminating	533.11		LICENSE PLATES	
KEYS			display	335.09
parking, removal	303.03, 351.07		expired or unlawful; out of state	335.10
KNIFE (see WEAPONS)			illegal	
LANDSCAPING			impounding vehicle	303.08
Commercial "C" District	1149.09(e)		use of	335.11
I-1 Industrial District	1149.11(d)		operating without dealer or	
Mixed Use District	1149.07(g)		manufacturer license	
projections into streets	1153.05		plates	335.091
LAW DEPARTMENT			parking vehicle without current	1153.06
confinement cost			rear, illumination	337.04
reimbursement	137.01		registration within thirty days	
Director as head	Chtr. V.1		of residency	335.111
LAW DIRECTOR			temporary license placard	335.09
Department head; duties	Chtr. V.1		unobstructed	335.10
Treasury Investment			LIGHTING	
Board	Chtr. VI.4		signs	1151.07
LAW ENFORCEMENT (see individual			standards	1153.16
subject involved)			LIGHTS, VEHICLE (see VEHICLE	
LAW ENFORCEMENT OFFICER (see			LIGHTS)	
also POLICE OFFICER,			LIMITATION OF PROSECUTION	501.06
PUBLIC SERVANT)			LIQUOR (see INTOXICANTS;	
defined	501.01		INTOXICATION)	
dereliction of duty	525.12			

LITTERING			
from a motor vehicle	331.42		
generally	521.08		
LOITERING			
solicitation, to engage in	533.091		
LOTS			
definitions	1103.02, 1147.02		
district requirements			
Mixed Use District	1149.07(b)		
R-1 and R-2			
Districts	1149.02(h)		
standards	1149.12		
filling, draining	521.05		
nonconforming	1153.01(e)		
one building per lot	1153.03		
public access required	1153.04		
recreation area, private	1155.07		
reduction prohibited	1153.01(b)		
LOW-SPEED MICROMOBILITY DEVICE			
definition	301.183		
operation; violations	371.14		
MANAGER, CITY			
administrative functions			
not assigned	Chtr. VIII.11		
appointment	Chtr. III.11		
bid procedure for construction			
projects	133.01		
blasting regulations	1521.15		
contract authority	Chtr. VIII.3, 133.03		
Council duties	121.02(a)		
duties generally	Chtr. IV.2		
Housing Officer	109.01(c)		
license, issuing (see individual subject involved)			
qualifications	Chtr. IV.1		
subdivision approval (see SUBDIVISION REGULATIONS)			
taxicabs	715.04		
Traffic Code authority	305.04		
Treasury Investment Board	Chtr. VI.4		
MANHOLE COVER			
tampering with	313.08		
MANSLAUGHTER, VEHICULAR	537.02		
MANUFACTURED HOME			
flood hazard area	1325.16(e)		
occupying moving	331.35		
MARIHUANA (see DRUG ABUSE)			
MAYOR			
absence; disability; vacancy	Chtr. II.5		
duties	Chtr. II.3		
MAYOR (Cont.)			
editor's note		Ch. 131	
elections		Chtr. II.1	
qualifications		Chtr. II.2	
salary		Chtr. II.4	
MECHANICAL AMUSEMENT DEVICES			
definitions		735.01	
inspections	735.06, 735.09		
license			
application		735.03	
fee; issuance		735.04	
required		735.02	
revocation; suspension		735.08	
transfer; display		735.05	
penalty		735.99	
proximity to school buildings		735.05	
sealing		735.06	
MEETING (see also individual subject involved)			
Council	Chtr. III.6, 7; 121.01		
disturbing lawful		509.04	
Fire Department		143.05	
public; notice of			
attempt at		125.06	
definitions		125.01	
regular; organizational		125.02	
special meetings			
news media		125.04	
posting		125.03	
specific business		125.05	
MENACING (see also THREATS)			
aggravated		537.05	
physical harm		537.06	
stalking, by		537.051	
MINI-BIKE (see ALL PURPOSE VEHICLE)			
MINOR (see also JUVENILE)			
contributing to delinquency of		537.18	
curfew	335.031, 509.08		
distributing to			
cigarettes, tobacco,			
nicotine products		537.16	
harmful intoxicants		513.11	
endangering		537.07	
firearms purchase		549.07	
fireworks, selling to		1519.04(d)	
intoxicant sales	529.02, 529.06		
MISDEMEANOR (see OFFENSE)			
MISSILES		549.09	
MOBILE HOME PARK DISTRICT			
zoning regulations		1149.04	

MODEL HOMES	1107.08	MOTOR VEHICLE (Cont.)	
MOPED (see MOTORIZED BICYCLE)		impounding	
MOTORCYCLE (see also BICYCLE)		private residential or	
brakes	337.18	agricultural property	303.081
defined	301.19	public property	303.083
handle bars	373.02	release; records;	
headlight required	337.03	charges	303.081
helmets; safety glasses	373.02	traffic violation	303.08
license to operate	335.01(a)	junk (see JUNK AND JUNK	
muffler	337.20	VEHICLES)	
rear-view mirror	337.21	key removal	303.03, 351.07
riding abreast	373.04	license plates (see LICENSE	
seat, use	373.02	PLATES)	
vehicle, attaching to	373.03	license tax (see MOTOR VEHICLE	
MOTORCYCLE, OFF-HIGHWAY		LICENSE TAX)	
accident reports	375.07	liquor consumption; open	
certificate of title	375.08	container	529.04
definitions	375.01	littering from	331.42
equipment	375.02	low-speed micromobility device	
licensing requirements, operator	375.05	definition	301.183
operation		operation; violations	371.14
permitted	375.04	operation (see DRIVING)	
prohibited	375.03	registration within thirty days	
Traffic Code application	375.03	of residency	335.111
vehicle registration	375.06	riding on outside	371.06
MOTORIZED BICYCLE		slow moving (see COMMERCIAL	
definition	301.04(b)	AND HEAVY VEHICLE)	
driver's license	373.10	snowmobile (see SNOWMOBILE)	
equipment	373.10	trespass	545.06
lights	337.02	unauthorized use	545.06
MOTOR VEHICLE		unsafe	337.01
all purpose (see ALL PURPOSE		vehicular vandalism	541.11
VEHICLE)		weapon handling in	549.04
certificate of title	335.08	wrongful entrustment of	335.05
criminal forfeiture of	335.05(c)	MOTOR VEHICLE LICENSE TAX	
definitions	301.20, 301.51	copy	193.04
driving (see DRIVING)		definitions	193.03
emblem, illegal use	525.14	effective date	193.05
entering or leaving moving		exemptions	193.02
vehicle	371.06	levy	193.01 et seq.
equipment (see VEHICLE		MUFFLER	
EQUIPMENT)		motor vehicle or motorcycle	337.20
homicide by	537.02	snowmobile and all purpose	
		vehicle	375.02
		MUNICIPAL COURT	ed. note Ch. 161
		MUSEUM	
		desecration	541.07
		rights; property damage	545.04
		MUSIC	
		sound devices	509.09

NEGLIGENT HOMICIDE	537.01	OFFENSE (Cont.)	
NOISE		organizational (see ORGANIZATION)	
disorderly conduct	509.03	penalty	501.99
dogs barking or howling	505.09	prosecution limitation	501.06
sound devices	509.09	sexual (see SEXUAL OFFENSES)	
NONCONFORMING		theft (see THEFT)	
continuance of	1153.01(d), 1153.02	violent, defined	501.01
lots	1153.01(e)	OFFENSES AGAINST PERSONS (see	
signs	1151.10	individual subject involved)	
NUISANCE		OFFENSES AGAINST PROPERTY (see	
animal defecation	505.18	individual subject involved)	
animals generally	505.08	OFFICIALS, MUNICIPAL (see	
junk storage	523.02	PUBLIC SERVANT)	
numbering structures	1333.01	OHIO BUILDING CODE (see under	
OBSCENITY		BUILDING CODES)	
definitions	533.01	OHIO FIRE CODE	
materials harmful to		adoption	1501.01
juveniles (see JUVENILE)		application	1501.03
parks, prohibited in	991.04	arson laws, posting	1501.06
presumption of knowledge;		compliance	1501.05
actual notice and defense	533.02	conflict	1501.12
telephone call, obscene	537.10	copies	1501.11
OBSTRUCTING JUSTICE	525.08	enforcement	1501.04
OBSTRUCTING OFFICIAL		fire equipment sale, use	1501.10
BUSINESS	525.07	installers; certification	1501.10
OBSTRUCTIONS		penalty	1501.99
intersection; crosswalk	331.33	purpose	1501.02
sidewalk	521.04	setting fires which spread	1501.07
stopping vehicle	333.04	true Fire Safety Inspector	
street	311.01	status	1501.09
generally	311.01	unfriendly fire; alarm duty	1501.08
by railroad	553.01, 553.011	OIL AND GAS WELLS	
watercourse	521.05	compliance with laws	725.03
ODORS		penalty	725.99
noxious or offensive	521.09	prohibitions; exceptions	725.01
OFFENSE (see also individual		restrictions	725.02
subject involved)		ONE-WAY STREET	331.30
attempt	501.09	OPEN BURNING	
classification	501.02	bonfire; rubbish fire	1511.05
common law, abrogated	501.03	definitions	1511.01
complicity in commission	501.10	parks, in	991.05(g)
compounding	525.04	penalty	1511.99
construction, rules of	501.04	permission; notice	1511.04
failure to report	525.05	portable outdoor fireplaces	1511.05
fraud (see FRAUD)		relation to other prohibitions	1511.02
gambling	517.01	restricted areas, in	1511.03
jurisdiction	501.05	rubbish incineration	981.04
liability	501.07		
motor vehicle or traffic			
offense, predicate	301.251		

WATER (Cont.)		
flood control (see FLOOD CONTROL AREAS)		
hydrant, opening	953.10	
mains, installing	953.08	
metering	953.05	
penalty	953.99	
rates		
Braceville water line	951.05	
bulk sales	951.04	
established	951.01	
out-of-City users; District 1	951.02	
projects 5-W-81, 5-W-81A	951.07	
test fee	951.03	
Warren Rd. water line	951.06	
service lines	953.07	
special charges	911.02(b)	
subdivision, in	1113.15	
tap application	1313.03	
termination of service	953.04	
transfer of account	953.03	
WATER AND SEWER SUPERINTENDENT		911.01(a)
WATERCOURSE		
altering; flood hazard area	1325.12(b)(3)	
obstruction removal	521.05	
solid waste corrupting	521.08	
WATERCRAFT (see ALL PURPOSE VEHICLE)		
WATER MAINTENANCE HELPER		911.01(b)
WEAPONS (see also DANGEROUS ORDNANCE)		
carrying concealed	549.02, 549.12	
definitions	549.01	
discharging	549.08	
minor, purchase by	549.07	
missiles	549.09	
motor vehicle, handling in	549.04	
parks, in	991.05(k)	
posting signs prohibiting	549.12	
replica firearm on school premises	549.10	
transactions unlawful	549.06	
use while intoxicated	549.03	
WEEDS AND TREES		
certain trees prohibited	557.03	
dangerous, on private property	985.05	
destruction	541.06	
devil strip; permitted types in	985.04	
interference with electric lines	985.02	
notice to remove	557.02	
parks, in; damaging	991.04	
penalty	557.99, 985.99	
planting on easement prohibited	985.03	
pruning; notice; noncompliance	985.06	
removal by City; assessment; replacement	557.02, 985.01	
subdivision street trees	1113.14	
trimming required	557.01	
WHEELCHAIR (see also ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE)		
motorized		
defined	301.52	
operator's rights	371.11	
sidewalk, on	331.37	
WIND TURBINES		
aesthetics	1345.04	
costs	1345.05	
definitions	1345.02	
fencing	1345.03(g)	
intent	1345.01	
permits		
building	1345.03(k)	
zoning	1345.03(m)	
regulations	1345.03	
signage	1345.03(i)	
WIRELESS TELECOMMUNICATION FACILITY		
definitions	1147.02	
zoning regulations	1153.15	
WOUNDS AND BURNS		
reporting	525.05	

YARDS

- definitions 1103.02(59), 1147.02
- district requirements 1149.12
- reduction prohibited 1153.01(b)
- residential front
 - yard parking 1153.09(h)
- subdivision, in 1111.16
- use for other building
 - prohibited 1153.01(a)

YIELD SIGNS (see TRAFFIC CONTROL DEVICE)**ZONING ADMINISTRATOR**

- duties 148.01, 1157.01, 1159.09

ZONING DISTRICTS (see also ZONING ORDINANCE)

- boundary interpretation 1145.03
- commercial districts
 - C-1 Central Business District 1149.08
 - Commercial "C" District 1149.09
- district development
 - standards 1149.12
- established 1145.01
- I-1 Industrial District 1149.11
- Mixed Use District 1149.07
- Official Zoning Map 1145.02
- residential districts
 - general regulations 1149.01
 - R-1 and R-2 Districts 1149.02
 - R-MHP Mobile Home Park District 1149.04
 - R-M Multi-Family District 1149.03

ZONING INSPECTOR

- Building Inspector, as ed. note Ch. 1311

ZONING ORDINANCE

- administration
 - appeal, right of 1157.05
 - certificate of occupancy 1157.03
 - conformity with application
 - and plans 1157.04
- Zoning
 - Administrator 1157.01, 1159.09
 - zoning certificate 1157.02
- amendments
 - action by applicant; fees 1161.01
 - Council action 1161.02
 - Planning Commission
 - action 1161.02
- annexation procedure 1143.01
- application 1153.01
- authority 1141.02
- Commission (see PLANNING AND ZONING COMMISSION)
- definitions 1147.01, 1147.02
- districts (see ZONING DISTRICTS)
- enforcement
 - penalties 1163.99
 - provisions as minimum
 - requirements 1163.01
 - remedies 1163.03
 - violation complaints 1163.02
- purpose 1141.01
- uses (see USE REGULATIONS)
- variances application fee 1159.08

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>	<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
2017-15	9-5-17	351.03			
2017-16	9-18-17	2017 Replacement Pages			
2017-18	12-4-17	351.03			
2017-19	12-4-17	1111.01 to 1111.14; repeals 1111.15, 1111.16			
2017-20	12-4-17	1153.09			
2017-21	12-4-17	1103.02, 1147.02			
2017-24	12-18-17	351.11			
2017-27	1-22-18	352.01 to 352.12, 352.99			
2018-14	9-4-18	351.45			
2018-20	11-5-18	2018 Replacement Pages			
2019-03	2-19-19	140.03, 140.04, 140.06, 140.07			
2019-06	3-4-19	375.09			
2019-17	6-3-19	1115.03			
2019-19	8-5-19	911.07			
2019-20	8-5-19	1537.01			
2019-22	7-1-19	141.06			
2020-17	7-6-20	521.06			
2020-18	7-6-20	557.01			
2020-27	10-5-20	140.04			
Res.					
30-2020	10-19-20	121.03(g)(11)			
2020-33	11-23-20	November 2020 Replacement Pages			
2021-05	6-21-21	1307.01, 1307.02			
2021-08	8-16-21	121.03(i)			
2021-09	8-16-21	121.03(i)			
2021-10	8-16-21	121.01(b)			
2021-11	8-16-21	121.02(c)			
2021-12	8-16-21	121.02(d)			
2021-21	11-1-21	951.01			
2021-28	12-15-21	133.03			
2021-30	1-5-22	November 2021 Replacement Pages			
2022-49	11-16-22	929.085, 953.065, 960.04			

**THE CHARTER
OF THE
CITY OF NEWTON FALLS, OHIO**

EDITOR'S NOTE: The Newton Falls Charter was originally adopted by the electors on September 20, 1966. Dates in parentheses after section headings indicate those provisions that were subsequently enacted, amended or repealed on the date given.

TABLE OF CONTENTS

PREAMBLE

ARTICLE I INCORPORATION, POWERS AND FORM OF GOVERNMENT

- | | |
|------------|--------------------------------|
| Section 1. | Incorporation. |
| Section 2. | Powers. |
| Section 3. | Form of Government. (11-2-93) |
| Section 4. | Conflict of Interest (11-2-93) |
| Section 5. | Use of Gender. (11-2-93) |

ARTICLE II MAYOR

- | | |
|------------|--|
| Section 1. | Election. (11-2-93) |
| Section 2. | Qualifications. (5-8-01) |
| Section 3. | Duties. (11-2-93) |
| Section 4. | Salary. (2-10-97) |
| Section 5. | Absence or Disability of Mayor or Vacancy of Office. (11-2-93) |

ARTICLE III CITY COUNCIL

- | | |
|------------|---|
| Section 1. | Membership and Terms. (11-2-93) |
| Section 2. | Qualification of Members. (5-8-01) |
| Section 3. | Vacancies. (11-4-03) |
| Section 4. | Removal. (11-2-93; 11-6-18) |
| Section 5. | Salaries (12-16-96) |
| Section 6. | Meetings and Organization. (11-4-03; 11-5-13) |

ARTICLE III CITY COUNCIL (Cont.)

- Section 7. Special Meetings. (11-4-03)
- Section 8. Emergency Meetings. (5-8-01)
- Section 9. Powers. (11-4-03)
- Section 10. Procedure of Council.
- Section 11. Appointment of the City Manager. (11-7-78)
- Section 12. Interference With Appointments. (11-5-13)
- Section 13. Department, Offices, and Duties.
- Section 14. City Clerk. (11-2-05)
- Section 15. Ordinances. (11-2-93; 5-8-01)
- Section 16. Procedure For Passage of Ordinances and First Reading. (11-7-78)
- Section 17. Second Reading and Public Hearing. (11-7-78)
- Section 18. Further Consideration and Final Passage. (11-7-78)
- Section 19. Publication of Ordinances After Final Passage and Permissive Referendum. (11-7-78)
- Section 20. Exception As To Newspaper Publication of Code Ordinances.
- Section 21. Emergency Ordinances. (11-8-88; 11-8-22.)
- Section 22. Resolutions.
- Section 23. Voting Thresholds and Abstentions. (11-8-22.)
- Section 25. Public and Closing Comments. (11-8-22)

ARTICLE IV CITY MANAGER

- Section 1. Qualifications. (11-4-03)
- Section 2. Duties. (11-8-88; 11-2-93; 5-8-01; 11-4-08; 11-5-13)

ARTICLE V DEPARTMENTS

- Section 1. Department of Law. (11-2-05)
- Section 2. Department of Finance (11-8-88; 11-2-93)
- Section 3. Police Department (5-4-93; 11-2-93)
- Section 4. Zoning Department. (11-4-03; 11-2-05)
- Section 5. Department Heads. (11-4-03)

ARTICLE VI COMMISSIONS AND BOARDS

- Section 1. Civil Service Commission. (11-2-93; 5-8-01; 11-4-03)
- Section 2. Planning and Zoning Commission. (11-4-03; 11-2-05)
- Section 3. Park and Recreation Board. (11-4-03; 11-2-05; 11-5-12; 11-6-18)
- Section 4. Treasury Investment Board. (11-8-88; 5-8-01)
- Section 5. Reports by the Boards and Commissions. (5-8-01; 11-6-18)
- Section 6. Removal of Board/Commission Members. (11-4-03)

ARTICLE VII ELECTIONS, GENERAL PROVISIONS

- Section 1. Procedures for Nomination and Election.
- Section 2. Initiative and Referendum.
- Section 3. Removal of Elective Officers.
- Section 4. Recall. (11-8-88; 11-6-18; 11-8-22)
- Section 5. Open Elections. (11-8-88; 11-6-18)

ARTICLE VIII FISCAL YEAR, TAXATION, PURCHASES

- Section 1. Fiscal Year.
- Section 2. Limitation on Tax Rate.
- Section 3. Contracts and Purchasing. (5-8-01)

SECTION 21. EMERGENCY ORDINANCES.

When necessary, for the preservation for the public peace, health, welfare, or safety, the Council, by affirmation vote of two-thirds of the members elected thereto, may adopt an emergency ordinance which shall take effect upon passage. Such emergency ordinance shall set forth and define the specific facts designating the emergency. Such emergency ordinance shall require no public hearing and both the first and second reading may be passed at the same meeting. Such emergency ordinance shall be published as other ordinances after final passage. No ordinance granting a franchise or fixing a rate to be charged by a public utility shall be passed as an emergency measure.

It is not sufficient for the passage of an ordinance as an emergency measure to merely state the ordinance is necessary for the immediate preservation of the public peace, health, welfare, or safety, without providing additional rationale for passing the ordinance on an emergency basis. In the absence of such additional justifying language, electors shall have the right to exercise any referendum rights available with respect to the ordinance. If the emergency ordinance does not receive an affirmative vote of two-thirds of the members elected to Council on its first reading, the ordinance shall be deemed to have failed to pass at that meeting and shall require two additional readings and a public hearing before passage as required by Article III, Section 15 of the Charter. (Amended November 8, 1988; November 8, 2022.)

SECTION 22. RESOLUTIONS.

Where action by Council is not required to be by ordinance, Council may act by resolution or motion. All resolutions shall require but one reading and no publication, and shall take effect immediately upon their adoption.

SECTION 23. VOTING THRESHOLDS AND ABSTENTIONS.

a. Vote Thresholds. In order to pass an ordinance or resolution, an affirmative vote from a majority of those members present at the meeting shall be required, unless such ordinance is passed as an emergency ordinance, which shall require the affirmative vote of a two-thirds majority of those members elected to Council. Matters that may be adopted by Council by motion shall require the affirmative vote of a majority of those members present at the meeting at the time the vote is taken. The Mayor is only permitted to vote on matters before Council in the event of a tie. The Mayor shall not be counted in calculating the number of members elected to Council for voting purposes unless he actually casts a vote in the event of a tie. For voting purposes, Council shall never be considered more than a five person Council. If one or more Council offices are vacant, the number of persons serving on Council at the time the vote is taken shall be considered the number of those members elected to Council for voting purposes.

b. Abstentions. Councilmembers shall, after providing an explanation therefor, abstain from voting on matters before Council when they have a conflict of interest with respect to the matter being considered. If a Councilmember abstains from voting due to a conflict of interest, the abstaining member shall be treated as if they were not present for the vote for the purpose of determining the number of votes needed to pass an ordinance, resolution, or motion. With the exception of abstaining from a vote to approve minutes for a meeting at which a Councilmember was not present or in the event of a conflict of interest or an appearance of impropriety, Councilmembers shall not abstain from casting a vote unless permission to abstain is granted to the Councilmember requesting to abstain by a majority vote of the other Councilmembers present at the meeting.

c. Appeals or Quasi-Judicial Proceedings Conducted by Council. For matters in which Council is acting as an appellate tribunal and/or in a quasi-judicial manner, Councilmembers who recuse themselves from the proceedings due to a conflict of interest, the appearance of impropriety, illness, or unavailability shall not be considered as a member elected to Council or member present at the meeting when determining the necessary affirmative vote threshold for that appeal or proceeding. In appeals or quasi-judicial proceedings heard by Council, the Mayor shall not be counted in calculating the number of members elected to Council or the number of Councilmembers present at a meeting for voting purposes unless he actually casts a vote in the event of a tie.

d. Voting Thresholds for Particular Vote Requirements and Situations.

(1) Four Fifth's Vote of Those Members Elected to Council.

Requires 4 affirmative votes out of the 5 Councilmembers.

If one or more Council offices are vacant, the number of persons serving on Council at the time the vote is taken (whether or not they are present at the meeting) shall be considered the number of those members elected to Council for voting purposes.

Requires 4 affirmative votes if 4 person Council with 1 vacancy.

Requires 3 affirmative votes if 3 person Council with 2 vacancies.

Requires 2 affirmative votes if 2 person Council with 3 vacancies.

Councilmembers not present at a meeting do not alter the number of members elected to Council for the purposes of this voting threshold.

Abstention votes are not counted as an affirmative vote.

The Mayor shall not be counted in calculating the number of members elected to Council for voting purposes.

For voting purposes, Council shall never be considered more than a five person Council.

For matters in which Council is acting as an appellate tribunal and/or in a quasijudicial manner, Councilmembers who recuse themselves from the proceedings due to a conflict of interest, the appearance of impropriety, illness, or unavailability shall not be considered as a member elected to Council when determining the necessary affirmative vote threshold for that appeal or proceeding.

(2) Four-Fifth's Vote of Council or Four-Fifth's Vote of Those Members Present.

Based upon the number of Councilmembers present at the meeting.

If 5 Councilmembers are present at the meeting, 4 affirmative votes are required.

If 4 Councilmembers are present at the meeting, 4 affirmative votes are required.

If 3 Councilmembers are present at the meeting, 3 affirmative votes are required.

Abstention votes are not counted as an affirmative vote.

The Mayor shall not be counted in calculating the number of members present.

For voting purposes, Council shall never be considered more than a five person Council.

If a Councilmember abstains from voting due to a conflict of interest, the abstaining member shall be treated as if they were not present for the vote for the purpose of determining the number of votes needed to pass an ordinance, resolution, or motion. With the exception of abstaining from a vote to approve minutes for a meeting at which a Councilmember was not present or in the event of a conflict of interest or an appearance of impropriety, Councilmembers shall not abstain from casting a vote unless permission to abstain is granted to the Councilmember requesting to abstain by a majority vote of the other Councilmembers present at the meeting.

For matters in which Council is acting as an appellate tribunal and/or in a quasijudicial manner, Councilmembers who recuse themselves from the proceedings due to a conflict of interest, the appearance of impropriety, illness, or unavailability shall not be considered as a member present at the meeting when determining the necessary affirmative vote threshold for that appeal or proceeding.

In appeals or quasi-judicial proceedings heard by Council, the Mayor shall not be counted in calculating the number of Councilmembers present at a meeting for voting purposes unless he actually casts a vote in the event of a tie.

(3) Two-Thirds Vote of Those Members Elected to Council.

Requires 4 affirmative votes out of the 5 Councilmembers.

If one or more Council offices are vacant, the number of persons serving on Council at the time the vote is taken (whether or not they are present at the meeting) shall be considered the number of those members elected to Council for voting purposes.

Requires 3 affirmative votes if 4 person Council with 1 vacancy.

Requires 2 affirmative votes if 3 person Council with 2 vacancies.

Requires 1 affirmative vote plus the Mayor's affirmative tiebreaking vote if 2 person Council with 3 vacancies.

Councilmembers not present at a meeting do not alter the number of members elected to Council for the purposes of this voting threshold.

Abstention votes are not counted as an affirmative vote.

The Mayor shall not be counted in calculating the number of members elected to Council for voting purposes unless he actually casts a vote in the event of a tie.

For voting purposes, Council shall never be considered more than a five person Council.

For matters in which Council is acting as an appellate tribunal and/or in a quasijudicial manner, Councilmembers who recuse themselves from the proceedings due to a conflict of interest, the appearance of impropriety, illness, or unavailability shall not be considered as a member elected to Council when determining the necessary affirmative vote threshold for that appeal or proceeding.

(4) Two-Thirds Vote of Council or Two-Thirds Vote of Those Members Present.

Based upon the number of Councilmembers present at the meeting.

If 5 Councilmembers are present at the meeting, 4 affirmative votes are required.

If 4 Councilmembers are present at the meeting, 3 affirmative votes are required.

If 3 Councilmembers are present at the meeting, 2 affirmative votes are required.

Abstention votes are not counted as an affirmative vote.

The Mayor shall not be counted in calculating the number of members present for voting purposes unless he actually casts a vote in the event of a tie.

For voting purposes, Council shall never be considered more than a five person Council.

If a Councilmember abstains from voting due to a conflict of interest, the abstaining member shall be treated as if they were not present for the vote for the purpose of determining the number of votes needed to pass an ordinance, resolution, or motion. With the exception of abstaining from a vote to approve minutes for a meeting at which a Councilmember was not present or in the event of a conflict of interest or an appearance of impropriety, Councilmembers shall not abstain from casting a vote unless permission to abstain is granted to the Councilmember requesting to abstain by a majority vote of the other Councilmembers present at the meeting.

For matters in which Council is acting as an appellate tribunal and/or in a quasijudicial manner, Councilmembers who recuse themselves from the proceedings due to a conflict of interest, the appearance of impropriety, illness, or unavailability shall not be considered as a member present at the meeting when determining the necessary affirmative vote threshold for that appeal or proceeding.

In appeals or quasi-judicial proceedings heard by Council, the Mayor shall not be counted in calculating the number of Councilmembers present at a meeting for voting purposes unless he actually casts a vote in the event of a tie.

(5) Majority Vote of Those Members Elected to Council.

Requires 3 affirmative votes out of the 5 Councilmembers.

If one or more Council offices are vacant, the number of persons serving on Council at the time the vote is taken (whether or not they are present at the meeting) shall be considered the number of those members elected to Council for voting purposes.

Requires 3 affirmative votes or 2 affirmative votes plus the Mayor's tiebreaking vote if 4 person Council with 1 vacancy.

Requires 2 affirmative votes if 3 person Council with 2 vacancies.

Requires 1 affirmative vote plus the Mayor's tiebreaking vote if 2 person Council with 3 vacancies.

Councilmembers not present at a meeting do not alter the number of members elected to Council for the purposes of this voting threshold.

Abstention votes are not counted as an affirmative vote.

The Mayor shall not be counted in calculating the number of members elected to Council for voting purposes unless he actually casts a vote in the event of a tie.

For voting purposes, Council shall never be considered more than a five person Council.

For matters in which Council is acting as an appellate tribunal and/or in a quasijudicial manner, Councilmembers who recuse themselves from the proceedings due to a conflict of interest, the appearance of impropriety, illness, or unavailability shall not be considered as a member elected to Council when determining the necessary affirmative vote threshold for that appeal or proceeding.

In appeals or quasi-judicial proceedings heard by Council, the Mayor shall not be counted in calculating the number of members elected to Council or the number of Councilmembers present at a meeting for voting purposes unless he actually casts a vote in the event of a tie.

(6) Majority Vote, Majority Vote of Council, or Majority Vote of Those Present.

Based upon the number of Councilmembers present at the meeting.

If 5 Councilmembers are present at the meeting, 3 affirmative votes are required.

If 4 Councilmembers are present at the meeting, 3 affirmative votes (or two affirmative votes plus the Mayor's affirmative tiebreaking vote) are required.

If 3 Councilmembers are present at the meeting, 2 affirmative votes are required.

Abstention votes are not counted as an affirmative vote.

The Mayor shall not be counted in calculating the number of members present for voting purposes unless he actually casts a vote in the event of a tie.

For voting purposes, Council shall never be considered more than a five person Council.

If a Councilmember abstains from voting due to a conflict of interest, the abstaining member shall be treated as if they were not present for the vote for the purpose of determining the number of votes needed to pass an ordinance, resolution, or motion. With the exception of abstaining from a vote to approve minutes for a meeting at which a Councilmember was not present or in the event of a conflict of interest or an appearance of impropriety, Councilmembers shall not abstain from casting a vote unless permission to abstain is granted to the Councilmember requesting to abstain by a majority vote of the other Councilmembers present at the meeting.

For matters in which Council is acting as an appellate tribunal and/or in a quasijudicial manner, Councilmembers who recuse themselves from the proceedings due to a conflict of interest, the appearance of impropriety, illness, or unavailability shall not be considered as a member present at the meeting when determining the necessary affirmative vote threshold for that appeal or proceeding.

In appeals or quasi-judicial proceedings heard by Council, the Mayor shall not be counted in calculating the number of Councilmembers present at a meeting for voting purposes unless he actually casts a vote in the event of a tie. (Added November 8, 2022.)

SECTION 25. PUBLIC AND CLOSING COMMENTS.

The public shall have the right to Public Comments and Closing Comments at City Council Meetings as specified herein:

- a. Regular Council Meetings. At Regular Council Meetings, prior to the time Council votes on any agenda item but after the time at which Council may amend the agenda, members of the public in attendance shall have up to three minutes for Public Comments on any items on, or added to, the agenda. In addition, Council shall provide for a Closing Comment period at all Regular Council Meetings. During the Closing Comment period, members of the public in attendance shall have up to three minutes to comment on any matter or matters relating to the City or City business, or charitable cases or causes, regardless of whether the matters are an agenda item for that meeting.

- b. Special Council Meetings. At Special Council Meetings, prior to the time Council votes on any agenda item, members of the public in attendance shall have up to three minutes for Public Comments on any items on the agenda.
- c. Emergency Council Meetings. At Emergency Council Meetings, prior to the time Council votes on any agenda item, members of the public in attendance shall have up to three minutes for Public Comments on any items on the agenda.
(Added November 8, 2022.)

ARTICLE IV CITY MANAGER

SECTION 1. QUALIFICATIONS.

The City Manager shall be chosen by City Council solely on the basis of his executive and administrative qualifications as judged by the adequacy of his technical training and/or his successful experience in public administration. At the time of his appointment, the Manager need not be a resident of the City or State, but within six (6) months of his date of appointment he shall become an elector of the City and maintain that status throughout the balance of his period of service as City Manager. Council shall fix the City Manager's salary, terms and conditions of employment.

No elected officer of the City may be appointed to the office of City Manager within two (2) years after the expiration of the elected term. (Amended November 4, 2003)

SECTION 2 DUTIES.

The City Manager shall be the administrative head of the City.

- a. He shall in accordance with the law appoint, supervise, suspend and remove all officers and employees of the City under his jurisdiction.
- b. He shall see that the contracts and ordinances of the City and the laws of the State of Ohio are enforced.
- c. He shall make such recommendations to the Council concerning the affairs of the City as may seem to him desirable, keep Council advised of the financial condition and future needs of the City, prepare and submit an annual report, and such other reports as may be required by Council, issue all licenses and permits pursuant to ordinance, and perform all other duties prescribed for him in this Charter, or imposed upon him by any measure of Council.
- d. The City Manager, together with such subordinates as he shall designate, shall be entitled to sit with Council and all of the City's boards and commissions, and to take part in any discussion, but shall have no vote; except as may be otherwise set forth in this charter.
- e. Specifically, however, the City Manager shall not be entitled to sit with the Civil Service Commission.
- f. The City Council shall appoint any qualified individual to perform the duties of City Manager during the City Manager's temporary absence or disability. Such approval shall be given, by motion, to the City Clerk.
- g. He shall prepare and submit to Council with the assistance of the Finance Director, a budget no later than November 15 of each year to be adopted by Council prior to December 31.

- h. He shall act as purchasing agent for the City and shall sign all contracts, bonds and notes on behalf of the City.
(Amended November 8, 1988; November 2, 1993; May 8, 2001; November 4, 2008)
- i. He shall act as supervisor and chief administrator to the Charter listed Department Heads and maintains the right to discipline, short of termination, those Department Heads provided the discipline is within the bounds of any employment contract in place and assuring all City Charter prescribed duties of Department Heads remain in full force and effect.
(Enacted November 5, 2013.)

ARTICLE V DEPARTMENTS

SECTION 1. DEPARTMENT OF LAW.

There shall be a Department of Law, the head of which shall be the Director of Law, who shall be appointed and removed by Council and shall serve under the supervision of the City Manager.

The Director of Law shall be an attorney-at-law who shall have practiced in this State for at least five years.

The Director of Law shall be the chief legal advisor of all offices, departments and agencies and of all officers and employees in matters relating to their official powers and duties. He shall represent the City in all legal proceedings, unless otherwise authorized by City Council, necessitated by contractual obligations, or as required by law. It shall be his duty to perform all services incident to the Department of Law as may be required by statute, or by ordinance or resolution of the council. (Amended November 2, 2005)

SECTION 2. DEPARTMENT OF FINANCE.

There shall be a Department of Finance, the head of which shall be the Director of Finance, who shall be appointed and removed by Council and shall serve under the supervision of the City Manager.

The Director of Finance shall provide a bond with surety and in such amount as the Council may require by ordinance; the premium for such bond shall be paid for by the City.

The Director of Finance shall be the chief fiscal officer and shall have charge of the administration of the financial affairs of the City and to that end he shall have authority and shall be required to keep the financial records of the City, exhibiting accurate statements of all moneys received and expended, of all property owned by the City, and of all taxes and assessments. He shall advise the City Manager concerning the financial condition of the City and shall examine all payrolls, bills and other claims against the City and shall issue no warrants unless he finds that the claim is in proper form, correctly computed, duly approved and that an appropriation has been made therefore. He shall collect all money due and payable to the City and shall be the custodian of all public money of the City and shall disburse the same as may be required by law or ordinance. He shall examine and audit the accounts of all other officers, employees, departments, boards and commissions, and shall assist the City Manager in the preparation and submission of appropriation measures, estimates, budgets, and other financial matters. He shall perform all other duties now or hereafter imposed on City Auditors and Treasurers under the laws of the State of Ohio and shall perform such other duties, consistent with his office, as may be required by the City Manager.

The Director of Finance shall be qualified by training and experience to discharge the duties of the Department of Finance in a capable manner. The Director of Finance shall have knowledge of municipal accounting and taxation and shall have had experience in budgeting and financial control.

The Council, by a majority affirmative vote, may designate an officer or employee of the City, who during absence or disability of, or during a vacancy in the office of Director of Finance, shall exercise the powers and discharge the duties and functions of the Director of Finance, under the title of Acting Director of Finance.

(Amended November 8, 1988; November 2, 1993)

SECTION 3. POLICE DEPARTMENT.

There shall be a Newton Falls Police Department, the head of which shall be the Chief of Police, who shall be appointed and removed by Council and shall serve under the supervision of the City Manager.

The Chief of Police shall have sole jurisdiction and control over the Police Department and its employees in accordance with the laws of the State and the rules and regulations of the Newton Falls Police Department. The Chief of Police shall appoint, supervise and discipline up to the point of dismissal, all officers and employees under his jurisdiction and control. Notwithstanding any other section of this Charter that precludes Council or its members from participating in the removal of an employee, dismissal of an employee of the Police Department shall be made by a two thirds vote of a panel consisting of the two Council members of the Public Safety Committee and the City Manager, upon recommendation of the Police Chief.

(Amended May 4, 1993; Ord 93-10. Passed 2-15-93.)

SECTION 4. ZONING DEPARTMENT.

There shall be a department of Zoning, the head of which shall be the Zoning Administrator, who shall be appointed and removed by City Manager and shall serve under the supervision of the City Manager. The Zoning Administrator shall be chosen solely on the basis of technical and administrative qualifications. Council shall fix the Zoning Administrator's salary and terms and conditions of employment.

Duties of Zoning Administrator shall be:

Administer and enforce all laws, rules and regulations contained in the zoning ordinance. Attend all Planning and Zoning Commission meetings and provide technical assistance as a non-voting member. Provide a monthly report of activities, fees collected and permits issued to Council. Collect all fees necessary for the issuance and inspections related to zoning and planning requirements. (Amended November 4, 2003; November 2, 2005)

SECTION 5. DEPARTMENT HEADS.

The department heads listed in this section shall in conjunction with the City Manager have the authority in their departments to supervise and discipline up to the point of dismissal, all employees under their jurisdiction and control.

The department heads are the Law Director (Director of Law), the Finance Director (Director of Finance), Police Chief (Chief of Police), Zoning Administrator (Zoning and Inspection Administrator), and the designated head of any other department that is lawfully established and funded by the City. (Amended November 4, 2003)

ARTICLE VI COMMISSIONS AND BOARDS

SECTION 1. CIVIL SERVICE COMMISSION.

The Civil Service Commission shall consist of three members, who shall be qualified electors of the City and shall be appointed for terms of six years each by a majority vote of the members elected to Council; provided that the first persons appointed by Council pursuant to this section shall be appointed as follows: one member shall be appointed for a two year term, one member shall be appointed for a four year term, and one member shall be appointed for six year term and thereafter each member shall be appointed for a six year term and shall continue in office until his successor is appointed.

The Commission members shall designate one of the three as chairman and one of the three as secretary. No member of the Civil Service Commission shall hold any other office or employment with the City and not more than two such members shall be members of the same political party. Each member of the Civil Service Commission shall be paid \$10.00 per meeting, not to exceed \$100.00 per year and to be paid on or before December 31.

The civil service of the Municipality is hereby divided into unclassified and classified service. The unclassified service shall include;

City Manager	City Clerk
Director of Law	All other employees of Council
Director of Finance	All temporary employees
Police Chief	All part-time employees
Unskilled Laborer	All employees of the Newton Falls Municipal Court System
Emergency Management Director	
Zoning Administrator	All elected officials and their secretaries
Members of Board and Commissions established by this Charter or ordinance	
All employees with professional qualifications engaged as consultants.	

(Amended November 4, 2003)

The classified service shall comprise all positions not specifically included by this section in the unclassified service. The Civil Service Commission may certify the top three candidates from a promotional exam to the appointing officer for promotion to any position within the classified service.

The Commission shall have all powers and duties granted and imposed by the general laws of the State of Ohio to civil service commissions, and shall be controlled by such statutes except where the same are in conflict with this Charter.

(Amended November 2, 1993)

SECTION 2. PLANNING AND ZONING COMMISSION.

There shall be a City Planning and Zoning Commission which shall consist of five voting members, who shall be qualified electors of the City and who are appointed by the Council, none of whom shall hold any other public office or position in the City. The Commission shall elect its chairman from among voting members. Each member of the Planning and Zoning Commission shall be paid \$10.00 per meeting, not to exceed \$150.00 per year to be paid on or before December 31 of each year. (Amended November 4, 2003)

The term of the appointive members shall be five years. Any vacancy during the unexpired term of an appointive member shall be filled by the Council for the remainder of the terms.

The Commission shall have all powers and duties granted and imposed by the general laws of the State of Ohio to planning commissions and zoning boards, and shall be controlled by such statutes except where the same are in conflict with this Charter.
(Added November 2, 2005)

SECTION 3. PARKS AND RECREATION BOARD.

The Park & Recreation Board shall consist of three (3) members, who shall be qualified electors of the city, appointed for staggered terms of three (3) years. The initial Park & Recreation Board shall be appointed as follows: Beginning in 2019 one term expires at the end of 2019, one term expires at the end of 2020, and one term expires at the end of 2021, thereafter to be three-year terms. Members of the Park & Recreation Board shall be appointed by a majority vote of Council. Each appointed member of the Park & Recreation Board shall be paid \$10.00 per meeting, not to exceed \$100.00 per year to be paid on or before December 31 of each year. Any vacancy during the unexpired term of an appointive member shall be filled by the Council for the remainder of the terms.

The Park and Recreation Board shall provide for the development, maintenance, and operation of the parks, playgrounds, Community Center and recreational facilities and programs of the City. The Park and Recreation Board shall have a general policy making authority, subject to the appropriations and approval of Council, and under the supervision of the City Manager.
(Amended November 6, 2018)

SECTION 4. TREASURY INVESTMENT BOARD.

The Treasury Investment Board shall consist of the Finance Director, City Manager, Law Director, and two members of Council. Council's representatives to the Treasury Investment Board shall include the Chairman of the Finance Committee and one other member chosen by a majority vote of Council. Each Council representative's term on the Treasury Investment Board shall be the same as his term on Council.

The Treasury Investment Board shall supervise and control the direction of the investments of any surplus, reserve, or inactive funds of the City and shall direct the investments as are permitted to fiduciaries by general law. (Enacted November 8, 1998)

The Treasury Investment Board shall hold a quarterly meeting and submit a written report to City Council following each meeting of the Board.
(Amended May 8, 2001)

SECTION 5. REPORTS BY THE COMMISSIONS AND BOARDS.

All Commissions and Boards authorized in this Charter or appointed by Council or the City Manager are hereby required to provide a written annual report for the preceding calendar year. Any such report shall be prepared by the Chair or the Committee Designee and submitted to the City Clerk by not later than January 31st of each year, distributed to Council, and read by the Chair or Committee Designee at the next regular Council meeting. Any such annual report shall include a statement of all funds expended by the commission/board and the activities engaged in by the commission/board during the preceding calendar year.
(Amended November 6, 2018)

SECTION 6. REMOVAL OF BOARD/COMMISSION MEMBERS.

Any member appointed by Council to any Board or Commission, may be removed from such office in the same manner as removal of elective officers, as specified in Article III, Section 4 of this City Charter. Such action for removal shall only be initiated by a majority vote of the Board or Commission recommending removal of one or more of its members to City Council. (Amended November 4, 2003)

**ARTICLE VII
ELECTIONS, GENERAL PROVISIONS****SECTION 1. PROCEDURES FOR NOMINATION AND ELECTION.**

Unless otherwise provided in this Charter and its amendments, elections in the City of Newton Falls shall be conducted in accordance with the general laws of the State of Ohio as administered by the Trumbull County Board of Elections.

SECTION 2. INITIATIVE AND REFERENDUM.

The rights of initiative and referendum upon ordinances and action taken by Council as prescribed in the Constitution of the State of Ohio and as set forth in the general laws of the State of Ohio, are hereby reserved to the people and shall be carried out according to the Constitution and the laws of this State.

SECTION 3. REMOVAL OF ELECTIVE OFFICERS.

Except as otherwise provided in this Charter, the removal of elective officers as prescribed in the Constitution of the State of Ohio and set forth in the general laws of the State of Ohio, is hereby reserved to the people and shall be carried out according to the Constitution and the laws of this State.

SECTION 4. RECALL.

Any member of Council or Mayor may be removed from office before the expiration of his term by the qualified voters of the City.

The recall of any member of Council or Mayor shall proceed upon determination that the elected officer:

- A. Does not possess, or has ceased to possess, the qualifications of office; or
- B. Has failed to take the required oath or to give any bond required of him within twenty days after his notification of his appointment of election, or obligation to give a new or additional bond; or
- C. While in office has been convicted of a felony or crime involving moral turpitude; or
- D. Is guilty of gross misconduct, gross neglect of duty, misfeasance, malfeasance or nonfeasance in office; or
- E. Has been adjudicated legally incompetent; or
- F. Has violated his oath of office.

The electors shall have the power to remove from office by a recall election any elected officer of the City in the manner herein provided. If an elected officer shall have served one (1) year of his term, a petition demanding his removal may be filed with the Clerk of Council, who shall note thereon the name and address of the person filing the petition and the date of such filing, and deliver to such person a receipt therefor and attach a copy thereof to said petition. From the

date such uncirculated petition is filed with the Clerk of Council, the petitioner shall have ninety (90) days in which to circulate the recall petition and refile the petition with the Clerk that satisfies the requirements for triggering a recall election. Such petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one (1) instrument. Each part shall contain the name and office of the person whose removal is sought and a statement in not more than two hundred (200) words of the grounds of the removal. Such petition shall be signed by at least that number of electors which equals fifty-one percent (51 %) in number of the electors voting at the last preceding Presidential election, provided however, the petition for recall of a councilman elected from a ward shall be signed by at least that number of electors of the councilman's ward equal to fifty-one percent (51 %) in number of the electors of such ward who voted in the last preceding regular municipal election. Within twenty (20) days after the day on which such petition shall have been filed, the Clerk shall determine whether or not it meets the requirements hereof. If the Clerk shall find the petition insufficient, he shall promptly certify the particulars in which the petition is defective, deliver a copy of his certificate to the person who filed the petition, and make a record of such delivery. Such person shall be allowed a period of ten (10) days after the date on which such delivery was made in which to make the petition sufficient.

If the Clerk of Council shall find the petition sufficient, he shall promptly so certify to Council, shall deliver a copy of such certificate to the officer whose removal is sought, and shall make a record of such delivery.

If such officer shall not resign within seven (7) days after the day on which such delivery shall have been made, the Council shall thereupon, at its next Regular Council Meeting after the expiration of that seven (7) day period, adopt and promptly certify to the Board of Elections a resolution requesting the County Board of Elections to schedule the recall election for the soonest Regular General or Regular Municipal, or Primary, election date for which the recall election can be scheduled by the County Board of Elections and shall cause notice of such recall election to be posted promptly on the Village website until the date of the recall election. An election for the recall of a councilman elected from a ward shall be conducted only in that ward; all other recall elections shall be conducted in the City at large. At such recall election, this question shall be placed upon the ballot: "Shall (naming the officer) be allowed to continue as (naming the office)?", with the provisions on the ballot for voting affirmatively or negatively, and in the event of a majority of the vote is negative, such officer shall be considered as removed, his office shall be deemed vacant and such vacancy shall be filled as provided in this Charter. The officer removed at such recall election shall not be eligible for appointment to the vacancy created thereby. If the officer is not removed at such recall election, no further recall petitions shall be filed against him for a period of one (1) year following such election.
(Amended November 6, 2018; November 8, 2022.)

SECTION 5. OPEN ELECTIONS.

The Primary Election shall be an opened primary whereby the two candidates that receive the most votes would face each other in a November General Election. The two candidates receiving the most votes in the primary would proceed to the November General Election irrespective of any party affiliation or designation of a party. In the Primary Election, the candidates running for election may designate a party, or choose not to. Irrespective of the party designation, only the two candidates with the highest number of votes would proceed to the November General Election.
(Enacted November 8, 1988)

If a candidate does not appear on the Primary Election ballot they will not proceed or be added in any way to the November General Election ballot.

All candidates must appear on the Primary Election ballot to be eligible to run in the November General Election. (Amended November 6, 2018)

ARTICLE VIII FISCAL YEAR, TAXATION, PURCHASES

SECTION 1. FISCAL YEAR.

The fiscal year of the City shall begin with the first day of January and shall end with the next succeeding thirty-first day of December.

The first fiscal year, as established by this Charter, shall commence on the first day of January, 1968.

SECTION 2. LIMITATION ON TAX RATE.

The powers of Council to levy taxes shall be subject to the limitations now or hereafter provided by the Constitution and the general laws of the State of Ohio and nothing contained in the Charter shall be construed as authorizing the levy of any taxes in excess of such limitations without a vote of the people.

SECTION 3. CONTRACTS AND PURCHASES.

The Manager may, within the amounts and items appropriated by the Council, make purchases and enter into contracts in behalf of the City without competitive bidding, in accordance with the provisions of the general laws of this State, except as may be otherwise provided by ordinance of the Council. No purchase in excess of those limitations provided by the general laws of this State, shall be made except with the lowest and best bidder as determined by Council after advertising for bids, in writing, for a period of at least two weeks in a newspaper of general circulation within the City; provided, however, that the Council may authorize a contract for personal services without advertising for bids, and that Council may authorize a purchase or a contract involving an expenditure in excess of the limits as provided by the general laws of this State, without advertising for bids, if it determines and declares by an affirmative vote of all members that an emergency exists and sets forth the nature of the emergency in its resolution or ordinance. (Amended 5-8-01)

ARTICLE IX SUCCESSION IN GOVERNMENT

SECTION 1. RIGHTS OF OFFICERS AND EMPLOYEES.

EDITOR'S NOTE: Former Section 1 was repealed by the voters on November 7, 1978.

SECTION 2. CONTINUANCE OF PRESENT OFFICERS.

EDITOR'S NOTE: Former Section 2 was repealed by the voters on November 7, 1978.

SECTION 3. STATUS OF OFFICERS AND EMPLOYEES HOLDING POSITIONS WHEN THE CHARTER TAKES EFFECT.

EDITOR'S NOTE: Former Section 3 was repealed by the voters on November 7, 1978.

SECTION 4. TRANSFER OF RECORDS AND PROPERTY.

EDITOR'S NOTE: Former Section 4 was repealed by the voters on November 7, 1978.

SECTION 5. CONTINUITY OF OFFICES, DEPARTMENTS OR AGENCIES.

EDITOR'S NOTE: Former Section 5 was repealed by the voters on November 7, 1978.

SECTION 6. CONTINUANCE OF CONTRACTS AND PUBLIC IMPROVEMENTS.

EDITOR'S NOTE: Former Section 6 was repealed by the voters on November 7, 1978.

SECTION 7. PENDING ACTIONS AND PROCEEDINGS.

EDITOR'S NOTE: Former Section 7 was repealed by the voters on November 7, 1978.

SECTION 8. WHEN PROVISIONS TAKE EFFECT.

EDITOR'S NOTE: Former Section 8 was repealed by the voters on November 7, 1978.

SECTION 9. GENERAL LAWS, ORDINANCES, ETC. SHALL PREVAIL.

Insofar as they are not inconsistent with or contradictory to the provisions of this Charter, or to the provisions of any lawfully enacted ordinance, the general laws of this State shall be the law for the City of Newton Falls. All existing ordinances, resolutions, regulations, contracts and commitments of the City of Newton Falls not inconsistent with or contradictory to the provisions of this Charter, shall remain in full force and effect until changed by proper authority of the City of Newton Falls.

SECTION 10. ADMINISTRATIVE FUNCTIONS NOT ASSIGNED.

The City Manager shall have power to perform any and all administrative functions not herein otherwise assigned until changed by ordinance.

SECTION 11. DISCONTINUANCE OF OFFICES.

EDITOR'S NOTE: Former Section 11 was repealed by the voters on November 7, 1978.

ARTICLE X AMENDMENTS TO CHARTER

The Council may, by affirmative vote of four-fifths or more of its members, submit to the electors any proposed amendment or amendments to this Charter; or upon petition signed by not less than ten percent of the electors of the City setting forth any proposed amendment or amendments to the Charter, the Council shall forthwith submit such proposed amendment or amendments to the electors in accordance, in each instance, with the provisions of the Constitution.

If any such proposed amendment or amendments shall be approved by a majority of the electors voting thereon, it or they shall become a part of this Charter, except that if two or more inconsistent proposed amendments on the same subject shall be submitted at the same election, only the one of such amendments receiving the largest affirmative vote, not less than a majority, shall become a part of this Charter.

ARTICLE XI CHARTER REVIEW

At the first regular Council meeting in February 1998, and similarly each five years thereafter, Council shall appoint a commission of seven qualified electors, whom shall hold no other office or appointment in the City at the time of their appointment, to serve as a Charter Review Commission. The seven shall be chosen from a list submitted of available citizens and voted on by a majority vote of Council. The top seven vote getters will be on the Commission. The appointed members shall elect their own chairman. Within four calendar months of the date of their appointment said Commission shall recommend to Council such alterations, revisions, and amendments, if any, to this Charter as in the judgment of a majority of said Commission are desirable. City Council shall submit to the electors all such proposed alterations, revisions, or amendments to be voted on at the next general election. Each said commission shall cease to function on the day of the next general election following its appointment.
(Amended November 2, 1993)

ARTICLE XII EFFECT OF PARTIAL INVALIDITY

In the event of a determination that any part of this Charter is invalid such determination shall not invalidate or impair the force or effect of any other part hereof except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.

- (o) "Public place" includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.
- (p) "Registered mail" includes certified mail and "certified mail" includes registered mail.
(ORC 1.02(G))
- (q) "Rule" includes regulation. (ORC 1.59(F))
- (r) "Sidewalk" means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.
- (s) "This State" or "the State" means the State of Ohio.
(ORC 1.59(G))
- (t) "Street" includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.
- (u) "Tenant" or "occupant", as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.
- (v) "Whoever" includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private.
(ORC 1.02(A))
- (w) "Written" or "in writing" includes any representation of words, letters, symbols or figures. This provision does not affect any law relating to signatures.
(ORC 1.59(J))

101.03 RULES OF CONSTRUCTION.

(a) Common and Technical Usage. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.
(ORC 1.42)

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

- (1) The singular includes the plural, and the plural includes the singular.
- (2) Words of one gender include the other genders.
- (3) Words in the present tense include the future.
(ORC 1.43)

(c) Calendar; Computation of Time.

- (1) Definitions.
 - A. "Week" means seven consecutive days.
 - B. "Year" means twelve consecutive months.
(ORC 1.44)
- (2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.
(ORC 1.45)

- (3)
 - A. The time within which an act is required by law to be done shall be computed by excluding the first and including the last day; except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day that is not a Sunday or a legal holiday.
 - B. When a public office, in which an act required by law is to be performed, is closed to the public for the entire day that constitutes the last day for doing the act or before its usual closing time on that day, the act may be performed on the next succeeding day that is not a Sunday or a legal holiday.
 - C. As used in subsections (c)(1) and (c)(2) of this section, legal holiday means the following days:
 - 1. The first day of January, known as New Year's Day;
 - 2. The third Monday in January, known as Martin Luther King, Jr. Day;
 - 3. The third Monday in February, known as Washington-Lincoln Day;
 - 4. The day designated in the "Act of June 28, 1968", 82 Stat. 250, 5 U.S.C. § 6103, as amended, for the commemoration of Memorial Day;
 - 5. The nineteenth day of June, known as Juneteenth day;
 - 6. The fourth day of July, known as Independence Day;
 - 7. The first Monday in September, known as Labor Day;
 - 8. The second Monday in October, known as Columbus Day;
 - 9. The eleventh day of November, known as Veteran's Day;
 - 10. The fourth Thursday in November, known as Thanksgiving Day;
 - 11. The twenty-fifth day of December, known as Christmas Day; and
 - 12. Any day appointed and recommended by the Governor of this state or the President of the United States as a holiday.
 - D. If any day designated in this section as a legal holiday falls on a Sunday, the next succeeding day is a legal holiday.
(ORC 1.14)
- (4) When legislation is to take effect or become operative from and after a day named, no part of that day shall be included.
(ORC 1.15)
- (5) In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

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

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

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

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

(a) The repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving clause therein.
(ORC 1.57)

(b) An ordinance which is re-enacted or amended is intended to be a continuation of the prior ordinance and not a new enactment, so far as it is the same as the prior ordinance.
(ORC 1.54)

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

- (1) Affect the prior operation of the ordinance or any prior action taken thereunder;
- (2) Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded or incurred thereunder;
- (3) Affect any violation thereof or penalty, forfeiture or punishment incurred in respect thereto, prior to the amendment or repeal;
- (4) Affect any investigation, proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment; and the investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the ordinance had not been repealed or amended.

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

101.05 CONSTRUCTION OF SECTION REFERENCES.

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

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

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

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

101.06 CONFLICTING PROVISIONS.

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

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

- (c) (1) If ordinances enacted at different meetings of Council are irreconcilable, the ordinance latest in date of enactment prevails.
- (2) If amendments to the same ordinance are enacted at different meetings of Council, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation.
- (ORC 1.52)

101.07 DETERMINATION OF LEGISLATIVE INTENT.

- (a) In enacting an ordinance, it is presumed that:
- (1) Compliance with the constitutions of the State and of the United States is intended;
- (2) The entire ordinance is intended to be effective;
- (3) A just and reasonable result is intended;
- (4) A result feasible of execution is intended.
- (ORC 1.47)

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

- (c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:
- (1) The object sought to be attained;
- (2) The circumstances under which the ordinance was enacted;
- (3) The legislative history;
- (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
- (5) The consequences of a particular construction;
- (6) The administrative construction of the ordinance.
- (ORC 1.49)

101.08 SEVERABILITY.

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

(ORC 1.50)

101.99 GENERAL PENALTY.

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

CHAPTER 133
City Manager

133.01 Bid procedure for construction projects.

133.02 Video Service Provider Fee.
133.03 Contract authority.

CROSS REFERENCES

Qualifications - see CHTR. Art. IV, Sec. 1

Duties - see CHTR. Art. IV, Sec., 2; ADM. 121.02

133.01 BID PROCEDURE FOR CONSTRUCTION PROJECTS.

(a) The City Manager shall seek bids either as an aggregate bid from a prime contractor or separate bids from individual contractors for any City project for the erection of repair, alterations, or rebuilding of a public building, institution, bridge, culvert or improvement.

(b) The City Manager shall review the bid process with each City Department or engineer to determine what is the best bid process for each project.

(c) Upon determining the best process for bidding for a particular project, the City Manager shall notify the department advertising for bids how the project should be bid. However, if the project has already been submitted for bid the City Manager shall review that project to determine if the bidding procedure used was in the best interest of the City before awarding the final bid.

(Ord. 2006-11. Passed 3-20-06.)

133.02 VIDEO SERVICE PROVIDER FEE.

(a) Subject to Ohio R.C. 1332.32 taking effect, in accordance with the requirements of said Ohio R.C. 1332.32, all video service providers providing video service in the City pursuant to a video service authorization obtained from the Director of the Ohio Department of Commerce shall pay Video Service Provider Fees ("VSP Fees") in the amount of five percent (5%) of gross revenues received from providing video service in the City, which gross revenue base shall include advertising revenues as permitted and defined by Ohio R.C. 1332.32(B)(2)(g). The VSP Fee shall be paid quarterly, not sooner than forty-five days nor later than sixty days after the end of each calendar quarter.

(b) The City Manager is hereby authorized and directed, upon receipt of notice from a video service provider that it will begin providing video service in the City pursuant to a state-issued video service authorization, to provide such video service provider with notice of the VSP fee as determined by this Council above, which notice shall be delivered in a manner that provides for proof of timely delivery. (Ord. 2007-13. Passed 9-17-07.)

133.03 CONTRACT AUTHORITY.

The City Manager may enter into a contract to purchase goods or services without the necessity of public bids, on behalf of the City, if the amount of the contract is less than that prescribed in Ohio R.C. 731.14, and as it is amended from time to time, provided that prior approval of Council is obtained for expenditures in excess of twenty-five thousand dollars (\$25,000). No one project can be paid or contracted for in such a manner that a bid is divided so as to avoid the twenty-five thousand dollar (\$25,000) limit.
(Ord. 2021-28. Passed 12-15-21.)

CHAPTER 303

Enforcement, Impounding and Penalty

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| <p>303.01 Compliance with lawful order of police officer; fleeing.</p> <p>303.02 Traffic direction in emergencies; obedience to school guard.</p> <p>303.03 Officer may remove ignition key.</p> <p>303.04 Road workers, motor vehicles and equipment excepted.</p> <p>303.041 Emergency, public safety and coroner's vehicles exempt.</p> <p>303.05 Application to persons riding, driving animals upon roadway.</p> <p>303.06 Freeway use prohibited by pedestrians, bicycles and animals.</p> <p>303.07 Application to drivers of government vehicles.</p> | <p>303.08 Impounding of vehicles; redemption.</p> <p>303.081 Impounding vehicles on private residential or agricultural property.</p> <p>303.082 Private tow-away zones.</p> <p>303.083 Impounding vehicles on public property.</p> <p>303.09 Leaving junk and other vehicles on private or public property without permission or notification.</p> <p>303.10 Leaving junk vehicles on private property with permission of owner.</p> <p>303.11 Providing false information to police officer.</p> <p>303.99 General Traffic Code penalties.</p> <p>303.991 Committing an offense while distracted penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law

Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.62 et seq.

Citations for minor misdemeanors - see Ohio R.C. 2935.26 et seq.

Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34

State point system suspension - see Ohio R.C. 4507.40

Uniform application of Ohio Traffic Law - see Ohio R.C. 4511.06

Marking motor vehicles used by traffic officers - see Ohio R.C. 4549.13

Distinctive uniform required for traffic officers - see Ohio R.C. 4549.15

Exceptions for emergency or public safety vehicles - see TRAF. 331.20, 333.06

303.01 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.

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

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

(EDITOR'S NOTE: Refer to Ohio R.C. 2921.331 for filing charges under subsection (b) hereof since the jury or judge as trier of fact may determine the violation to be a felony.)

(c) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer. A violation of subsection (a) is a misdemeanor of the first degree. Except as hereinafter provided, a violation of subsection (b) is a misdemeanor of the first degree. A violation of subsection (b) is a felony if the jury or judge as trier of fact finds any one of the following by proof beyond a reasonable doubt:

- (1) In committing the offense, the offender was fleeing immediately after the commission of a felony;
- (2) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property;
- (3) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

(d) In addition to any other sanction imposed for a violation of subsection (a) of this section or a misdemeanor violation of subsection (b) of this section, the court shall impose a class five suspension from the range specified in Ohio R.C. 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section, in addition to any other sanction imposed for the offense, the court shall impose a class one suspension as described in division (A)(1) of that section. The court may grant limited driving privileges to the offender on a suspension imposed for a misdemeanor violation of this section as set forth in Ohio R.C. 4510.021. No judge shall suspend the first three years of suspension under a class two suspension of an offender's license, permit or privilege required by this division on any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this subsection. (ORC 2921.331)

303.02 TRAFFIC DIRECTION IN EMERGENCIES; OBEDIENCE TO SCHOOL GUARD.

(a) Police officers shall direct or regulate traffic in accordance with the provisions of this Traffic Code, provided that, in the event of fire or other emergency or to expedite traffic or safeguard pedestrians, they are authorized to direct traffic as conditions may require notwithstanding the provisions of this Traffic Code. Firemen, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. The direction of traffic may be by word or audible signal, by gesture or visible signal or by any combination thereof. No person shall fail to comply with any lawful order or direction of any police officer or fireman issued pursuant to this section.

(b) No person shall fail to comply with any lawful order or direction of any school crossing guard invested with authority to direct, control or regulate traffic in the vicinity of the school to which such guard may be assigned.

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

303.03 OFFICER MAY REMOVE IGNITION KEY.

A law enforcement officer may remove the ignition key left in the ignition switch of an unlocked and unattended motor vehicle parked on a street or highway, or any public or private property used by the public for purposes of vehicular travel or parking. The officer removing such key shall place notification upon the vehicle detailing his name and badge number, the place where such key may be reclaimed and the procedure for reclaiming such key. The key shall be returned to the owner of the motor vehicle upon presentation of proof of ownership. (ORC 4549.05)

- D. The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;
- E. A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in division (B) of Ohio R.C. 4505.101.

In order to comply with the requirements of subsection (a)(1) of this section, the owner of a private property may modify an existing sign by affixing to the existing sign stickers or an addendum in lieu of replacing the sign.

- (2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:
 - A. It is located within twenty-five linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within twenty-five linear miles.
 - B. It is well-lighted.
 - C. It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

- (b)
 - (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (a) of this section, without the consent of the owner of the private property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Ohio R.C. 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (c) of this section, may recover the vehicle in accordance with subsection (g) of this section.
 - (2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.
 - (3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.

(c) If the owner or operator of a vehicle that is being removed under authority of subsection (b) of this section, arrives after the vehicle has been prepared for removal, but prior to the actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the

transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner of the private property or in violation of any posted parking condition or regulation.

- (d) (1) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section.
The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.
- (2) A towing service shall deliver a vehicle towed under subsection (b) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (e) (1) If an owner of a private property that is established as a private tow-away zone in accordance with subsection (a) of this section causes the removal of a vehicle from that property by a towing service under subsection (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the Police Department concerning all of the following:
 - A. The vehicle's license number, make, model and color;
 - B. The location from which the vehicle was removed;
 - C. The date and time the vehicle was removed;
 - D. The telephone number of the person from whom the vehicle may be recovered;
 - E. The address of the place from which the vehicle may be recovered.
- (2) The Chief of Police shall maintain a record of any vehicle removed from private property in the Chief's jurisdiction that is established as a private tow-away zone of which the Chief has received notice under this section. The record shall include all information submitted by the towing service. The Chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.
- (f) (1) When a vehicle is removed from private property in accordance with this section, within three business days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of either of the following to ascertain the identity of the owner and any lienholder of the vehicle:

- A. The records of the Bureau of Motor Vehicles;
 - B. The records of any vendor or vendors, approved by the Registrar of Motor Vehicles, that are capable of providing real-time access to owner and lienholder information.
- (2) The towing service or storage facility may search the National Motor Vehicle Title Information System in order to determine the state in which the vehicle is titled. The entity that provides the record of the owner and any lienholder under this division shall ensure that such information is provided in a timely manner.
- (3) Subject to subsection (f)(6) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:
- A. Within five business days after the applicable entity provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt.
 - B. If the vehicle remains unclaimed thirty days after the first notice is sent, in the manner required under subsection (f)(3)A. of this section.
- (4) Sixty days after any notice sent pursuant to subsection (f)(3) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under Ohio R.C. 4505.101(B), may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.
- (5) 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 Ohio R.C. 4505.101(B).
- (6) 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)(3)A. of this section.
- (g) (1) The owner or lienholder of a vehicle that is removed under subsection (b) of this section may reclaim it upon both of the following:
- A. Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement;
 - B. Payment of the following fees:
 - 1. All applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice sent under subsection (f)(1)A. of this section;
 - 2. If notice has been sent to the owner and lienholder as described in subsection (f) of this section, a processing fee of twenty-five dollars (\$25.00).

- (2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (b) of this section shall show the vehicle owner, operator or lienholder who contests the removal of the vehicle all photographs taken under subsection (d) of this section. Upon request, the towing service or storage facility shall provide a copy of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.
- (3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
- (4) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement, the owner of a vehicle that is removed under authority of subsection (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (g)(4) of this section, "personal items" do not include any items that are attached to the vehicle.

(h) No person shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, or store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.

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

(j) Whoever violates subsection (h) of this section is guilty of a minor misdemeanor.

(k) As used in this section, "owner of a private property" or "owner of the private property" includes, with respect to a private property, any of the following:

- (1) Any person who holds title to the property;
- (2) Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;
- (3) A person who is authorized to manage the property;
- (4) A duly authorized agent of any person listed in subsections (k)(1) to (3) of this section. (ORC 4513.601)

303.083 IMPOUNDING VEHICLES ON PUBLIC PROPERTY.

(a) The County Sheriff or Chief of Police, within the Sheriff's or Chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the Sheriff or Chief of Police of such action and of the location of the place of storage, may order into storage any motor vehicle, including an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that:

- (1) Has come into the possession of the Sheriff, Chief of Police, or state highway patrol trooper as a result of the performance of the Sheriff's, Chief's or trooper's duties; or

- (2) Has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the Sheriff or Chief of Police of the reasons for leaving the motor vehicle in such place. However, when such a motor vehicle constitutes an obstruction to traffic it may be ordered into storage immediately unless either of the following applies:
- A. The vehicle was involved in an accident and is subject to Ohio R.C. 4513.66, or any substantially equivalent municipal ordinance;
 - B. The vehicle is a commercial motor vehicle. If the vehicle is a commercial motor vehicle, the Sheriff, Chief of Police, or state highway patrol trooper shall allow the owner or operator of the vehicle the opportunity to arrange for the removal of the motor vehicle within a period of time specified by the Sheriff, Chief of Police, or state highway patrol trooper. If the Sheriff, Chief of Police, or state highway patrol trooper determines that the vehicle cannot be removed within the specified period of time, the Sheriff, Chief of Police, or state highway patrol trooper shall order the removal of the vehicle.
- (3) Subject to subsection (c) of this section, the Sheriff or Chief of Police shall designate the place of storage of any motor vehicle so ordered removed.
- (b) If the Sheriff, Chief of Police, or a state highway patrol trooper issues an order under subsection (a) of this section and arranges for the removal of a motor vehicle by a towing service, the towing service shall deliver the motor vehicle to the location designated by the Sheriff or Chief of Police not more than two hours after the time it is removed.
- (c) (1) The Sheriff or Chief of Police shall cause a search to be made of the records of an applicable entity listed in Ohio R.C. 4513.601(F)(1) to ascertain the identity of the owner and any lienholder of a motor vehicle ordered into storage by the Sheriff or Chief of Police, or by a state highway patrol trooper within five business days of the removal of the vehicle. Upon obtaining such identity, the Sheriff or Chief of Police shall send or cause to be sent to the owner or lienholder at the owner's or lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt. The notice shall inform the owner or lienholder that the motor vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of the sending of the notice.
- (2) A. The owner or lienholder of the motor vehicle may reclaim the motor vehicle upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title or memorandum certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement. Upon presentation of proof of ownership evidenced as provided above, the owner of the motor vehicle also may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval

fee established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under Ohio R.C. 4513.69(B)(3), if applicable. However, the owner shall not do either of the following:

1. Retrieve any personal item that has been determined by the Sheriff, Chief of Police, or a state highway patrol trooper, as applicable, to be necessary to a criminal investigation;
2. Retrieve any personal item from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.

B. For purposes of subsection (c)(2) of this section, "personal items" do not include any items that are attached to the vehicle.

- (3) If the owner or lienholder of the motor vehicle reclaims it after a search of the applicable records has been conducted and after notice has been sent to the owner or lienholder as described in this section, and the search was conducted by the place of storage, and the notice was sent to the motor vehicle owner by the place of storage, the owner or lienholder shall pay to the place of storage a processing fee of twenty-five dollars (\$25.00), in addition to any expenses or charges incurred in the removal and storage of the vehicle.

(d) If the owner or lienholder makes no claim to the motor vehicle within ten days of the date of sending the notice, and if the vehicle is to be disposed of at a public auction as provided in Ohio R.C. 4513.62 or any substantially equivalent municipal ordinance, the Sheriff or Chief of Police, without charge to any party, shall file with the Clerk of Courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the Clerk, without charge, shall issue a salvage certificate of title, free and clear of all liens and encumbrances, to the Sheriff or Chief of Police. If the vehicle is to be disposed of to a motor vehicle salvage dealer or other facility as provided in Ohio R.C. 4513.62 or any substantially equivalent municipal ordinance, the Sheriff or Chief of Police shall execute in triplicate an affidavit, as prescribed by the Registrar of Motor Vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with. The Sheriff or Chief of Police shall retain the original of the affidavit for the Sheriff's or Chief's records, and shall furnish two copies to the motor vehicle salvage dealer or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage dealer, the Clerk of Courts, within thirty days of the presentation, shall issue a salvage certificate of title, free and clear of all liens and encumbrances.

(e) Whenever a motor vehicle salvage dealer or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, the dealer or facility shall not be required to obtain an Ohio certificate of title to the motor vehicle in the dealer's or facility's own name if the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the Clerk of Courts.

(f) No towing service or storage facility shall fail to comply with this section.
(ORC 4513.61)

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

- (a) (1) 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.
- (2) 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. (ORC 4513.64)
- (b) Private Property.
- (1) Except for those commercial establishments, that as part of the use permitted by the Newton Falls Zoning Ordinance calls for the storage of motor vehicles, no person shall park, store or permit to be parked or stored for a period of more than thirty days an unlicensed motor vehicle or any part or parts thereof upon any lot or land, unless it shall be in a completely enclosed building or garage.
- (2) The Police Department is authorized at any time, to serve notice on property owners or persons in possession of any such lot or land upon which an unlicensed motor vehicle or any part or parts thereof are stored in violation of this ordinance.
- (3) Such period of thirty days shall commence to run the next day following the service of such notice.
- (4) Whoever violates any provision of this subsection is guilty of a minor misdemeanor on the first offense. For each subsequent offense such person is guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed each day that an unlicensed motor vehicle remains on such premises.
- (Ord. 2002-3. Passed 3-18-02.)

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 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

(ORC 2929.24; 2929.28)

303.991 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.

(a) As used in this section and each section of the Traffic Code where specified, all of the following apply:

- (1) "Distracted" means doing either of the following while operating a vehicle:
 - A. Using a handheld electronic wireless communications device, as defined in Ohio R.C. 4511.204 except when utilizing any of the following:
 1. The device's speakerphone function;
 2. A wireless technology standard for exchanging data over short distances;

3. A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;
 4. Any device that is physically or electronically integrated into the motor vehicle.
- B. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.
- (2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Section 331.43.
- (3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage or a circumstance affecting the health or safety of individuals. As used in subsection (a)(3) of this section:
- A. "Utility" means an entity specified in division (A), (C), (D), (E) or (G) of Ohio R.C. 4905.03.
 - B. "Utility service vehicle" means a vehicle owned or operated by a utility.

(b) If an offender violates any section of this Traffic Code which provides for an enhanced penalty for an offense committed while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding Ohio R.C. 2929.28, is subject to an additional fine of not more than one hundred dollars (\$100.00) as follows:

- (1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation or summons for a violation of any section of the Traffic Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars (\$100.00).

In lieu of payment of the additional fine of one hundred dollars (\$100.00), the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the Ohio Director of Public Safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars (\$100.00), so long as the offender submits to the court both the offender's payment in full and such written evidence.

- (2) If the offender appears in person to contest the ticket, citation or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars (\$100.00).
If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars (\$100.00), the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars (\$100.00), the offender instead may elect to attend the distracted driving safety course described in subsection (b)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars (\$100.00), so long as the offender submits to the court the offender's payment and such written evidence.
(ORC 4511.991)

CHAPTER 337 Safety and Equipment

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| 337.01 | Driving unsafe vehicles. | 337.16 | Number of lights; limitations on flashing, oscillating or rotating lights. |
| 337.02 | Lighted lights; measurement of distances and heights. | 337.17 | Focus and aim of headlights. |
| 337.03 | Headlights on motor vehicles and motorcycles. | 337.18 | Motor vehicle and motorcycle brakes. |
| 337.04 | Tail light; illumination of rear license plate. | 337.19 | Horn, siren and theft alarm signal. |
| 337.05 | Rear red reflectors. | 337.20 | Muffler; muffler cutout; excessive smoke, gas or noise. |
| 337.06 | Safety lighting on commercial vehicles. | 337.21 | Rear-view mirror; clear view to front, both sides and rear. |
| 337.07 | Obscured lights on vehicles in combination. | 337.22 | Windshield and windshield wiper; sign or poster thereon. |
| 337.08 | Red light or red flag on extended loads. | 337.23 | Limited load extension on left side of passenger vehicle. |
| 337.09 | Lights on parked or stopped vehicles. | 337.24 | Motor vehicle stop lights. |
| 337.10 | Lights, emblems, and reflectors on slow-moving vehicles, farm machinery, agricultural tractors, and animal-drawn vehicles. | 337.25 | Air cleaner required. |
| 337.11 | Spotlight and auxiliary lights. | 337.26 | Child restraint system usage. |
| 337.12 | Cowl, fender and back-up lights. | 337.27 | Drivers and passengers required to wear seat belts. |
| 337.13 | Display of lighted lights. | 337.28 | Use of sunscreening, nontransparent and reflectorized materials. |
| 337.14 | Use of headlight beams. | 337.29 | Bumper heights. |
| 337.15 | Lights of less intensity on slow-moving vehicles. | 337.30 | Engine retarders prohibited. |
| | | 337.31 | Directional signals required. |

CROSS REFERENCES

See sectional histories for similar State law
 Warning devices for commercial vehicles disabled upon freeways -
 see Ohio R.C. 4513.28
 Slow moving vehicle emblem - see OAC Ch. 4501.13
 Motorized bicycle lights and equipment - see Ohio R.C. 4511.521
 Vehicle lighting - see OAC 4501-15
 Use of stop and turn signals - see TRAF. 331.14
 Wheel protectors for commercial vehicles - see TRAF. 339.05
 Vehicles transporting explosives - see TRAF. 339.06
 Towing requirements - see TRAF. 339.07
 Use of studded tires and chains - see TRAF. 339.11
 Bicycle equipment - see TRAF. 373.05 et seq.

337.01 DRIVING UNSAFE VEHICLES.

(a) No person shall drive or move, or cause or knowingly permit to be driven or moved, on any street any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property.

(b) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(c) The provisions of this chapter with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or agricultural tractors except as made applicable to such articles of machinery. (ORC 4513.02)

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.02 LIGHTED LIGHTS; MEASUREMENT OF DISTANCES AND HEIGHTS.

(a) Every vehicle, other than a motorized bicycle, operated upon a street or highway shall display lighted lights and illuminating devices as required by this chapter during all of the following times:

- (1) The time from sunset to sunrise;
- (2) At any other time when, due to insufficient natural light or unfavorable atmospheric conditions, persons, vehicles, and substantial objects on the street or highway are not discernible at a distance of one thousand feet ahead;
- (3) At any time when the windshield wipers of the vehicle are in use because of precipitation on the windshield.

Every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521. No motor vehicle, during any time specified in this section, shall be operated upon a street or highway using only parking lights as illumination.

(b) Whenever in this chapter a requirement is declared as to the distance from which certain lights and devices shall render objects visible, or within which such lights or devices shall be visible, such distance shall be measured upon a straight level unlighted street under normal atmospheric conditions unless a different condition is expressly stated.

(c) Whenever in this chapter a requirement is declared as to the mounted height of lights or devices, it shall mean from the center of such light or device to the level ground upon which the vehicle stands.

(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause the operator of a vehicle being operated upon a street or highway to stop the vehicle solely because the officer observes that a violation of subsection (a)(3) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that subsection, or causing the arrest of or commencing a prosecution of a person for a violation of that subsection.

337.09 LIGHTS ON PARKED OR STOPPED VEHICLES.

(a) Except in case of an emergency, whenever a vehicle is parked or stopped upon a roadway open to traffic or shoulder adjacent thereto, whether attended or unattended during the times mentioned in Section 337.02, such vehicle shall be equipped with one or more lights which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of such vehicle, and a red light visible from a distance of 500 feet to the rear. No lights need be displayed upon any such vehicle when it is stopped or parked where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon such street. Any lighted headlights upon a parked vehicle shall be depressed or dimmed.
(ORC 4513.10)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.10 LIGHTS, EMBLEMS AND REFLECTORS ON SLOW-MOVING VEHICLES, FARM MACHINERY, AGRICULTURAL TRACTORS, AND ANIMAL-DRAWN VEHICLES.

(a) Definitions. As used in this section:

- (1) **BOAT TRAILER.** Means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.
- (2) **SLOW-MOVING VEHICLE and SMV.** Mean a boat trailer, unit of farm machinery, road construction machinery, or other machinery designed by the manufacturer to operate at a speed of twenty-five miles per hour or less. The term does not include a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle. (ORC 4513.11)

(b) Generally.

- (1) At the times specified in Ohio R.C. 4513.03, no person shall operate either of the following vehicles unless it is equipped with and displays the lamps described in subsection (b)(2) of this section.
 - A. A vehicle not specifically required to be equipped with lamps or other lighting devices by Ohio R.C. 4513.03 to 4513.10;
 - B. A vehicle referred to in Ohio R.C. 4513.02(G).
- (2) Vehicles described in subsection (b)(1) of this section shall be equipped with both of the following:
 - A. At least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle;
 - B. Two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlamps.
- (3) A. At the times specified in Ohio R.C. 4513.03, no person shall operate a multi-wheel agricultural tractor model year 2001 or earlier on a street or highway unless it is equipped with and displays reflectors and illuminated amber lamps so that the extreme left and right projections of the tractor are indicated by all of the following:

1. Flashing lamps displaying amber light, visible to the front and the rear. The lamps need not flash simultaneously and need not flash in conjunction with any directional signals of the tractor;
 2. Amber reflectors, all visible to the front;
 3. Red reflectors, all visible to the rear.
- B. Rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4513.111 governing the lamps and reflectors described in subsection (b)(3)A. of this section and their placement correlate with and, as far as possible, conform with paragraphs 4.1.4.1, 4.1.7.1 and 4.1.7.2 respectively of the American Society of Agricultural Engineers Standard ANSI/ASAE S279.10 OCT98, Lighting and Marking of Agricultural Equipment on Highways.
- (4) At the times specified in Ohio R.C. 4513.03, no person shall operate a unit of farm machinery model year 2002 or later on a street or highway unless it is equipped with and displays markings and illuminated lamps that meet or exceed the lighting, illumination and marking standards and specifications that are applicable to that type of farm machinery for the unit's model year specified in the American Society of Agricultural Engineers Standard ANSI/ASAE S279.10 OCT 98, lighting and marking of agricultural equipment on highways.
 - (5) Any unit of farm machinery designed by its manufacturer to operate at a speed of twenty-five miles per hour or greater or any SMV may be equipped with and display a red flashing light that is visible from a distance of not less than 1,000 feet to the rear at all times specified in Ohio R.C. 4513.03. When a double-faced light is used, it shall display amber light to the front and red light to the rear.
 - (6) Lights and reflectors required under subsections (b)(3) and (b)(4) of this section and authorized under subsection (b)(5) of this section are in addition to other lights required or permitted by this subsection (b) or Ohio R.C. 4513.17.
 - (7) The Ohio Director of Public Safety shall adopt rules in accordance with Ohio R.C. Chapter 119 Code that establish standards and specifications for lamps and reflectors required or authorized by this section. Lamps and reflectors required or authorized by this section shall meet those standards and specifications.
 - (8) This subsection (b) does not apply to a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle.
 - (9) Whoever violates this subsection (b) is guilty of a minor misdemeanor. (ORC 4513.111)
- (c) Slow-Moving Vehicles.
- (1) Except as otherwise provided in this section, no person shall operate an SMV on a street or highway as follows:
 - A. At a speed exceeding twenty-five miles per hour;
 - B. Without displaying the triangular SMV emblem mounted in accordance with subsection (c)(2) of this section.

- (2) The SMV emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. In accordance with Ohio R.C. Chapter 119, the Ohio Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for the SMV emblem correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.
 - (3) A person may operate an SMV on a street or highway without displaying the triangular SMV emblem when any of the following apply:
 - A. The SMV is being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used;
 - B. The SMV is operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, a city engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the Ohio Director of Transportation and the Manual of Uniform Traffic Control Devices, as set forth in Ohio R.C. 4511.09.
 - (4) No person shall display an SMV emblem on any of the following:
 - A. Any vehicle not required to use the SMV emblem by this subsection (c) or Ohio R.C. 4513.113 or 4513.114;
 - B. An SMV being transported upon any other vehicle;
 - C. Any stationary object on the highway.
 - (5) No person shall sell, lease, rent or operate an SMV, except a unit designed to be completely mounted on a primary power unit that is manufactured or assembled on or after April 1, 1966, unless it is equipped with an SMV emblem mounting device.
 - (6) Whoever violates subsection (c) is guilty of a minor misdemeanor. (ORC 4513.112)
- (d) Farm Machinery and Agricultural Tractors.
- (1) No person shall sell, lease, rent or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the unit displays both of the following:
 - A. The SMV emblem mounted in accordance with Ohio R.C. 4513.112(B);
 - B. A speed identification symbol that does both of the following:
 - 1. Meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/SAE S584 JAN2005, Agricultural Equipment: Speed Identification Symbol (SIS);
 - 2. Indicates the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate;
 - (2) No person operating a tractor on a street or highway that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour and that is towing, pulling or otherwise drawing a unit of farm machinery while operating at a speed greater than twenty-five miles per hour shall fail to display both of the following on the unit of farm machinery:
 - A. The SMV emblem;
 - B. The speed identification symbol that matches the speed identification symbol required to be displayed on the agricultural tractor;

- (3) No person shall operate an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the person possesses documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate;
- (4) Whoever violates this subsection (d) is guilty of a minor misdemeanor. (ORC 4513.113)

(e) Animal-Drawn Vehicles.

- (1) Except as otherwise provided in subsection (e)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at the times specified in Ohio R.C. 4513.03, both of the following:
 - A. At least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the animal-drawn vehicle;
 - B. Two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the animal-drawn vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to one hundred feet to the rear when illuminated by the lawful lower beams of headlamps.
- (2) Except as otherwise provided in subsection (e)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at all times, all of the following:
 - A. One yellow flashing lamp displaying yellow light that is visible from a distance of not less than 1,000 feet and that is mounted in either of the following positions:
 - 1. On the top most portion of the rear of the animal-drawn vehicle;
 - 2. On the top of the animal-drawn vehicle;
 - B. At least one of the following:
 - 1. An SMV emblem mounted in accordance with Ohio R.C. 4513.112(B);
 - 2. Micro-prism reflective tape that is visible from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps;
 - 3. Both an SMV emblem and micro-prism reflective tape, as specified in this division.
 - C. Lamps and micro-prism reflective tape required by this section shall meet standards and specifications adopted by the Ohio Director of Public Safety under Ohio R.C. 4513.114.
- (3) The Ohio Director of Public Safety, in accordance with Ohio R.C. Chapter 119, shall adopt rules establishing standards and specifications for the position and mounting of the lamps and micro-prism reflective tape required by Ohio R.C. 4513.114. The rules permit the micro-prism reflective tape to be red, amber, white, or silver in color.
- (4) A. Subsections (e)(1) and (e)(2) of this section do not apply to the operator of animal-drawn agricultural equipment who is not transporting any livestock or a person other than the operator.
B. No operator described in subsection (e)(4)A. of this section shall operate animal-drawn agricultural equipment unless it is equipped with and displays, at all times, the SMV emblem mounted in accordance with Ohio R.C. 4513.112(B).

C. As used in subsection (e)(4) of this section, "animal-drawn agricultural equipment" means equipment drawn by the muscular power of an animal that is used solely for agricultural purposes. "Animal-drawn agricultural equipment" includes any of the following:

1. A plow;
2. A manure spreader;
3. A thresher.

(5) Whoever violates this subsection (e) is guilty of a minor misdemeanor.
(ORC 4513.114)

(f) Strict Liability Offenses. The offenses established under this section are strict liability offenses, and Ohio R.C. 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
(ORC 4513.115)

337.11 SPOTLIGHT AND AUXILIARY LIGHTS.

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

(b) Any motor vehicle may be equipped with not more than three State approved auxiliary driving lights mounted on the front of the vehicle, which when used shall conform to State regulations.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.12)

337.12 COWL, FENDER AND BACK-UP LIGHTS.

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

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

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.13)

337.13 DISPLAY OF LIGHTED LIGHTS.

(a) At all times mentioned in Section 337.02 at least two State approved lighted lights shall be displayed conforming to State regulations, one near each side of the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles. (ORC 4513.14)

(b) However, on a motorcycle, there shall be displayed at least one and not more than two lighted lights as required herein.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.14)

337.14 USE OF HEADLIGHT BEAMS.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 337.02, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons, vehicles and substantial objects at a safe distance in advance of the vehicle, except that upon approaching an oncoming vehicle, the lights or beams shall be so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.15)

337.15 LIGHTS OF LESS INTENSITY ON SLOW-MOVING VEHICLES.

(a) Any motor vehicle may be operated under the conditions specified in Section 337.02 when it is equipped with two lighted lights upon the front thereof capable of revealing persons and substantial objects seventy-five feet ahead in lieu of lights required in Section 337.13, provided that such vehicle shall not be operated at a speed in excess of twenty miles per hour.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.16)

337.16 NUMBER OF LIGHTS; LIMITATIONS ON FLASHING, OSCILLATING OR ROTATING LIGHTS.

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

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

- (c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing.
- (2) The prohibition in subsection (c)(1) of this section does not apply to any of the following:
- A. Emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash or recyclable materials on the roadside, rural mail delivery vehicles, vehicles as provided in Ohio R.C. 4513.182, highway maintenance vehicles, and similar equipment operated by state or local authorities, provided such vehicles are 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;
 - B. Vehicles or machinery permitted by Ohio R.C. 4513.111 to have a flashing red light;
 - C. Farm machinery and vehicles escorting farm machinery, provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating or rotating amber light. Farm machinery also may display the lights described in Ohio R.C. 4513.111.

- D. A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating purple or amber light;
- (3) Subsection (c)(1) of this section does not apply to animal-drawn vehicles subject to Ohio R.C. 4513.114.
- (d) (1) Except a person operating a public safety vehicle, as defined in Ohio R.C. 4511.01(E), or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light.
- (2) Except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, operating a public safety vehicle when on duty, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.
- (e) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.
- (f) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.17)

337.17 FOCUS AND AIM OF HEADLIGHTS.

- (a) No person shall use any lights mentioned in Section 337.02 to 337.16, inclusive, upon any motor vehicle, trailer or semitrailer unless the lights are equipped, mounted and adjusted as to focus and aim in accordance with State regulations.
- (b) The headlights on any motor vehicle shall comply with the headlamp color requirements contained in federal motor vehicle safety standard number 108, 49 C.F.R. 571.108. No person shall operate a motor vehicle in violation of this subsection.
- (c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.19)

337.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.

- (a) The following requirements govern as to brake equipment on vehicles:
- (1) Every motor vehicle, other than a motorcycle, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and hold such motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, then on such motor vehicles manufactured or assembled after January 1, 1942, they shall be so constructed that failure of any one part of the operating mechanism shall not

- leave the motor vehicle without brakes on at least two wheels.
- (2) Every motorcycle, when operated upon a street or highway, shall be equipped with at least one adequate brake, which may be operated by hand or by foot.
 - (3) Every motorized bicycle shall be equipped with brakes meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521.
 - (4) When operated upon the streets or highways of this Municipality, the following vehicles shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle designed to be applied by the driver of the towing motor vehicle from its cab, and also designed and connected so that, in case of a breakaway of the towed vehicle, the brakes shall be automatically applied:
 - A. Except as otherwise provided in this section, every trailer or semitrailer, except a pole trailer, with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 1942;
 - B. Every manufactured home or travel trailer with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 2001.
 - (5) Every watercraft trailer with a gross weight or manufacturer's gross vehicle weight rating of three thousand pounds or more that is manufactured or assembled on or after January 1, 2008, shall have separate brakes equipped with hydraulic surge or electrically operated brakes on two wheels.
 - (6) In any combination of motor-drawn trailers or semitrailers equipped with brakes, means shall be provided for applying the rearmost brakes in approximate synchronism with the brakes on the towing vehicle, and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost brakes; or both of the above means, capable of being used alternatively, may be employed.
 - (7) Every vehicle and combination of vehicles, except motorcycles and motorized bicycles, and except trailers and semitrailers of a gross weight of less than 2,000 pounds, and pole trailers, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other sources of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.
 - (8) The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.
 - (9) Every motor vehicle or combination of motor-drawn vehicles shall be capable at all times and under all conditions of loading of being stopped on

CHAPTER 513 Drug Abuse Control

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| <p>513.01 Definitions.</p> <p>513.02 Gift of marihuana.</p> <p>513.03 Drug abuse; controlled substance possession or use.</p> <p>513.04 Possessing drug abuse instruments.</p> <p>513.05 Permitting drug abuse.</p> <p>513.06 Illegal cultivation of marihuana.</p> <p>513.07 Possessing or using harmful intoxicants.</p> <p>513.08 Illegally dispensing drug samples.</p> <p>513.09 Controlled substance or prescription labels.</p> | <p>513.10 Hypodermic possession, display and dispensing.</p> <p>513.11 Harmful intoxicants; possessing nitrous oxide in motor vehicle.</p> <p>513.12 Drug paraphernalia.</p> <p>513.121 Marihuana drug paraphernalia.</p> <p>513.13 Counterfeit controlled substances.</p> <p>513.14 Offender may be required to pay for controlled substance tests.</p> <p>513.15 Sale of dextromethorphan.</p> <p>513.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Federal prosecution bar to local prosecution - see Ohio R.C. 2925.50, 3719.19
 Analysis report and notarized statement as evidence - see Ohio R.C. 2925.51
 Criteria for granting probation - see Ohio R.C. 3719.70(B)
 Adulterating food with drug of abuse - see GEN. OFF. 537.13
 Using weapons while under the influence - see GEN. OFF. 549.03.

513.01 DEFINITIONS.

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

- (a) "Administer." Has the same meaning as in Ohio R.C. 3719.01.
- (b) "Adulterate." To cause a drug to be adulterated as described in Ohio R.C. 3715.63.
- (c) "Alcohol and Drug Addiction Services". Has the same meaning as in Ohio R.C. 5119.01.

- (d) "Bulk amount." Of a controlled substance, means any of the following:
- (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in subsection (c)(2), (5), or (6) of this definition, whichever of the following is applicable:
 - A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;
 - B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
 - C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;
 - D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;
 - E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;
 - F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
 - G. An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws;
 - (2) An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
 - (3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III opiate or opium derivative;
 - (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance;

- (5) An amount equal to or exceeding 200 solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid;
- (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, if the defendant is charged with a violation of Ohio R.C. 2925.11 and the sentencing provisions set forth in Ohio R.C. 2925.11(C)(10)(b) and (C)(11) will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (1), (2), (3), (4), or (5) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.
- (e) "Certified grievance committee." A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.
- (f) "Cocaine." Any of the following:
 - (1) A cocaine salt, isomer or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.
 - (2) Coca leaves or a salt, compound, derivative or preparation of coca leaves, including ecgonine, a salt, isomer or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.
 - (3) A salt, compound, derivative or preparation of a substance identified in subsection (e)(1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.
- (g) "Committed in the vicinity of a juvenile." An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (h) "Committed in the vicinity of a school." An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.
- (i) "Committed in the vicinity of a substance addiction services provider or a recovering addict". An offense is "committed in the vicinity of a substance addiction services provider or a recovering addict" if either of the following apply:
 - (1) The offender commits the offense on the premises of a substance addiction services provider's facility, including a facility licensed prior to June 29, 2019, under Ohio R.C. 5119.391 to provide methadone treatment or an opioid treatment program licensed on or after that date under Ohio R.C. 5119.37, or within 500 feet of the premises of a substance addiction services provider's facility and the offender knows or should know that the offense is being committed within the vicinity of the substance addiction services provider's facility.

- (2) The offender sells, offers to sell, delivers, or distributes the controlled substance or controlled substance analog to a person who is receiving treatment at the time of the commission of the offense, or received treatment within 30 days prior to the commission of the offense, from a substance addiction services provider and the offender knows that the person is receiving or received that treatment.
- (j) "Controlled substance." Has the same meaning as in Ohio R.C. 3719.01.
- (k) "Controlled substance analog." Has the same meaning as in Ohio R.C. 3719.01.
- (l) "Counterfeit controlled substance." Any of the following:
 - (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to the trademark, trade name or identifying mark.
 - (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it.
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.
 - (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its markings, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (m) "Cultivate." Includes planting, watering, fertilizing or tilling.
- (n) "Dangerous drug." Has the same meaning as in Ohio R.C. 4729.01.
- (o) "Deception." Has the same meaning as in Ohio R.C. 2913.01.
- (p) "Disciplinary counsel." The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.
- (q) "Dispense." Has the same meaning as in Ohio R.C. 3719.01.
- (r) "Distribute." Has the same meaning as in Ohio R.C. 3719.01.
- (s) "Drug." Has the same meaning as in Ohio R.C. 4729.01.
- (t) "Drug abuse offense." Any of the following:
 - (1) A violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs, or any violation of Ohio R.C. 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37.
 - (2) A violation of an existing or former law of any municipality, state or of the United States, that is substantially equivalent to any section listed in subsection (r)(1) of this definition.
 - (3) An offense under an existing or former law of any municipality, state or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element.
 - (4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under subsection (r)(1), (2) or (3) of this definition.
- (u) "Drug dependent person." Has the same meaning as in Ohio R.C. 3719.011.
- (v) "Drug of abuse." Has the same meaning as in Ohio R.C. 3719.011.
- (w) "Felony drug abuse offense." Any drug abuse offense that would constitute a felony under the laws of this state, any other state or the United States.

- (x) "Fentanyl-related compound." Any of the following:
- (1) Fentanyl;
 - (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
 - (3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide);
 - (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidiny]-N-phenylpropanamide);
 - (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide);
 - (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
 - (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidiny]-N-phenylpropanamide);
 - (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]propanamide);
 - (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide);
 - (10) Alfentanil;
 - (11) Carfentanil;
 - (12) Remifentanil;
 - (13) Sufentanil;
 - (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide); and
 - (15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:
 - A. A chemical scaffold consisting of both of the following:
 1. A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;
 2. An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.
 - B. A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;
 - C. An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and
 - D. The compound has not been approved for medical use by the United States food and drug administration.
- (y) "Harmful intoxicant." Does not include beer or intoxicating liquor, but means any of the following:
- (1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes but is not limited to any of the following:
 - A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline or other preparation containing a volatile organic solvent.

- B. Any aerosol propellant.
 - C. Any fluorocarbon refrigerant.
 - D. Any anesthetic gas.
- (2) Gamma Butyrolactone;
- (3) 1,4 Butanediol.
- (z) "Hashish".
 - (1) A resin or a preparation of a resin to which both of the following apply:
 - A. It is contained in or derived from any part of the plant of the genus cannabis, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
 - B. It has a delta-9 tetrahydrocannabinol concentration of more than 0.3%.
 - (2) The term does not include a hemp byproduct in the possession of a licensed hemp processor under Ohio R.C. Chapter 928, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under Ohio R.C. 928.03.
- (aa) "Hypodermic." Has the same meaning as in Ohio R.C. 3719.01.
- (bb) "Juvenile." A person under eighteen years of age.
- (cc) "Licensed health professional authorized to prescribe drugs." Has the same meaning as in Ohio R.C. 4729.01.
- (dd) "L.S.D." Lysergic acid diethylamide.
- (ee) "Major drug offender." Has the same meaning as in Ohio R.C. 2929.01.
- (ff) "Mandatory prison term." Has the same meaning as in Ohio R.C. 2929.01.
- (gg) "Manufacture." To plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.
- (hh) "Manufacturer." Has the same meaning as in Ohio R.C. 3719.01.
- (ii) "Marihuana." Has the same meaning as in Ohio R.C. 3719.01, except that it does not include hashish.
- (jj) "Methamphetamine." Methamphetamine, any salt, isomer or salt of an isomer of methamphetamine, or any compound, mixture, preparation or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.
- (kk) "Minor drug possession offense." Either of the following:
 - (1) A violation of Ohio R.C. 2925.11, as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
 - (2) A violation of Ohio R.C. 2925.11, as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.
- (ll) "Official written order." Has the same meaning as in Ohio R.C. 3719.01.
- (mm) "Person." Has the same meaning as in Ohio R.C. 3719.01.
- (nn) "Pharmacist." Has the same meaning as in Ohio R.C. 3719.01.
- (oo) "Pharmacy." Has the same meaning as in Ohio R.C. 3719.01.
- (pp) "Possess" or "possession." Having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (qq) "Premises of a substance addiction services provider's facility". Means the parcel of real property on which any substance addiction service provider's facility is situated.
- (rr) "Prescription." Has the same meaning as in Ohio R.C. 4729.01.

- (ss) "Presumption for a prison term" or "presumption that a prison term shall be imposed." A presumption as described in Ohio R.C. 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under Ohio R.C. 2929.11.
- (tt) "Professional license." Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate or temporary registration that is described in Ohio R.C. 2925.01(W)(1) to (W)(37) and that qualifies a person as a professionally licensed person.
- (uu) "Professionally licensed person." Any of the following:
 - (1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Ohio R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;
 - (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Ohio R.C. Chapter 4703;
 - (3) A person who is registered as a landscape architect under Ohio R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
 - (4) A person licensed under Ohio R.C. Chapter 4707;
 - (5) A person who has been issued a certificate of registration as a registered barber under Ohio R.C. Chapter 4709;
 - (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Ohio R.C. Chapter 4710;
 - (7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Ohio R.C. Chapter 4713;
 - (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license or a dental hygienist's teacher's certificate under Ohio R.C. Chapter 4715;
 - (9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Ohio R.C. Chapter 4717;
 - (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Ohio R.C. Chapter 4723;
 - (11) A person who has been licensed to practice optometry or to engage in optical dispensing under Ohio R.C. Chapter 4725;
 - (12) A person licensed to act as a pawnbroker under Ohio R.C. Chapter 4727;
 - (13) A person licensed to act as a precious metals dealer under Ohio R.C. Chapter 4728;
 - (14) A person licensed under Ohio R.C. Chapter 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

- (15) A person licensed under Ohio R.C. Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
- (16) A person who is authorized to practice as a physician assistant under Ohio R.C. Chapter 4730;
- (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Ohio R.C. Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist or school psychologist under Ohio R.C. Chapter 4732;
- (19) A person registered to practice the profession of engineering or surveying under Ohio R.C. Chapter 4733;
- (20) A person who has been issued a license to practice chiropractic under Ohio R.C. Chapter 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under Ohio R.C. Chapter 4735;
- (22) A person registered as a registered environmental health specialist under Ohio R.C. Chapter 4736;
- (23) A person licensed to operate or maintain a junkyard under Ohio R.C. Chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under Ohio R.C. Chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under Ohio R.C. Chapter 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Ohio R.C. Chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Ohio R.C. Chapter 4747;
- (28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under Ohio R.C. Chapter 4749;
- (29) A person licensed to practice as a nursing home administrator under Ohio R.C. Chapter 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under Ohio R.C. Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under Ohio R.C. Chapter 4755;
- (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Ohio R.C. Chapter 4757;
- (33) A person issued a license to practice dietetics under Ohio R.C. Chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under Ohio R.C. Chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under Ohio R.C. Chapter 4763;

- (36) A person who has been issued a home inspector license under Ohio R.C. Chapter 4764;
- (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.
- (vv) "Public premises." Any hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort.
- (ww) "Sale." Has the same meaning as in Ohio R.C. 3719.01.
- (xx) "Sample drug." A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (yy) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" or "Schedule V." Have the same meaning as in Ohio R.C. 3719.01.
- (zz) "School." Any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (aaa) "School building." Any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (bbb) "School premises." Either of the following:
 - (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (ccc) "Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (ddd) "Substance Addiction Services Provider". Means an agency, association, corporation or other legal entity, individual, or program that provides one or more of the following at a facility:
 - (1) Either alcohol addiction services, or drug addiction services, or both such services that are certified by the Ohio Director of Mental Health and Addiction Services under Ohio R.C. 5119.36;
 - (2) Recovery supports that are related to either alcohol addiction services, or drug addiction services, or both such services and paid for with federal, state, or local funds administered by the Ohio Department of Mental Health and Addiction Services or a board of alcohol, drug addiction, and mental health services.

- (eee) "Unit dose." An amount or unit or a compound, mixture or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
- (fff) "Wholesaler." Has the same meaning as in Ohio R.C. 3719.01. (ORC 2925.01)

513.02 GIFT OF MARIHUANA.

(a) No person shall knowingly give or offer to make a gift of twenty grams or less of marihuana.

(b) Whoever violates this section is guilty of trafficking in marihuana. Trafficking in marihuana is a minor misdemeanor for the first offense and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(c) The court may by order suspend for not more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with Ohio R.C. 2925.03(G). If an offender's driver's or commercial driver's license or permit is suspended pursuant to this subsection, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension. (ORC 2925.03)

513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

(a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.

- (b) (1) This section does not apply to the following:
 - A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.
 - B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
 - C. Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;

- D. Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose and not altered, forged or obtained through deception or commission of a theft offense.
As used in subsection (b)(1)D. of this section, "deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01.
- (2) A. As used in subsection (b)(2) of this section:
1. "Community addiction services provider" has the same meaning as in Ohio R.C. 5119.01.
 2. "Community control sanction" and "drug treatment program" have the same meanings as in Ohio R.C. 2929.01.
 3. "Health care facility" has the same meaning as in Ohio R.C. 2919.16.
 4. "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.
 5. "Post-release control sanction" has the same meaning as in Ohio R.C. 2967.28.
 6. "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
 7. "Public agency" has the same meaning as in Ohio R.C. 2930.01.
 8. "Qualified individual" means a person who is not on community control or post-release control and is a person acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
 9. "Seek or obtain medical assistance" includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.
- B. Subject to subsection (b)(2)F. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted or penalized pursuant to this chapter for a minor drug possession offense if all of the following apply:
1. The evidence of the obtaining, possession or use of the controlled substance or controlled substance analog that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
 2. Subject to subsection (b)(2)G. of this section, within thirty days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.

3. Subject to subsection (b)(2)G. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2)B.1. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that subsection. The documentation shall be limited to the date and time of the screening obtained and referral received.
- C. If a person is found to be in violation of any community control sanction and if the violation is a result of either of the following, the court shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.13, 2929.15, or 2929.25, whichever is applicable, after which the court has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in any of those applicable sections:
 1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
 2. Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
- D. If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:
 1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
 2. Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
- E. Nothing in subsection (b)(2)B. of this section shall be construed to do any of the following:
 1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of subsection (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to subsection (b)(2)B. of this section for a minor drug possession offense;
 2. Limit any seizure of evidence or contraband otherwise permitted by law;

3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;
 4. Limit, modify or remove any immunity from liability available pursuant to law in effect prior to the effective date of this amendment to any public agency or to an employee of any public agency.
 - F. Subsection (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under subsection (b)(2)B. of this section. No person shall be granted an immunity under subsection (b)(2)B. of this section more than two times.
 - G. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996", 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.
- (c) Whoever violates subsection (a) hereof is guilty of one of the following:
- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate State law.
 - (2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(2)B. hereof, possession of marihuana is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.
 - (3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(3)B. hereof, possession of hashish is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(d) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 2925.11)

513.04 POSSESSING DRUG ABUSE INSTRUMENTS.

(a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

(b) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.

(c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.12)

513.05 PERMITTING DRUG ABUSE.

(a) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in Ohio R.C. 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(b) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

(c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. If the felony drug abuse offense in question is a violation of Ohio R.C. 2925.02, 2925.03, 2925.04 or 2925.041 as provided in Ohio R.C. 2925.13, permitting drug abuse is a felony and shall be prosecuted under appropriate State law.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences a person who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(e) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2925.13)

513.06 ILLEGAL CULTIVATION OF MARIHUANA.

(a) No person shall knowingly cultivate marihuana.

(b) This section does not apply to any person listed in Ohio R.C. 2925.03(B)(1) to (3) to the extent and under the circumstances described in those divisions.

(c) Whoever commits a violation of subsection (a) hereof is guilty of illegal cultivation of marihuana. Illegal cultivation of marihuana is a misdemeanor if the amount of marihuana involved does not exceed 200 grams.

(1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.

(2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of Ohio R.C. 2925.03. If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in an application for employment, a license, or any other right or privilege or made in connection with the person's appearance as a witness. (ORC 2925.04)

513.07 POSSESSING OR USING HARMFUL INTOXICANTS.

(a) Except for lawful research, clinical, medical, dental or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess or use a harmful intoxicant.

(b) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony and shall be prosecuted under appropriate State law.

(c) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.31)

513.08 ILLEGALLY DISPENSING DRUG SAMPLES.

(a) No person shall knowingly furnish another a sample drug.

(b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741.

(c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:

- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
- (2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.36)

513.09 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

(a) As used in this section, "repackager" and "outsourcing facility" have the same meanings as in ORC 4729.01.

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

(b) Except as provided in subsection (c) of this section, when a pharmacist dispenses any controlled substance on a prescription for use by a patient, or supplies a controlled substance to a licensed health professional authorized to prescribe drugs for use by the professional in personally furnishing patients with controlled substances, the pharmacist shall affix to the container in which the controlled substance is dispensed or supplied a label showing the following:

- (1) The name and address of the pharmacy dispensing or supplying the controlled substance;
- (2) The name of the patient for whom the controlled substance is prescribed and, if the patient is an animal, the name of the owner and the species of the animal;
- (3) The name of the prescriber;
- (4) All directions for use stated on the prescription or provided by the prescriber;
- (5) The date on which the controlled substance was dispensed or supplied;
- (6) The name, quantity and strength of the controlled substance and, if applicable, the name of the distributor or manufacturer.

(c) The requirements of subsection (b) of this section do not apply when a controlled substance is prescribed or supplied for administration to an ultimate user who is institutionalized.

(d) A licensed health professional authorized to prescribe drugs who personally furnishes a controlled substance to a patient shall comply with division (A) of ORC 4729.291 with respect to labeling and packaging of the controlled substance.

(e) No person shall alter, deface, or remove any label affixed pursuant to this section as long as any of the original contents remain.

(f) Every label for a schedule II, III or IV controlled substance shall contain the following warning:

"Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed". (ORC 3719.08)

(g) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.07 or 3719.08 or a drug abuse offense, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 3719.99)

513.10 HYPODERMIC POSSESSION, DISPLAY AND DISPENSING.

(a) Possession of a hypodermic is authorized for the following:

- (1) A manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;
- (2) Terminal distributor of dangerous drugs, in the regular course of business;
- (3) A person authorized to administer injections, in the regular course of the person's profession or employment;
- (4) A person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;
- (5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;
- (6) A farmer, for the lawful administration of a drug to an animal;

- (7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.

(b) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs, shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (a) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person's possession from theft or acquisition by any unauthorized person. (ORC 3719.172)

(c) Whoever violates this section is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.05, 3719.06, 3719.13, 3719.172(B) or (E), or 3719.31 or a drug abuse offense, a violation is a misdemeanor of the first degree. (ORC 3719.99)

513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE IN MOTOR VEHICLE.

(a) As used in this section, "motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.

(b) Unless authorized under Ohio R.C. Chapter 3719, 4715, 4729, 4731, 4741 or 4765, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:

- (1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking;
- (2) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.

(c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.

(d) In addition to any other sanction imposed upon an offender for possessing nitrous oxide in a motor vehicle, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. (ORC 2925.33)

513.12 DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Chapter 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:

- (1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
- (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;

- (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
- (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
- (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;
- (6) A scale or balance for weighing or measuring a controlled substance;
- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
- (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;
- (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
- (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;
- (11) A container or device for storing or concealing a controlled substance;
- (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
- (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

- (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;
- (2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925;
- (3) The proximity of the equipment, product or material to any controlled substance;
- (4) The existence of any residue of a controlled substance on the equipment, product or material;
- (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom the owner or person in control of the equipment, product or material knows intends to use the object to facilitate a violation of any provision of this chapter or Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product or material, is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia;
- (6) Any oral or written instruction provided with the equipment, product or material concerning its use;

- (7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use;
 - (8) National or local advertising concerning the use of the equipment, product or material;
 - (9) The manner and circumstances in which the equipment, product or material is displayed for sale;
 - (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
 - (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
 - (12) Expert testimony concerning the use of the equipment, product or material.
- (c) (1) Subject to subsection (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.
- (3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this State, if the person knows that the purpose of the advertisement is to promote the illegal sale in the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.
- (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.
- (e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12.
- (f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
- (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
- (4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.14)

513.121 MARIHUANA DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" has the same meaning as in Section 513.12.

(b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in subsection (b) of Section 513.12.

(c) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

(d) This section does not apply to any person identified in subsection (d)(1) of Section 513.12 and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.

(e) Subsection (e) of Section 513.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(f) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.141)

513.13 COUNTERFEIT CONTROLLED SUBSTANCES.

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

(b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. (ORC 2925.37)

(c) The court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.37)

513.14 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)

513.15 SALE OF DEXTROMETHORPHAN.

(a) As used in this section:

- (1) "Dextromethorphan" means the dextrorotatory isomer of 3-methoxy-N-methylmorphinan, including its salts, but not including its racemic or levorotatory forms.
- (2) "Evidence of majority and identity" means a document issued by the federal government or a state, county, or municipal government, or a subdivision or agency of any of the foregoing, including a driver's or commercial driver's license, an identification card issued under Ohio R.C. 4507.50 to 4507.52, a military identification card, or any other form of identification that bears the name, date of birth, description and picture of the person identified.
- (3) "Retailer" means a place of business that offers consumer products for sale to the general public, including a terminal distributor of dangerous drugs that is licensed under Ohio R.C. Chapter 4729 and operated as a pharmacy.

(b) No retailer or employee of a retailer shall knowingly supply, deliver, give or otherwise provide a drug, material, compound, mixture, preparation or substance containing any quantity of dextromethorphan through the sale of any product to a person under eighteen years of age, unless the person has been issued a prescription for the product being purchased.

(c) For purposes of subsection (b) of this section, the person making the sale of a product containing dextromethorphan shall require and obtain evidence of majority and identity from the purchaser, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be twenty-five years of age or older. Proof that the person making the sale demanded, was shown, and acted in reasonable reliance on the purchaser's evidence of majority and identity is a defense to any charge of a violation of subsection (b) of this section.

(d) A retailer or employee of a retailer is not liable for damages in a civil action for injury, death or loss to person or property that allegedly arises from an act or omission associated with a failure to prevent the sale of a product containing dextromethorphan to a person under eighteen years of age, unless the act or omission constitutes willful or wanton misconduct.

(e) Whoever violates subsection (b) of this section is guilty of illegally selling dextromethorphan, a minor misdemeanor.
(ORC 2925.62)

513.99 PENALTY.

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

CHAPTER 517 Gambling

517.01	Definitions.	517.10	Location of instant bingo.
517.02	Gambling.	517.11	Bingo or game of chance records.
517.03	Operating a gambling house.	517.12	Bingo operator prohibitions.
517.04	Public gaming.	517.13	Bingo exceptions.
517.05	Cheating.	517.14	Instant bingo conduct by a veteran's or fraternal organization.
517.06	Methods of conducting a bingo game; prohibitions.	517.15	Skill-based amusement machines.
517.07	Instant bingo conduct.	517.16	Electronic instant bingo; prohibited conduct.
517.08	Raffles.	517.99	Penalty.
517.09	Charitable instant bingo organizations.		

CROSS REFERENCES

See sectional histories for similar State law

Lotteries prohibited; exception - see Ohio Const., Art. XV,
Sec. 6

Contributing to delinquency of minors - see Ohio R.C. 2151.41

Search warrants - see Ohio R.C. 2933.21(E)

Licensing charitable bingo games - see Ohio R.C. 2915.08

517.01 DEFINITIONS.

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

- (a) "Bet" means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.
- (b) "Bingo" means either of the following:
 - (1) A game with all of the following characteristics:
 - A. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into twenty-five (25) spaces arranged in five (5) horizontal and five (5) vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space;
 - B. The participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator;

- C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains seventy-five (75) objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five (75) possible combinations of a letter and a number that can appear on the bingo cards or sheets;
 - D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers, as described in subsection (b)(1)C. hereof, that a predetermined and pre-announced pattern of spaces has been covered on a bingo card or sheet being used by the participant.
- (2) Instant bingo, electronic instant bingo, and raffles.
- (c) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo including but not limited to collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, selling or redeeming electronic instant bingo tickets, credits, or vouchers, accessing an electronic instant bingo system other than as a participant, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages. "Bingo game operator" does not include a person who is installing, maintaining, updating, or repairing an electronic instant bingo system.
 - (d) "Bingo session" means a period that includes both of the following:
 - (1) Not to exceed five (5) continuous hours for the conduct of one or more games described in subsection (d)(1) hereof the definition of "bingo" in this section, instant bingo, and electronic instant bingo;
 - (2) A period for the conduct of instant bingo and electronic instant bingo for not more than two (2) hours before and not more than two (2) hours after the period described in subsection (d)(1) hereof.
 - (e) "Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; electronic instant bingo systems; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter or Ohio R.C. Chapter 2915. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.
 - (f) "Bookmaking" means the business of receiving or paying off bets.

- (g) "Charitable bingo game" means any bingo game described in subsections (b)(1) or (2) hereof that is conducted by a charitable organization that has obtained a license pursuant to Ohio R.C. 2915.08 and the proceeds of which are used for a charitable purpose.
- (h) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and is a charitable organization as defined in this section. The term does not include a charitable organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to Section 517.14.
- (i) "Charitable organization" means:
 - (1) Except as otherwise provided in this chapter, "charitable organization" means either of the following:
 - A. An organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3);
 - B. A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under IRC 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10) or 501(c)(19).
 - (2) To qualify as a charitable organization, an organization shall have been in continuous existence as such in this state for a period of two (2) years immediately preceding either the making of an application for a bingo license under Ohio R.C. 2915.08 or the conducting of any game of chance as provided Section 517.02(d).
- (j) "Charitable purpose" means that the net profit of bingo, other than instant bingo or electronic instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:
 - (1) Any organization that is described in IRC 509(a)(1), 509(a)(2), or 509(a)(3) and is either a governmental unit or an organization that is tax exempt under IRC 501(a) and described in IRC 501(c)(3);
 - (2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five percent (75%) of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in Ohio R.C. 5739.02(B)(12), is used for awarding scholarships to or for attendance at an institution mentioned in that division of the Ohio Revised Code, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;

- (3) A fraternal organization that has been in continuous existence in this state for fifteen (15) years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, if contributions for such use would qualify as a deductible charitable contribution under IRC 170;
- (4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in the definition of "volunteer firefighter's organization" in this section.
- (k) "Community action agency" has the same meaning as in Ohio R.C. 122.66.
- (l) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.
- (m) "Deal" means a single game of instant bingo tickets, or a single game of electronic instant bingo tickets, all with the same serial number.
- (n) "Distributor" means any person who purchases or obtains bingo supplies and who does either of the following:
 - (1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state;
 - (2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this state.
- (o) "Electronic bingo aid" means:
 - (1) An electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:
 - A. It provides a means for a participant to input numbers and letters announced by a bingo caller.
 - B. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.
 - C. It identifies a winning bingo pattern.
 - (2) The term does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.
- (p) "Electronic instant bingo" means:
 - (1) A form of bingo that consists of an electronic or digital representation of instant bingo in which a participant wins a prize if the participant's electronic instant bingo ticket contains a combination of numbers or symbols that was designated in advance as a winning combination, and to which all of the following apply:
 - A. Each deal has a predetermined, finite number of winning and losing tickets and a predetermined prize amount and deal structure, provided that there may be multiple winning combinations in each deal and multiple winning tickets.
 - B. Each electronic instant bingo ticket within a deal has a unique serial number that is not regenerated.
 - C. Each electronic instant bingo ticket within a deal is sold for the same price.
 - D. After a participant purchases an electronic instant bingo ticket, the combination of numbers or symbols on the ticket is revealed to the participant.

- E. The reveal of numbers or symbols on the ticket may incorporate an entertainment or bonus theme, provided that the reveal does not include spinning reels that resemble a slot machine.
 - F. The reveal theme, if any, does not require additional consideration or award any prize other than any predetermined prize associated with the electronic instant bingo ticket.
- (2) The term shall not include any of the following:
 - A. Any game, entertainment, or bonus theme that replicates or simulates any of the following:
 - 1. The gambling games of keno, blackjack, roulette, poker, craps, other casino-style table games;
 - 2. Horse racing;
 - 3. Gambling games offered in this state on slot machines or video lottery terminals. As used in this division, "video lottery terminal" has the same meaning as in Ohio R.C. 3770.21.
 - B. Any device operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more rotating reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to a rest;
 - C. Any device that includes a coin or token slot, tray, or hopper and the ability to dispense coins, cash, tokens, or anything of value other than a credit ticket voucher.
- (q) "Electronic instant bingo system" means both of the following:
 - (1) A mechanical, electronic, digital, or video device and associated software to which all of the following apply:
 - A. It is used by not more than one player at a time to play electronic instant bingo on a single screen that is physically connected to the device;
 - B. It is located on the premises of the principal place of business of a veteran's or fraternal organization that holds a type II or type III bingo license to conduct electronic instant bingo at that location issued under Ohio R.C. 2915.08.
 - (2) Any associated equipment or software used to manage, monitor, or document any aspect of electronic instant bingo.
- (r) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:
 - (1) The purchase or lease of bingo supplies;
 - (2) The annual license fee required under Ohio R.C. 2915.08;
 - (3) Bank fees and service charges for a bingo session or game account described in Ohio R.C. 2915.10;
 - (4) Audits and accounting services;
 - (5) Safes;
 - (6) Cash registers;
 - (7) Hiring security personnel;
 - (8) Advertising bingo;
 - (9) Renting premises in which to conduct a bingo session;

- (10) Tables and chairs;
 - (11) Expenses for maintaining and operating a charitable organization's facilities, including but not limited to a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
 - (12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
 - (13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under Ohio R.C. 2915.08(F)(1).
- (s) "Fraternal organization" means any society, order, state headquarters, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members.
- (t) "Gambling device" means any of the following:
- (1) A book, totalizer, or other equipment used for recording bets;
 - (2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;
 - (3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
 - (4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;
 - (5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter or Ohio R.C. Chapter 2915.
- (u) "Gambling offense" means any of the following:
- (1) A violation of Ohio R.C. Chapter 2915;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any provision of this chapter or Ohio R.C. Chapter 2915 or a violation of Ohio R.C. 2915.06 as it existed prior to July 1, 1996;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or of the United States, of which gambling is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing, any offense under subsections (v)(1), (2), or (3) hereof.
- (v) "Game flare" means the board or placard, or electronic representation of a board or placard, that accompanies each deal of instant bingo or electronic instant bingo tickets and that includes the following information for the game:
- (1) The name of the game;
 - (2) The manufacture's name or distinctive logo;
 - (3) The form number;
 - (4) The ticket count;
 - (5) The prize structure, including the number of winning tickets by denomination and the respective winning symbol or number combinations for the winning tickets;
 - (6) The cost per play;
 - (7) The serial number of the game.
- (w) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

- (x) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.
- (y) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in subsection (b)(1) hereof plus the annual net profit derived from the conduct of bingo described subsection (b)(2) hereof.
- (z) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.
- (aa) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. The term does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:
 - (1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two (2) years prior to conducting bingo.
 - (2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.
 - (3) The food and beverages are sold at customary and reasonable prices.
- (bb) "Instant bingo" means a form of bingo that shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, and may also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. "Instant bingo" also includes a punch board game. In all "instant bingo" the prize amount and structure shall be predetermined. The term does not include electronic instant bingo or any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.
- (cc) "Instant bingo ticket dispenser" means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:
 - (1) It is activated upon the insertion of United States currency.
 - (2) It performs no gaming functions.
 - (3) It does not contain a video display monitor or generate noise.
 - (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.
 - (5) It does not simulate or display rolling or spinning reels.
 - (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or non-winning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.

- (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.
- (8) It is not part of an electronic network and is not interactive.
- (dd) "Internal Revenue Code (IRC)" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1 et seq., as now or hereafter amended.
- (ee) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.
- (ff) "Merchandise prize" means any item of value, but shall not include any of the following:
 - (1) Cash, gift cards, or any equivalent thereof;
 - (2) Plays on games of chance, state lottery tickets, or bingo;
 - (3) Firearms, tobacco, or alcoholic beverages; or
 - (4) A redeemable voucher that is redeemable for any of the items listed in subsections (hh)(1), (2) or (3) hereof.
- (gg) "Net profit" means gross profit minus expenses.
- (hh) "Net profit from the proceeds of the sale of instant bingo or electronic instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of bingo supplies for the purpose of conducting instant bingo or electronic instant bingo, and, in the case of instant bingo or electronic instant bingo conducted by a veteran's, fraternal, or sporting organization, minus the payment by that organization of real property taxes and assessments levied on a premises on which instant bingo or electronic instant bingo is conducted.
- (ii) "Participant" means any person who plays bingo.
- (jj) "Person" has the same meaning as in Ohio R.C. 1.59 and includes any firm or any other legal entity, however organized.
- (kk) "Pool not conducted for profit" means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.
- (ll) "Punch board" means a form of instant bingo that uses a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.
- (mm) "Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. The term does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:
 - (1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event; and
 - (2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.
- (nn) "Redeemable voucher" means any ticket, token, coupon, receipt, or other noncash representation of value.

- (oo) "Religious organization" means any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.
- (pp) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (qq) "Scheme of chance" means:
 - (1) A slot machine unless authorized under Ohio R.C. Chapter 3772, lottery unless authorized under Ohio R.C. Chapter 3770, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. "Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:
 - A. Less than fifty percent (50%) of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;
 - B. Less than fifty percent (50%) of participants who purchase goods or services at any one location do not accept, use, or redeem the goods or services sold or purportedly sold;
 - C. More than fifty percent (50%) of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in Ohio R.C. 3772.01;
 - D. The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
 - E. A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
 - F. A participant may use the electronic device to purchase additional game entries;
 - G. A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
 - H. A scheme of chance operator pays out in prize money more than twenty percent (20%) of the gross revenue received at one location; or
 - I. A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.
 - (2) As used in this subsection, "electronic device" means a mechanical, video, digital, or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased, or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries, or contractors. "Electronic device" does not include an electronic instant bingo system.

- (rr) "Seal card" means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.
- (ss) "Security personnel" includes any person who either is a Sheriff, deputy sheriff, Marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course pursuant to Ohio R.C. 109.71 through 109.79 and who is hired to provide security for the premises on which bingo is conducted.
- (tt) "Skill-based amusement machine" means:
- (1) A. A mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:
1. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed ten dollars (\$10.00);
 2. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than ten dollars (\$10.00);
 3. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than ten dollars (\$10.00) times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
 4. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.
- B. A card for the purchase of gasoline is a redeemable voucher for purposes of subsection (vv)(1) hereof even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.
- (2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:
- A. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game;
 - B. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;
 - C. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game;
 - D. The success of any player is or may be determined by a chance event that cannot be altered by player actions;
 - E. The ability of any player to succeed at the game is determined by game features not visible or known to the player;

- F. The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
- (3) All of the following apply to any machine that is operated as described in subsection (vv)(1) hereof:
 - A. As used in this definition of "skill-based amusement machine", "game" and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition, or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.
 - B. Advance play for a single game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play.
 - C. To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.
- (4) For purposes of subsection (vv)(1) hereof, the mere presence of a device, such as a pinsetting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.
- (uu) "Slot machine" means:
 - (1) Either of the following:
 - A. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;
 - B. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.
 - (2) The term does not include a skill-based amusement machine, an instant bingo ticket dispenser, or an electronic instant bingo system.
- (vv) "Sporting organization" means a hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to the League of Ohio Sportsmen, and that has been in continuous existence in this state for a period of three (3) years.
- (ww) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (xx) "Sweepstakes" means any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. "Sweepstakes" does not include bingo as authorized under Ohio R.C. Chapter 2915, pari-mutuel wagering as authorized by Ohio R.C. Chapter 3769, lotteries conducted by the State Lottery Commission as authorized by Ohio R.C. Chapter 3770, and casino gaming as authorized by Ohio R.C. Chapter 3772.

(yy) "Sweepstakes terminal device" means:

- (1) A mechanical, video, digital, or electronic machine or device that is owned, leased, or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:
 - A. The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
 - B. The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
 - C. The device selects prizes from a predetermined finite pool of entries.
 - D. The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
 - E. The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
 - F. The device utilizes software to create a game result.
 - G. The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.
 - H. The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
- (2) As used in this definition and in Section 517.02:
 - A. "Enter" means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.
 - B. "Entry" means one event from the initial activation of the sweepstakes terminal device until all the sweepstakes prize results from that activation are revealed.
 - C. "Prize" means any gift, award, gratuity, good, service, credit, reward, or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

(zz) "Sweepstakes terminal facility" means any location in this state where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in Ohio R.C. 2915.02(G).

(aaa) "Veteran's organization" means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this definition, "National Veterans' Association" means any veteran's association that has been in continuous existence as such for a period of at least five (5) years and either is incorporated by an act of the United States Congress or has a national dues-paying membership of at least 5,000 persons.

- (bbb) "Volunteer firefighter's organization" means any organization of volunteer firefighters, as defined in Ohio R.C. 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.
- (ccc) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization, as defined in Ohio R.C. 4765.01.
- (ddd) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one (21) years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.
- (eee) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:
 - (1) It owns, operates, and maintains playing fields that satisfy both of the following:
 - A. The playing fields are used for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen (18) years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.
 - B. The playing fields are not used for any profit-making activity at any time during the year.
 - (2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in subsection (ggg)(1) hereof.
(ORC 2915.01)

517.02 GAMBLING.

- (a) No person shall do any of the following:
 - (1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;
 - (2) Establish, promote, or operate or knowingly engage in conduct that facilitates any game of chance conducted for profit or any scheme of chance;
 - (3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or any scheme of chance;
 - (4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood;
 - (5) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility and either:
 - A. Give to another person any item described in subsection (ff)(1), (2), (3) or (4) of Section 517.01 as a prize for playing or participating in a sweepstakes; or

- B. Give to another person any merchandise prize, or a redeemable voucher for a merchandise prize, the wholesale value of which is in excess of ten dollars (\$10.00) and which is awarded as a single entry for playing or participating in a sweepstakes. Redeemable vouchers shall not be redeemable for a merchandise prize that has a wholesale value of more than ten dollars (\$10.00).
- (6) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility without first obtaining a current annual "certificate of registration" from the Attorney General as required by division (F) of Ohio R.C. 2915.02.
- (7) With purpose to violate subsection (a)(1), (2), (3), (4), (5) or (6) of this section, acquire, possess, control, or operate any gambling device.

(b) For purposes of subsection (a)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of subsection (a)(2) of this section, a person facilitates a game of chance conducted for profit or a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme.

(c) This section does not prohibit conduct in connection with gambling expressly permitted by law.

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

(1) Games of chance, if all of the following apply:

- A. The games of chance are not craps for money or roulette for money.
- B. The games of chance are conducted by a charitable organization that is, and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is, exempt from Federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.
- C. The games of chance are conducted at festivals of the charitable organization that are conducted not more than a total of five days a calendar year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance.

A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof if the veteran's or fraternal organization has already leased the premises twelve times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under Section 517.06(b)(1) when it leases premises from another charitable organization to conduct bingo games.

- D. All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated or otherwise transferred to, any organization that is described in subsection 509(a)(1), (2) or (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
- E. The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to Section 517.13.

No person shall receive any commission, wage, salary, reward, tip, donations, gratuity or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance.

- (2) Any tag fishing tournament operated under a permit issued under Ohio R.C. 1533.92, as "tag fishing tournament" is defined in Ohio R.C. 1531.01.
- (3) Bingo conducted by a charitable organization that holds a license issued under Ohio R.C. 2915.08.

(e) Subsection (d) hereof shall not be construed to authorize the sale, lease or other temporary or permanent transfer of the right to conduct games of chance, as granted by subsection (d) hereof, by any charitable organization that is granted that right.

(f) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, gambling is a felony and shall be prosecuted under appropriate State law. (ORC 2915.02)

517.03 OPERATING A GAMBLING HOUSE.

(a) No person, being the owner or lessee, or having custody, control or supervision of premises, shall:

- (1) Use or occupy such premises for gambling in violation of Section 517.02;
- (2) Recklessly permit such premises to be used or occupied for gambling in violation of Section 517.02.

(b) Whoever violates this section is guilty of operating a gambling house, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, operating a gambling house is a felony and shall be prosecuted under appropriate State law.

(c) Premises used or occupied in violation of this section constitute a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2915.03)

517.04 PUBLIC GAMING.

(a) No person, while at a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall make a bet or play any game of chance or scheme of chance.

(b) No person, being the owner or lessee, or having custody, control, or supervision, of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit those premises to be used or occupied in violation of subsection (a) of this section.

(c) Subsections (a) and (b) of this section do not prohibit conduct in connection with gambling expressly permitted by law.

(d) Whoever violates this section is guilty of public gaming. Except as otherwise provided in this subsection, public gaming is a minor misdemeanor. If the offender previously has been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

(e) Premises used or occupied in violation of subsection (b) of this section constitute a nuisance subject to abatement under Ohio R.C. Chapter 3767. (ORC 2915.04)

517.05 CHEATING.

(a) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of any of the following:

- (1) The subject of a bet;
- (2) A contest of knowledge, skill, or endurance that is not an athletic or sporting event;
- (3) A scheme or game of chance;
- (4) Bingo.

(b) Whoever violates this section is guilty of cheating. Except as otherwise provided in this subsection cheating is a misdemeanor of the first degree. If the potential gain from the cheating is one thousand dollars (\$1,000) or more, or if the offender previously has been convicted of any gambling offense or of any theft offense as defined in Ohio R.C. 2913.01, cheating is a felony and shall be prosecuted under appropriate State law. (ORC 2915.05)

517.06 METHODS OF CONDUCTING A BINGO GAME; PROHIBITIONS.

(a) No charitable organization that conducts bingo shall fail to do any of the following:

- (1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;

- (2) Except as otherwise provided in subsection (a)(3) of this section, use all of the gross receipts from bingo for paying prizes, for reimbursement of expenses for or for renting premises in which to conduct bingo, for reimbursement of expenses for or for purchasing or leasing bingo supplies used in conducting bingo, for reimbursement of expenses for or for hiring security personnel, for reimbursement of expenses for or for advertising bingo, or for reimbursement of other expenses or for other expenses listed in the definition for "expenses" in Section 517.01(r), provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, advertising, or expense. If the building in which bingo is conducted is owned by the charitable organization conducting bingo and the bingo conducted includes a form of bingo described in the definition of "bingo" in Section 517.01(b)(1), the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of six hundred dollars (\$600.00) or forty-five percent (45%) of the gross receipts from the bingo described in that division as consideration for the use of the premises;
- (3) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo described in Section 517.01(b)(1), for a charitable purpose listed in its license application and described in Section 517.02(k), or distribute all of the net profit from the proceeds of the sale of instant bingo or electronic instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101, as applicable.

(b) No charitable organization that conducts a bingo game described in Section 517.01(b)(1) shall fail to do any of the following:

- (1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of six hundred dollars (\$600.00) per bingo session or forty-five percent (45%) of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality but not in excess of four hundred fifty dollars (\$450.00) per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars (\$450.00) per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three (3) other charitable organizations per calendar week for

conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three (3) charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine (9) bingo sessions be conducted on any premises in any calendar week.

- (2) Display its license conspicuously at the premises where the bingo session is conducted;
- (3) Conduct the bingo session in accordance with the definition of bingo set forth in Section 517.01(b)(1).

(c) No charitable organization that conducts a bingo game described in Section 517.01(b)(1) shall do any of the following:

- (1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
- (2) Pay consulting fees to any person for any services performed in relation to the bingo session;
- (3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;
- (4) Except as otherwise provided in subsection (c)(4) of this section, conduct more than three bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five (5) bingo sessions in a calendar year may conduct more than three (3) bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;
- (5) Pay out more than six thousand dollars (\$6,000) in prizes for bingo games described in Section 517.01(b)(1) during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo;
- (6) Conduct a bingo session at any time during the eight-hour period between 2:00 a.m. and 10:00 a.m., at any time during, or within ten (10) hours of, a bingo game conducted for amusement only pursuant to Ohio R.C. 2915.12, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. Subsection (c)(6) of this section does not prohibit the sale of instant bingo tickets beginning at 9:00 a.m. for a bingo session that begins at 10:00 a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney

General for an amended license, pursuant to division (J) of Ohio R.C. 2915.08. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;

- (7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen (18) to work as a bingo game operator;
- (8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
- (9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;
- (10) Purchase or lease bingo supplies from any person except a distributor issued a license under Ohio R.C. 2915.081;
- (11) A. Use or permit the use of electronic bingo aids except under the following circumstances:
 - 1. For any single participant, not more than ninety (90) bingo faces can be played using an electronic bingo aid or aids.
 - 2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
 - 3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.
 - 4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.
 - 5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.
 - 6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.
- B. The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the Attorney General to verify the number of bingo cards or sheets played during each bingo session.

- (12) Permit any person the charitable organization knows, or should have known, to be under eighteen (18) years of age to play bingo described in Section 517.01(b)(1).
- (d)
 - (1) Except as otherwise provided in subsection (d)(3) hereof, no charitable organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.
 - (2) Except as otherwise provided in subsection (d)(3) of this section, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly regardless of the source, for conducting instant bingo, electronic instant bingo, or both other than at a bingo session at the site of instant bingo, electronic instant bingo, or both other than at a bingo session.
 - (3) Nothing in subsection (d) hereof prohibits an employee of a fraternal organization, veteran's organization, or sporting organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.

(e) Notwithstanding subsection (b)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two (2) bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two (2) bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the Attorney General in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the Attorney General prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the Attorney General prior to December 6, 1977.

(f) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.

(g) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (2), (b)(1), (2), or (3), (c)(1) to (11) or (d) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of subsection (a)(1) or (2), (b)(1), (2) or (3), (c)(1) to (11), or (d) of this section, a violation of subsection (a)(1) or (2), (b)(1), (2) or (3) or (c)(1) to (11) or (d) of this section is a misdemeanor of the first degree. Whoever violates subsection (c)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c)(12) of this section, a violation of subsection (c)(12) is a felony and shall be prosecuted under appropriate State law. (ORC 2915.09)

517.07 INSTANT BINGO CONDUCT.

- (a) No charitable organization that conducts instant bingo shall do any of the following:
- (1) Fail to comply with the requirements of divisions (A)(1), (2), and (3) of Ohio R.C. 2915.09;
 - (2) Conduct instant bingo unless either of the following applies:
 - A. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(3) of the Internal Revenue Code, is a charitable organization as defined in Section 517.01, is in good standing in the State pursuant to Ohio R.C. 2915.08, and is in compliance with Ohio R.C. Chapter 1716;
 - B. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under Section 517.14.
 - (3) Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to Ohio R.C. 2915.08;
 - (4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo;
 - (5) Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under Ohio R.C. 2915.081;
 - (6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare;
 - (7) Sell an instant bingo ticket or card to a person under eighteen (18) years of age;
 - (8) Fail to keep unsold instant bingo tickets or cards for less than three (3) years;
 - (9) Pay any compensation to a bingo game operator for conducting instant bingo that is conducted by the organization or for preparing, selling, or serving food or beverages at the site of the instant bingo game, permit any auxiliary unit or society of the organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at an instant bingo game conducted by the organization, or permit any auxiliary unit or society of the organization to prepare, sell, or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
 - (10) Pay fees to any person for any services performed in relation to an instant bingo game, except as provided in Section 517.09(d);
 - (11) Pay fees to any person who provides refreshments to the participants in an instant bingo game;
 - (12) A. Allow instant bingo tickets or cards to be sold to bingo game operators at a premises at which the organization sells instant bingo tickets or cards or to be sold to employees of a D permit holder who are working at a premises at which instant bingo tickets or cards are sold;

- B. Subsection (a)(12)A. of this section does not prohibit a licensed charitable organization or a bingo game operator from giving any person an instant bingo ticket as a prize in place of a cash prize won by a participant in an instant bingo game. In no case shall an instant bingo ticket or card be sold or provided for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare.
- (13) Fail to display its bingo license, and the serial numbers of the deal of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards;
 - (14) Possess a deal of instant bingo tickets or cards that was not purchased from a distributor licensed under Ohio R.C. 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Section 517.11(f);
 - (15) Fail, once it opens a deal of instant bingo tickets or cards, to continue to sell the tickets or cards in that deal until the tickets or cards with the top two (2) highest tiers of prizes in that deal are sold;
 - (16) Possess bingo supplies that were not obtained in accordance with Ohio R.C. 2915.01 to 2915.13.

(b) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards.

(c) Whoever violates subsection (a) of this section or a rule adopted under Ohio R.C. 2915.091(C) is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (a) of this section or of such a rule, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law. (ORC 2915.091)

517.08 RAFFLES.

- (a) (1) Subject to subsection (a)(2) of this section, a person or entity that is exempt from federal income taxation under IRC 501(a) and is described in IRC 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) may conduct a raffle to raise money for the person or entity and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.
- (2) If a person or entity that is described in subsection (a)(1) of this section, but that is not also described in IRC 501(c)(3), conducts a raffle, the person or entity shall distribute at least fifty percent (50%) of the net profit from the raffle to a charitable purpose described in Section 517.01(j) or to a department or agency of the federal government, the state, or any political subdivision.

(b) Except as provided in subsection (a) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.

(c) Whoever violates subsection (b) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this subsection, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (b) of this section, illegal conduct of a raffle is a felony and shall be prosecuted under appropriate State law. (ORC 2915.092)

517.09 CHARITABLE INSTANT BINGO ORGANIZATIONS.

(a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.

- (b) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session under a type III license issued under Ohio R.C. 2915.08, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.
- (2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session under a type III license issued under Ohio R.C. 2915.08 is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five (5) days per calendar year and not more than ten (10) hours per day.

(c) Except as provided in subsection (f) of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.

(d) The owner or lessor of a location that enters into a contract pursuant to subsection (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

The charitable instant bingo organization shall pay six per cent of the total gross receipts of any deal of instant bingo tickets for the purpose of reimbursing the owner or lessor for expenses described in this subsection.

As used in this subsection, "expenses" means those items provided for in subsections (r)(4), (5), (6), (7), (8), (12) and (13) of Section 517.01 and that percentage of the owner's or lessor's rent for the location where instant bingo is conducted. "Expenses" in the aggregate, shall not exceed six percent (6%) of the total gross receipts of any deal of instant bingo tickets.

As used in this subsection, "full gross profit" means the amount by which the total receipts of all instant bingo tickets, if the deal had been sold in full, exceeds the amount that would be paid out if all prizes were redeemed.

(e) A charitable instant bingo organization shall provide the Attorney General with all of the following information:

- (1) That the charitable instant bingo organization has terminated a contract entered into pursuant to subsection (b) of this section with an owner or lessor of a location;
- (2) That the charitable instant bingo organization has entered into a written contract pursuant to subsection (b) of this section with a new owner or lessor of a location;
- (3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of this chapter or Ohio R.C. Chapter 2915.

(f) Subsection (c) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those five years, had gross receipts of at least one million five hundred thousand dollars. (ORC 2915.093)

517.10 LOCATION OF INSTANT BINGO.

(a) No owner or lessor of a location shall assist a charitable instant bingo organization in the conduct of instant bingo other than at a bingo session at that location unless the owner or lessor has entered into a written contract, as described in Section 517.09, with the charitable instant bingo organization to assist in the conduct of instant bingo other than at a bingo session.

(b) The location of the lessor or owner shall be designated as a location where the charitable instant bingo organization conducts instant bingo other than at a bingo session.

(c) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate any provision of Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of Ohio R.C. Chapter 2915.

(d) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate the terms of the contract.

- (e)
- (1) Whoever violates subsection (c) or (d) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c) or (d) of this section, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.
 - (2) If an owner or lessor of a location knowingly, intentionally, or recklessly violates subsection (c) or (d) of this section, any license that the owner or lessor holds for the retail sale of any goods on the owner's or lessor's premises that is issued by the State or a political subdivision is subject to suspension, revocation, or payment of a monetary penalty at the request of the Attorney General. (ORC 2915.094)

517.11 BINGO OR GAME OF CHANCE RECORDS.

(a) No charitable organization that conducts bingo or a game of chance pursuant to Section 517.02(d), shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:

- (1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each electronic instant bingo game by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number and each electronic instant bingo game by serial number;
- (2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;
- (3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number and each electronic instant bingo game by serial number, and the name, address, and social security number of all persons who are winners of prizes of six hundred dollars (\$600.00) or more in value;
- (4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in Section 517.01(j), Section 517.02(d), or Ohio R.C. 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;
- (5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;
- (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from "gross receipts" Section 517.01(aa);
- (7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo or electronic instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.

(b) A charitable organization shall keep the records that it is required to maintain pursuant to subsection (a) of this section at its principal place of business in this State or at its headquarters in this State and shall notify the Attorney General of the location at which those records are kept.

(c) The gross profit from each bingo session or game described in Section 517.01(b)(1) or (2) shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks or electronic fund transfers drawn on the bingo session or game account.

(d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.

(e) The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.

(f) A distributor shall maintain, for a period of three (3) years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this State. The record shall include all of the following for each instance:

- (1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;
- (2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;
- (3) A description that clearly identifies the bingo supplies;
- (4) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.

(g) A manufacturer shall maintain, for a period of three (3) years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this State. The record shall include all of the following for each instance:

- (1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;
- (2) A description that clearly identifies the bingo supplies, including serial numbers;
- (3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.

- (h) (1) The Attorney General, or any law enforcement agency, may do all of the following:
- A. Investigate any charitable organization, distributor, or manufacturer or any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;
 - B. Examine the accounts and records of the charitable organization, distributor, or manufacturer or of any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;
 - C. Conduct inspections, audits, and observations of bingo or games of chance;
 - D. Conduct inspections of the premises where bingo or games of chance are conducted or where bingo supplies are manufactured or distributed;
 - E. Take any other necessary and reasonable action to determine if a violation of any provision of this chapter or Ohio R.C. Chapter 2915 has occurred and to determine whether Section 517.12 has been complied with.

- (2) If any law enforcement agency has reasonable grounds to believe that a charitable organization, distributor, or manufacturer or an officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer has violated any provision of this chapter or Ohio R.C. Chapter 2915, the law enforcement agency may proceed by action in the proper court to enforce this chapter or Ohio R.C. Chapter 2915, provided that the law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this division.

(i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization, distributor, or manufacturer that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance, of premises where bingo or a game of chance is conducted, or of premises where bingo supplies are manufactured or distributed, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the Attorney General or a law enforcement agency pursuant to subsection (h) hereof.

(j) Whoever violates subsection (a) or (i) of this section is guilty of a misdemeanor of the first degree. (ORC 2915.10)

517.12 BINGO OPERATOR PROHIBITIONS.

(a) No person shall be a bingo game operator unless he is eighteen (18) years of age or older.

(b) No person who has been convicted of a felony or a gambling offense in any jurisdiction shall be a bingo game operator.

(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the third degree.

(d) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 2915.11)

517.13 BINGO EXCEPTIONS.

(a) Ohio R.C. 2915.07 to 2915.11 and 2915.14 or Section 517.06 et seq. of this chapter do not apply to bingo games that are conducted for the purpose of amusement only. A bingo game is conducted for the purpose of amusement only if it complies with all of the requirements specified in either subsection (a)(1) or (2) hereof:

- (1) A. The participants do not pay any money or any other thing of value including an admission fee, or any fee for bingo cards, sheets, objects to cover the spaces or other devices used in playing bingo, for the privilege of participating in the bingo game or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game.
- B. All prizes awarded during the course of the game are nonmonetary, and in the form of merchandise, goods or entitlements to goods or services only, and the total value of all prizes awarded during the game is less than one hundred dollars (\$100.00).

- C. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
- D. The bingo game is not conducted either during or within ten (10) hours of any of the following:
 - 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 - 2. A scheme or game of chance or bingo described in Section 517.01(b)(2).
- E. The number of players participating in the bingo game does not exceed fifty (50).
- (2) A. The participants do not pay money or any other thing of value as an admission fee, and no participant is charged more than twenty-five cents (25¢) to purchase a bingo card or sheet, objects to cover the spaces or other devices used in playing bingo.
- B. The total amount of money paid by all of the participants for bingo cards or sheets, objects to cover the spaces or other devices used in playing bingo does not exceed one hundred dollars (\$100.00).
- C. All of the money paid for bingo cards or sheets, objects to cover spaces or other devices used in playing bingo is used only to pay winners monetary and nonmonetary prizes and to provide refreshments.
- D. The total value of all prizes awarded during the game does not exceed one hundred dollars (\$100.00).
- E. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
- F. The bingo game is not conducted during or within ten (10) hours of either of the following:
 - 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.15 or Section 517.06 et seq. of this chapter;
 - 2. A scheme of chance or game of chance or bingo described in Section 517.01(b)(2).
- G. All of the participants reside at the premises where the bingo game is conducted.
- H. The bingo games are conducted on different days of the week and not more than twice in a calendar week.

(b) The Attorney General, or any local law enforcement agency, may investigate the conduct of a bingo game that purportedly is conducted for purposes of amusement only if there is reason to believe that the purported amusement bingo game does not comply with subsection (a) hereof. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the Attorney General when commencing the action. (ORC 2915.12)

517.14 INSTANT BINGO CONDUCT BY A VETERAN'S OR FRATERNAL ORGANIZATION.

(a) Subject to the requirements of Ohio R.C. 2915.14 and 2915.15 concerning electronic instant bingo, a veteran's organization, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to Ohio R.C. Chapter 2915 may conduct instant bingo, electronic instant bingo, or both other than at a bingo session under a type III license issued under Ohio R.C. 2915.08 if all of the following apply:

- (1) The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo or electronic instant bingo to twelve (12) hours during any day, provided that the sale does not begin earlier than 10:00 a.m. and ends not later than 2:00 a.m.
- (2) The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo or electronic instant bingo to its own premises and to its own members and invited guests.
- (3) The veteran's organization, fraternal organization, or sporting organization is raising money for an organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), and that is in good standing in this state and executes a written contract with that organization as required in subsection (b) hereof.

(b) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo or electronic instant bingo pursuant to subsection (a) hereof is raising money for another organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c), and that is in good standing in this state, the veteran's organization, fraternal organization, or sporting organization shall execute a written contract with the organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c), and that is in good standing in this state in order to conduct instant bingo or electronic instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veteran's, fraternal, or sporting organization will be distributing to the organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), and that is in good standing in this state.

- (c) (1) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo or electronic instant bingo pursuant to subsection (b) hereof has been issued a liquor permit under Ohio R.C. Chapter 4303, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization, fraternal organization, or sporting organization violates a provision of this chapter or Ohio R.C. Chapter 2915.

- (2) No veteran's organization, fraternal organization, or sporting organization that enters into a written contract pursuant to subsection (b) hereof shall violate any provision of this chapter or Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of this chapter or Ohio R.C. Chapter 2915.

(d) A veteran's organization, fraternal organization, or sporting organization shall give all required proceeds earned from the conduct of instant bingo or electronic instant bingo to the organization with which the veteran's organization, fraternal organization, or sporting organization has entered into a written contract.

(e) Whoever violates this section is guilty of illegal instant bingo or electronic instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo or electronic instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal instant bingo or electronic instant bingo conduct is a felony to be prosecuted under appropriate state law.
(ORC 2915.13)

517.15 SKILL-BASED AMUSEMENT MACHINES.

- (a) (1) No person shall give to another person any item described in Section 517.01(ff)(1), (2), (3), or (4) in exchange for a noncash prize, toy, or novelty received as a reward for playing or operating a skill-based amusement machine or for a free or reduced-prize game won on a skill-based amusement machine.
- (2) Whoever violates subsection (a)(1) of this section is guilty of skill-based amusement machine prohibited conduct. Except as provided herein, a violation of subsection (a)(1) is a misdemeanor of the first degree for each redemption of a prize that is involved in the violation. If the offender previously has been convicted of a violation of subsection (a)(1), a violation of subsection (a)(1) is a felony and shall be prosecuted under appropriate State law.
(ORC 2915.06)

(b) Any regulation of skill-based amusement machines shall be governed by this chapter and Ohio R.C. Chapter 2915 and not by Ohio R.C. Chapter 1345.
(ORC 2915.061)

517.16 ELECTRONIC INSTANT BINGO; PROHIBITED CONDUCT.

- (a) No charitable organization shall conduct electronic instant bingo unless all of the following are true:
- (1) The organization is a veteran's organization described in Ohio R.C. 2915.01(J), or is a fraternal organization described in Ohio R.C. 2915.01(L), and the organization qualified as a veteran's organization or fraternal organization, as applicable, on or before June 30, 2021.
- (2) The organization is a veteran's organization described in IRC 501(c)(4) or is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under IRC 501(a), and is described in IRC 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19).

- (3) The organization has not conducted a raffle in violation of Ohio R.C. 2915.092(B) using an electronic raffle machine, as described in Ohio Veterans and Fraternal Charitable Coalition v. DeWine, Case No. 13-CV-13610 (C.P. Franklin Co. February 23, 2018), at any time on or after January 1, 2022.

(b) No charitable organization that conducts electronic instant bingo shall do any of the following:

- (1) Possess an electronic instant bingo system that was not obtained in accordance with Ohio R.C. Chapter 2915 or with any rule adopted under Ohio R.C. Chapter 2915;
- (2) Conduct electronic instant bingo on any day, at any time, or on any premises not specified on the organization's type II or type III license issued under Ohio R.C. 2915.08;
- (3) Hold more than one valid license to conduct electronic instant bingo at any one time;
- (4) Conduct electronic instant bingo on more than one premises or on any premises other than the charitable organization's principal place of business;
- (5) Operate more than ten electronic bingo systems at the premises on which the charitable organization conducts electronic instant bingo under its license;
- (6) Fail to display both of the following conspicuously at the premises on which the charitable organization conducts electronic instant bingo:
 - A. The charitable organization's bingo license;
 - B. The serial number of each deal of electronic instant bingo tickets being sold.
- (7) Permit any person the charitable organization knows, or should have known, to be under eighteen (18) years of age to play electronic instant bingo;
- (8) Sell or provide to any person an electronic instant bingo ticket for a price different from the price displayed on the game flare for that deal, except that the charitable organization may give a participant who wins an electronic instant bingo game an electronic instant bingo ticket as a prize in place of a cash prize;
- (9) Fail, once an electronic instant bingo deal is begun, to continue to sell tickets in that deal until all prizes have been awarded;
- (10) Permit any person whom the organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of electronic instant bingo;
- (11) Permit a bingo game operator to play electronic instant bingo;
- (12)
 - A. Except as otherwise provided in subsection (b)(12)B. hereof, pay compensation to a bingo game operator for conducting electronic instant bingo.
 - B. Subsection (b)(12)A. hereof does not prohibit an employee of a veteran's organization or fraternal organization from redeeming electronic instant bingo tickets or vouchers for the organization's members or invited guests, so long as no portion of the employee's compensation is paid from any bingo receipts.

(13) Pay consulting fees to any person in relation to electronic instant bingo.

(c) No person shall sell, offer to sell, or otherwise provide or offer to provide an electronic instant bingo system to any person for use in this municipality unless the electronic instant bingo system has been approved under Ohio R.C. 2915.15.

(d) Whoever knowingly violates subsection (a), (b) or (c) hereof or a rule adopted under Ohio R.C. 2915.14(D) is guilty of illegal electronic instant bingo conduct. Illegal electronic instant bingo conduct is a misdemeanor of the first degree, except that if the offender previously has been convicted of a violation of subsection (a) or (b) hereof, or any substantially equivalent municipal ordinance or state law, or of a rule adopted under Ohio R.C. 2915.14(D), illegal instant bingo conduct is a felony to be prosecuted under appropriate state law.
(ORC 2915.14)

517.99 PENALTY.

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

CHAPTER 529 Liquor Control

529.01	Definitions.	529.05	Permit required.
529.02	Sales to and use by underage persons; securing public accommodations.	529.06	Low-alcohol beverages: sale to and purchase by underage persons prohibited.
529.021	Purchase by minor; misrepresentation.	529.07	Open container prohibited.
529.03	Sales to intoxicated persons.	529.08	Hours of sale or consumption.
529.04	Liquor consumption in motor vehicle.	529.09	Minors prohibited on premises which sell beer/liquor.
		529.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Prohibiting sale of intoxicating liquor on Sunday - see
 Ohio R.C. 4301.22(D)
 Local option - see Ohio R.C. 4301.32 et seq., 4303.29
 Disorderly conduct; intoxication - see GEN. OFF. 509.03
 Using weapons while intoxicated - see GEN. OFF. 549.03

529.01 DEFINITIONS.

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

- (a) "Alcohol". Ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. The term does not include denatured alcohol and wood alcohol.
- (b) "At Retail". For use or consumption by the purchaser and not for resale.
- (c) "Beer".
 - (1) Includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of one percent (0.5%) or more of alcohol by volume.
 - (2) Beer, regardless of the percent of alcohol by volume, is not intoxicating liquor for purposes of this code, the Ohio Revised Code, or any rules adopted under it.
- (d) "Cider". All liquids that are fit to use for beverage purposes that contain one-half of one percent (0.5%) of alcohol by volume, but not more than six percent (6%) of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.
- (e) "Club". A corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for such purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.

- (f) "Community Facility". Means either of the following:
 - (1) Any convention, sports or entertainment facility or complex, or any combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a convention facilities authority created pursuant to Ohio R.C. 351.02;
 - (2) An area designated as a community entertainment district pursuant to Ohio R.C. 4301.80.
- (g) "Controlled Access Alcohol and Beverage Cabinet". A closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device that requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages or food may be sold.
- (h) "Hotel". The same meaning as in Ohio R.C. 3731.01, subject to the exceptions mentioned in Ohio R.C. 3731.03.
- (i) "Intoxicating Liquor" and "Liquor". All liquids and compounds, other than beer, containing one half of one percent (0.5%) or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. The terms include cider and alcohol, and all solids and confections which contain one-half of one percent (0.5%) or more of alcohol by volume.
- (j) "Low-Alcohol Beverage". Any brewed or fermented malt product or any product made from the fermented juices of grapes, fruits, or other agricultural products that contains either no alcohol or less than one-half of one percent (0.5%) of alcohol by volume. The beverages described in this definition do not include a soft drink such as root beer, birch beer, or ginger beer.
- (k) "Manufacture". All processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner.
- (l) "Manufacturer". Any person engaged in the business of manufacturing beer or intoxicating liquor.
- (m) "Mixed Beverages". Include bottled and prepared cordials, cocktails, highballs, and solids and confections that are obtained by mixing any type of whiskey, neutral spirits, brandy, gin or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume. The phrase includes the contents of a pod.
- (n) "Nightclub". A place habitually operated for profit, where food is served for consumption on the premises, and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons.
- (o) "Person". Includes firms and corporations.
- (p) "Pharmacy". An establishment as defined in Ohio R.C. 4729.01, that is under the management or control of a licensed pharmacist in accordance with Ohio R.C. 4729.27.

- (q) "POD". Means a sealed capsule made from plastic, glass, aluminum, or a combination thereof to which all of the following apply:
- (1) The capsule contains intoxicating liquor of more than twenty-one percent (21%) of alcohol by volume.
 - (2) The capsule also contains a concentrated flavoring mixture.
 - (3) The contents of the capsule are not readily accessible or intended for consumption unless certain manufacturer's processing instructions are followed.
 - (4) The instructions include releasing the contents of the capsule through a machine specifically designed to process the contents.
 - (5) After being properly processed according to the manufacturer's instructions, the final product produced from the capsule contains not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume.
- (r) "Restaurant". A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. The term does not include pharmacies, confectionery stores, lunch stands, nightclubs, and filling stations.
- (s) "Sale" and "Sell". The exchange, barter, gift, offer for sale, sale, distribution, and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to Ohio R.C. 4301.21. Such terms do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the Division of Liquor Control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any orders until the solicitor has been registered with the Division pursuant to Ohio R.C. 4303.25.
- (t) "Sales Area or Territory". An exclusive geographic area or territory that is assigned to a particular A or B permit holder and that either has one or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. The term does not include, however, any particular retail location in an exclusive geographic area or territory that had been assigned to another A or B permit holder before April 9, 2001.
- (u) "Sealed Container". Any container having a capacity of not more than 128 fluid ounces, the opening of which is closed to prevent the entrance of air.
- (v) "Spirituous Liquor". All intoxicating liquors containing more than twenty-one percent (21%) of alcohol by volume. The phrase does not include the contents of a pod.
- (w) "Vehicle". All means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.
- (x) "Wholesale Distributor" and "Distributor". A person engaged in the business of selling to retail dealers for purposes of resale.
- (y) "Wine". All liquids fit to use for beverage purposes containing not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume, that is made from the fermented juices of grapes, fruits, or other agricultural products. The term includes cider, except as used in Ohio R.C. 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44, and, for purposes of determining the rate of the tax that applies, Ohio R.C. 4301.43(B), the term does not include cider.
(ORC 4301.01, 4301.244)

529.02 SALES TO AND USE BY UNDERAGE PERSONS; SECURING PUBLIC ACCOMMODATIONS.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, or shall buy beer or intoxicating liquor for an underage person, or shall furnish it to, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is supervised by a parent, spouse who is not an underage person or legal guardian.

In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a permit holder, charged with a violation of this subsection shall be charged, for the same offense, with a violation of Ohio R.C. 4301.22(A)(1).

(b) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person or legal guardian and the parent, spouse who is not an underage person or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this subsection that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

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

- (1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;
- (2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a practitioner and has the drug of abuse in the original container in which it was dispensed to the person.

529.07 OPEN CONTAINER PROHIBITED.

- (a) As used in this section:
- (1) "Chauffeured limousine" means a vehicle registered under Ohio R.C. 4503.24.
 - (2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.
- (b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:
- (1) Except as provided in subsection (c)(1)E. hereof, in an agency store;
 - (2) Except as provided in subsection (c) or (i) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;
 - (3) In any other public place;
 - (4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;
 - (5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
- (c) (1) A person may have in the person's possession an opened container of any of the following:
- A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7 or F-8 permit;
 - B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2, S-1, or S-2 permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
 - C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
 - D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
 - E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.
- (2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.
- (3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center,

the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

B. As used in subsection (c)(3)A. of this section:

1. "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.
2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:

- A. An orchestral performance and the F-9 permit holder grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;
- B. An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises.

As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.

(6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:

1. The person is attending a racing event at the facility; and
2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;

B. As used in subsection (c)(6)A. of this section:

1. "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.
2. "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:
 - a. It is two and four-tenths miles or more in length.
 - b. It is located on two hundred acres or more of land.
 - c. The primary business of the owner of the facility is the hosting and promoting of racing events.
 - d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.

- (2) An alcoholic beverage in a closed container being transported under Ohio R.C. 4303.185 to its final destination is not an opened container for the purposes of this section if the closed container is securely sealed in such a manner that it is visibly apparent if the closed container has been subsequently opened or tampered with after sealing.
(ORC 4301.62)

(i) This section does not apply to a person that has in the person's possession an opened container of homemade beer or wine that is served in accordance with Ohio R.C. 4301.201(E).
(ORC 4301.62)

(j) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4301.99(A))

529.08 HOURS OF SALE OR CONSUMPTION.

(a) This rule shall apply to the retail sale of beer, wine, mixed beverages, or spirituous liquor.

(b) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-1c, A-2, B-1, B-2, B-4, B-5, C-1, C-2, C-2X, D-1, D-2, D-2X, D-3 when issued without a D-3A, D-3X, D-4, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, F-7, F-8, F-9, G or I permit holder:

- (1) From Monday to Saturday between the hours of one a.m. and five thirty a.m.
- (2) On Sunday between the hours of one a.m. and Sunday midnight, unless statutorily authorized otherwise.
- (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.

(c) No beer, wine, mixed beverages, or spirituous liquid shall be sold or delivered by an A-1A, D-3 when issued with a D-3A, D-4A, D-5, D-5A, D-5B, D-5C, D-5D, D-5E, D-5F, D-5G, D-5I, D-5J, D-5I, D-5m, D-5n, D-5o, or D-7 permit holder:

- (1) From Monday to Saturday between the hours of two thirty a.m. and five thirty a.m.
- (2) On Sunday between the hours of two thirty a.m. and Sunday midnight, unless statutorily authorized otherwise.
- (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages or spirituous liquor for on-premises consumption.

(d) Permit holders authorized to sell beer, wine, mixed beverages, or spirituous liquor at retail who are not specifically identified in subsection (b) or (c) above shall be subject to the provisions of subsection (b), unless statutorily authorized otherwise.

(e) The hours on Sunday during which sales, delivery, or consumption of alcoholic beverages may take place are established by statute, but in no event shall they begin prior to five thirty a.m. (OAC 4301:1-1-49)

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

529.09 MINORS PROHIBITED ON PREMISES WHICH SELL BEER/LIQUOR.

(a) No person under the minimum age as set by the Ohio General Assembly for the purchase of beer shall be allowed on the premises of an establishment that sells beer and/or liquor for on-premise consumption unless:

- (1) Accompanied at all times by a parent or legal guardian.
- (2) The establishment derives at least one-half of its total income as calculated on a calendar year basis from the sale of food prepared on premises.
- (3) Such person is in the portion of such premises as are on such occasion set aside and in use for the exclusive purpose of those attending a banquet or reception.
- (4) Such person is in that portion of a permit premises separate from the bar room and containing bowling alleys.

(b) Every establishment that sells beer and/or liquor for on-premises consumption shall display at all times, in a prominent place on the premises thereof, a printed card, which shall be furnished by the City and which shall read substantially as follows:

WARNING TO PERSONS UNDER AGE

Section 529.09 of the Codified Ordinances of the City of Newton Falls, Ohio, prohibits any person, under the legal age to purchase beer, from being on these premises. Violators are subject to a fine up to \$1,000.

(c) No employee whose duties include serving beer or liquor to patrons, or owner who is, at the time of the offense, present on the premises, and after having had an opportunity to observe the presence of the underage person upon the premises, shall allow a person under the minimum age as set by the Ohio General Assembly for the purchase of beer to remain on the premises of an establishment that sells beer and/or liquor for on-premises consumption unless:

- (1) Accompanied at all times by a parent or legal guardian.
- (2) The establishment derives at least one-half of its total income as calculated on a calendar year basis from the sale of food prepared on the premises.
- (3) Such person is in the portion of such premises as are on such occasion set aside and in use for the exclusive purpose of those attending a banquet or reception.
- (4) Such person is in that portion of a permit premises separate from the bar room and containing bowling alleys.

(d) Whoever violates this section shall for the first offense be fined up to one hundred dollars (\$100.00).

(e) Whoever violates this section shall for a second offense or any subsequent offense within one year be fined up to one thousand dollars (\$1,000) and sentenced up to ten days in jail. (Ord. 3645. Passed 10-4-82.)

529.99 PENALTY.

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

CHAPTER 537
Offenses Against Persons

537.01	Negligent homicide.	537.12	Misuse of 9-1-1 system.
537.02	Vehicular homicide and manslaughter.	537.13	Adulterating of or furnishing adulterated food or confection.
537.021	Vehicular assault in a construction zone.	537.14	Domestic violence.
537.03	Assault.	537.15	Temporary protection order.
537.04	Negligent assault.	537.16	Illegal distribution of cigarettes, other tobacco products, or alternate nicotine products; transaction scans.
537.05	Aggravated menacing.	537.17	Reserved.
537.051	Menacing by stalking.	537.18	Contributing to unruliness or delinquency of a child.
537.06	Menacing.	537.19	Hazing prohibited.
537.07	Endangering children.	537.99	Penalty.
537.08	Unlawful restraint.		
537.09	Coercion.		
537.10	Telecommunication harassment.		
537.11	Threatening or harassing telephone calls.		

CROSS REFERENCES

See sectional histories for similar State law
Physical harm to persons defined - see GEN. OFF.
501.01 (c), (e)

Fighting; provoking violent response - see GEN. OFF. 509.03

537.01 NEGLIGENT HOMICIDE.

(a) No person shall negligently cause the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or dangerous ordnance as defined in Section 549.01.

(b) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree. (ORC 2903.05)

537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:

(1) A. Negligently;

- B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) of this section.
- (2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter or assault offense. The court shall impose a mandatory jail term on the offender when required by Ohio R.C. 2903.06(E).
- (2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.
- (c) The court shall impose a mandatory jail term of at least fifteen days on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99. The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)A. hereof if either of the following applies:
- (1) The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.06 or 2903.08.

- (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes."
 - (5) A court shall impose a fine of up to one thousand dollars (\$1,000) for each violation of subsection (d)(3)A., (d)(3)B. or (d)(4) of this section. (ORC 2927.023)
- (e) Furnishing False Information to Obtain Tobacco Products.
- (1) No person who is eighteen years of age or older but younger than twenty-one years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.
 - (2) Whoever violates subsection (e)(1) of this section is guilty of furnishing false information to obtain tobacco products. Except as otherwise provided in this division, furnishing false information to obtain tobacco products is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (e)(1) of this section or a substantially equivalent state law or municipal ordinance, furnishing false information to obtain tobacco products is a misdemeanor of the third degree. (ORC 2927.024)

537.17 RESERVED.

(Editor's note: This section was formerly 537.17 Criminal Child Enticement, based on Ohio R.C. 2905.05, Criminal Child Enticement. The Ohio Supreme Court held that Ohio R.C. 2905.05(A) was unconstitutionally overbroad in violation of the First Amendment. See *State v. Romage*, 138 Ohio St. 3d. 390 (2014).)

537.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

- (a) As used in this section:
- (1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.
 - (2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.
- (b) No person, including a parent, guardian or other custodian of a child, shall do any of the following:
- (1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child or a delinquent child;
 - (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child or a delinquent child;
 - (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;
 - (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.

(c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense. (ORC 2919.24)

537.19 HAZING PROHIBITED.

(a) As used in this section:

- (1) "Hazing" means doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization or any act to continue or reinstate membership in or affiliation with any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person, including coercing another to consume alcohol or a drug of abuse, as defined in Ohio R.C. 3719.011.
- (2) "Organization" includes a national or international organization with which a fraternity or sorority is affiliated.

- (b)
 - (1) No person shall recklessly participate in the hazing of another.
 - (2) No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or any other educational institution, public or private, shall recklessly permit the hazing of any person associated with the organization.

- (c)
 - (1) No person shall recklessly participate in the hazing of another when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to the other person.
 - (2) No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or other educational institution, public or private, shall recklessly permit the hazing of any person associated with the organization when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to that person.

(d) Whoever violates subsections (b) or (c) of this section is guilty of hazing. A violation of subsections (b)(1) or (b)(2) of this section is a misdemeanor of the second degree. A violation of subsections (c)(1) or (c)(2) of this section is a felony to be prosecuted under appropriate state law. (ORC 2903.31)

(e) Reckless failure to immediately report knowledge of hazing.

- (1) No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or any other public or private educational institution, who is acting in an official and professional capacity shall recklessly fail to immediately report the knowledge of hazing to a law enforcement agency in the county in which the victim of hazing resides or in which the hazing is occurring or has occurred.
- (2) A violation of subsection (e)(1) of this section is a misdemeanor of the fourth degree, except that the violation is a misdemeanor of the first degree if the hazing causes serious physical harm.
(ORC 2903.311(B), (C))

537.99 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>549.08 Discharging firearms.</p> | <p>549.09 Throwing or shooting missiles.</p> <p>549.10 Possessing replica firearms in school.</p> <p>549.11 Defacing identification marks of a firearm; possessing a defaced firearm.</p> <p>549.12 Concealed handgun licenses; possession of revoked or suspended license; additional restrictions; posting signs prohibiting possession.</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
 Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)
 Property destruction by tear gas device, etc. - see GEN. OFF. 541.04

549.01 DEFINITIONS.

As used in this chapter:

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

- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:
 - (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, 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, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;

- (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
 - (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (1)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
 - (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.
 - (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that Act.
 - (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (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".
- (r) "Active duty" has the same meaning as defined in 10 U.S.C. 101. (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, before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then is carrying a concealed handgun, provided that it is not a violation of this section if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;
 - (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
 - (3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

- (c) (1) This section does not apply to any of the following:
- A. An officer, agent or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.
 - C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;
 - D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.
- (2) Subsection (a)(2) of this section does not apply to any person who has been issued a concealed handgun license that is valid at the time of the alleged carrying or possession of a handgun or who, at the time of the alleged carrying or possession of a handgun, is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), unless the person knowingly is in a place described in Ohio R.C. 2923.126(B).

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

- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.
 - (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
 - (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.
- (e) (1) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

- (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b)(1) of this section as it existed prior to June 13, 2022, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.
- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.
- (2) A person shall not be arrested for a violation of subsection (a)(2) of this section solely because the person does not promptly produce a valid concealed handgun license. If a person is arrested for a violation of subsection (a)(2) of this section and is convicted of or pleads guilty to the violation, the offender shall be punished as follows:
- A. The offender shall be guilty of a minor misdemeanor if both of the following apply:
1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
 2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:
1. The offender previously had been issued a concealed handgun license and that license expired within the two years immediately preceding the arrest.
 2. Within forty-five days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
 3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

- C. If subsections (f)(2)A. and B. and (f)(5) of this section do not apply, the offender shall be punished under subsection (f)(1) or (6) of this section.
- (3) Carrying concealed weapons in violation of subsection (b)(1) of this section is a misdemeanor of the second degree.
- (4) Carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of subsection (b)(2) or (b)(3) hereof or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).
- (5) If a person being arrested for a violation of subsection (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125 and if the person is not in a place described in division (B) of Ohio R.C. 2923.126, the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than five hundred dollars (\$500.00). The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:
- A. Within ten days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.
- B. At the time of the citation, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- (6) If a person being arrested for a violation of subsection (a)(2) of this section is knowingly in a place described in division (B)(5) of Ohio R.C. 2923.126, and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:
- A. Except as otherwise provided in this subsection, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a minor misdemeanor;
- B. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;

- C. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to two violations of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;
- D. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to three or more violations of subsection (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.

(g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.

(h) For purposes of this section, "deadly weapon" or "weapon" does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.
(ORC 2923.12)

549.03 USING WEAPONS WHILE INTOXICATED.

(a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree. (ORC 2923.15)

549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

(a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

- (1) In a closed package, box or case;
- (2) In a compartment which can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;
- (4) If the firearm is at least twenty-four inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least eighteen inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(b) No person who has been issued a concealed handgun license, or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

- (1) Before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;
- (2) Before or at the time an employee of the motor carrier enforcement unit asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an employee of the unit during the stop and the person already has notified another employee of the unit of that fact during the same stop;
- (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.
- (4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

- (c) (1) This section does not apply to any of the following:
- A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.
- (2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

- A. The person transporting or possessing the handgun has been issued a concealed handgun license that is valid at the time in question or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
 - B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- (3) Subsection (a) of this section does not apply to a person if all of the following apply:
 - A. The person possesses a valid all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.
 - B. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle during the open hunting season for a wild quadruped or game bird.
 - C. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife.
- (d)
 - (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.
 - (2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.
- (e)
 - (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
 - (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of subsection (b) of this section on or after September 30, 2011, or if a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section as the subsection existed prior to June 13, 2022, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

(f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) of this section is a misdemeanor of the fourth degree. A violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the second degree. A violation of subsection (b)(3) or (4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(3) or (4) of this section, a felony and shall be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

(g) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.

(h) As used in this section:

- (1) "Commercial motor vehicle" has the same meaning as in Ohio R.C. 4506.25(A).
- (2) "Motor carrier enforcement unit" means the motor carrier enforcement unit in the Department of Public Safety, Division of State Highway Patrol, that is created by Ohio R.C. 5503.34.
- (3) "Motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.
- (4) A. "Unloaded" means:
 1. With respect to a firearm other than a firearm described in subsection (h)(4)B. of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question and one of the following applies:
 - a. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.
 - b. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.
 2. For the purposes of subsection (h)(4)A.1.b. of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

- a. A package, box or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;
 - b. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
3. For the purposes of subsection (h)(4)A. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.
- B. "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(i) Subsection (h)(4) of this section does not affect the authority of a person who has been issued a concealed handgun license that is valid at the time in question to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in those divisions, so long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter. A person who has been issued a concealed handgun license that is valid at the time in question may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter.
(ORC 2923.16)

549.05 FAILURE TO SECURE DANGEROUS ORDNANCE.

(a) No person, in acquiring, possessing, carrying or using any dangerous ordnance shall negligently fail to take proper precautions:

- (1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person;
- (2) To insure the safety of persons and property.

(b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree. (ORC 2923.19)

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall do any of the following:

- (1) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing the transferee to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
- (2) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. A violation of subsection (a)(1) hereof is a misdemeanor of the second degree. A violation of subsection (a)(2) hereof is a misdemeanor of the fourth degree. (ORC 2923.20)

549.07 UNDERAGE PURCHASE OF FIREARM.

(a) No person under eighteen years of age shall purchase or attempt to purchase a firearm.

(b) No person under twenty-one years of age shall purchase or attempt to purchase a handgun, provided that this subsection does not apply to the purchase or attempted purchase of a handgun by a person eighteen years of age or older and under twenty-one years of age if either of the following apply:

- (1) The person is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.
- (2) The person is an active or reserve member of the armed services of the United States or the Ohio national guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio national guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

(c) Whoever violates subsection (a) hereof is guilty of underage purchase of a firearm, a delinquent act that would be a felony of the fourth degree if it could be committed by an adult. Whoever violates subsection (b) hereof is guilty of underage purchase of a handgun, a misdemeanor of the second degree. (ORC 2923.211)

549.08 DISCHARGING FIREARMS; HUNTING.

(a) Discharge of Firearms.

- (1) Except as enumerated below, no person shall discharge, or cause to be discharged, an air gun, rifle, shotgun, revolver, cannon, pistol, BB, pellet or any firearm capable of expelling or propelling one or more projectiles within the City limits.

- (2) No person shall negligently discharge, or cause to be discharged, any firearm in such manner as to cause the projectile or projectiles to exit the property on which the shooter is lawfully discharging said firearm.
- (3) Lawful hunting sanctioned by the Ohio Division of Wildlife or the Ohio Division of Natural Resources is not prohibited by this section, provided all safety restrictions of Ohio hunting laws are followed.
- (4) Discharge of a firearm in self-defense is not prohibited by this section.
- (5) Organized firing of ceremonial salutes with blank ammunition by members of the military, veteran's organizations or police honor guard units is not prohibited by this section.
- (6) Discharge of any authorized firearm by any law enforcement officer in the course of his or her duty within the City is not prohibited by this section.
- (7) Shooting ranges operated by any law enforcement agency for the purpose of training and/or proficiency enhancement are not prohibited by this section.
- (8) The discharge of shot guns, using bird shot, is not prohibited on a parcel of land consisting of 30 acres or more, providing that such discharge occurs more than 450 feet in the direction of fire and 350 feet from an adjoining property.
- (9) The landowner of 40 acres or more, or his or her designated agent, for purposes of nuisance animal control, may discharge a .22 caliber rimfire firearm, providing that such discharge occurs more than 350 feet from an adjoining property or public road.
- (10) No person shall discharge a firearm on the property of another without first having obtained written permission from the property owner or other person having legal control of the property.

(b) Penalties. Whoever violates division (a) of this section is guilty of a misdemeanor of the fourth degree and shall be subject to the penalty provided in Section 501.99. (Ord. 2015-18. Passed 1-4-16.)

549.09 THROWING OR SHOOTING MISSILES.

(a) No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized.

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

549.10 POSSESSING REPLICA FIREARM IN SCHOOL.

(a) No person shall knowingly possess an object in a school safety zone if both of the following apply:

- (1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.
- (2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

- (b) (1) This section does not apply to any of the following:
- A. An officer, agent, or employee of this or any other state or the United States who is authorized to carry deadly weapons or dangerous ordnance and is acting within the scope of the officer's, agent's, or employee's duties;
 - B. A law enforcement officer who is authorized to carry deadly weapons or dangerous ordnance;
 - C. A security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment;
 - D.
 - 1. Any person not described in subsections (b)(1)A. to (b)(1)C. of this section who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization, provided both of the following apply:
 - a. Either the person has successfully completed the curriculum, instruction, and training established under Ohio R.C. 5502.703, or the person has received a certificate of having satisfactorily completed an approved basic peace officer training program or is a law enforcement officer;
 - b. The board or governing body has notified the public, by whatever means the affected school regularly communicates with the public, that the board or governing body has authorized one or more persons to go armed within a school operated by the board or governing authority;
 - 2. A district board or school governing body that authorizes a person under subsection (b)(1)D. of this section shall require that person to submit to an annual criminal records check conducted in the same manner as Ohio R.C. 3319.39 or Ohio R.C. 3319.391.
 - E. Any person who is employed in this state, who is authorized to carry deadly weapons or dangerous ordnance, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (b)(1)E. of this section does not apply to the person.
- (2) This section does not apply to premises upon which home schooling is conducted. This section also does not apply to a school administrator, teacher or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher or employee, or any other person who, with the express prior approval of a school administrator, possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, re-enactment or other dramatic presentation, school safety training, or a ROTC activity or another similar use of the object.

- (3) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of that conveyance, attempted conveyance, or possession of the handgun, all of the following apply:
 - A. The person does not enter into a school building or onto school premises and is not at a school activity.
 - B. The person has been issued a concealed handgun license that is valid at the time of the conveyance, attempted conveyance, or possession or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
 - C. The person is in the school safety zone in accordance with 18 U.S.C. § 922(q)(2)(B).
 - D. The person is not knowingly in a place described in Ohio R.C. 2923.126(B)(1) or (B)(3) to (8).
- (4) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if at the time of that conveyance, attempted conveyance, or possession of the handgun all of the following apply:
 - A. The person has been issued a concealed handgun license that is valid at the time of the conveyance, attempted conveyance or possession or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
 - B. The person leaves the handgun in a motor vehicle.
 - C. The handgun does not leave the motor vehicle.
 - D. If the person exits the motor vehicle, the person locks the motor vehicle.

(c) Whoever violates this section is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this division, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony to be prosecuted under appropriate state law.

- (d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section, and subject to subsection (d)(2) of this section, if the offender has not attained nineteen years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, of the suspension. If the offender is not a resident of this State, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in Ohio R.C. 4510.02(A)(4).

- (2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits or privileges specified in subsection (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in subsection (d)(1) of this section, the court in its discretion may choose not to impose the suspension, revocation or denial required in subsection (d)(1) of this section, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.

(e) As used in this section, "object that is indistinguishable from a firearm" means an object made, constructed or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.
(ORC 2923.122(C) - (G))

**549.11 DEFACING IDENTIFICATION MARKS OF A FIREARM;
POSSESSING A DEFACED FIREARM.**

- (a) No person shall do either of the following:
- (1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark or identification on a firearm.
 - (2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this subsection, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(1) of this section, defacing identification marks of a firearm is a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this subsection, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, possessing a defaced firearm is a felony and shall be prosecuted under appropriate State law. (ORC 2923.201)

**549.12 CONCEALED HANDGUN LICENSES; POSSESSION OF REVOKED OR
SUSPENDED LICENSE; ADDITIONAL RESTRICTIONS; POSTING
SIGNS PROHIBITING POSSESSION.**

- (a) Possession of a Revoked or Suspended Concealed Handgun License.
- (1) No person, except in the performance of official duties, shall possess a concealed handgun license that was issued and that has been revoked or suspended.
 - (2) Whoever violates this subsection (a) is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree.
(ORC 2923.1211(B), (C))

(b) Additional Restrictions. Pursuant to Ohio R.C. 2923.126:

- (1) A concealed handgun license that is issued under Ohio R.C. 2923.125 shall expire five years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of thirty days after the licensee's license expires during which the licensee's license remains valid. Except as provided in subsection (b)(2) and (b)(3) of this section, a licensee who has been issued a concealed handgun license under Ohio R.C. 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this state if the license is valid when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within forty-five days after that change.
- (2) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under Ohio R.C. 2923.12(B) or in any manner prohibited under Ohio R.C. 2923.16. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:
 - A. A police station, sheriff's office, or state highway patrol station, premises controlled by the bureau of criminal identification and investigation; a state correctional institution, jail, workhouse, or other detention facility; any area of an airport passenger terminal that is beyond a passenger or property screening checkpoint or to which access is restricted through security measures by the airport authority or a public agency; or an institution that is maintained, operated, managed, and governed pursuant to Ohio R.C. 5119.14(A) or Ohio R.C. 5123.03(A)(1);
 - B. A school safety zone if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.122;
 - C. A courthouse or another building or structure in which a courtroom is located if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.123;
 - D. Any premises or open air arena for which a D permit has been issued under Ohio R.C. Chapter 4303 if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.121;
 - E. Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle or unless the licensee is carrying the concealed handgun pursuant to a written policy, rule, or other authorization that is adopted by the institution's board of trustees or other governing body and that authorizes specific individuals or classes of individuals to carry a concealed handgun on the premises;
 - F. Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;

- G. Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to subsection (b)(2)C. of this section, unless the governing body with authority over the building has enacted a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building;
- (3) H. A place in which federal law prohibits the carrying of handguns.
- A. Nothing in this subsection (b) shall negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. Nothing in this subsection (b) shall require a private employer of that nature to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.
- B.
 - 1. A private employer shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer.
 - 2. A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in Ohio R.C. Chapter 2744, for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased, or otherwise under the control of the political subdivision. As used in this division, "political subdivision" has the same meaning as in Ohio R.C. 2744.01.
 - 3. An institution of higher education shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises of the institution, including motor vehicles owned by the institution, unless the institution acted with malicious purpose. An institution of higher education is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the institution's decision to permit a licensee or class of licensees to bring a handgun onto the premises of the institution.

- C. 1. a. Except as provided in subsection (b)(3)C.2. of this section and Ohio R.C. 2923.1214, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. Except as otherwise provided in this division, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of Ohio R.C. 2911.21(A)(4) and is guilty of a misdemeanor of the fourth degree. If a person knowingly violates a posted prohibition of that nature and the posted land or premises primarily was a parking lot or other parking facility, the person is not guilty of criminal trespass under Ohio R.C. 2911.21 or under any other criminal law of this State or criminal law, ordinance, or resolution of a political subdivision of this State, and instead is subject only to a civil cause of action for trespass based on the violation.
- b. If a person knowingly violates a posted prohibition of the nature described in this division and the posted land or premises is a child day-care center, type A family day-care home, or type B family day-care home, unless the person is a licensee who resides in a type A family day-care home or type B family day-care home, the person is guilty of aggravated trespass in violation of Ohio R.C. 2911.211. Except as otherwise provided in this division, the offender is guilty of a misdemeanor of the first degree. If the person previously has been convicted of a violation of this division or any substantially equivalent state law or municipal ordinance, or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, the offender is guilty of a felony to be prosecuted under appropriate state law.
- 2. A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008 enters into a rental agreement with the landlord for the use of residential premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.
- 3. As used in subsection (b)(3)C. of this section:
 - a. "Residential premises" has the same meaning as in Ohio R.C. 5321.01, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.

- b. "Landlord", "tenant", and "rental agreement" have the same meanings as in Ohio R.C. 5321.01.
- (4) A person who holds a valid concealed handgun license issued by another state that is recognized by the Attorney General pursuant to a reciprocity agreement entered into pursuant to Ohio R.C. 109.69 or a person who holds a valid concealed handgun license under the circumstances described in Ohio R.C. 109.69(B) has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions that apply to a person who has been issued a license under that section that is valid at the time in question.
- (5) A.
- A peace officer has the same right to carry a concealed handgun in this State as a person who was issued a concealed handgun license under Ohio R.C. 2923.125, provided that the officer when carrying a concealed handgun under authority of this section is carrying validating identification. For purposes of reciprocity with other States, a peace officer shall be considered to be a licensee in this State.
- B.
- An active duty member of the armed forces of the United States who is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1) has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions as specified in this subsection (b).
- C.
- A tactical medical professional who is qualified to carry firearms while on duty under Ohio R.C. 109.771 has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125.
- (6) A.
- A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to subsection (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to subsection (b)(6)C. of this section has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions that apply to a person who has been issued a license issued under that section that is valid at the time in question. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to subsection (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to subsection (b)(6)C. of this section shall be considered to be a licensee in this state.
- B.
1. Each public agency of this State or of a political subdivision of this State that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following:

- a. The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.
 - b. Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.
 - c. At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.
 - d. Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of 15 years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency.
2. A retired peace officer identification card issued to a person under subsection (b)(6)B.1. of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this State from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section. In addition to the required content specified in this subsection, a retired peace officer identification card issued to a person under subsection (b)(6)B.1. of this section may include the firearms requalification certification described in subsection (b)(6)C. of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with subsection (b)(6)B.1. of this section by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in subsection (b)(6)B.1.a. to (b)(6)B.1.d. of this section, provided that the credentials so issued to retired peace officers are stamped with the word "RETIRED".
3. A public agency of this state or of a political subdivision of this State may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card pursuant to subsection (b)(6)B.1. of this section.

- C. 1. If a person retired from service as a peace officer with a public agency of this state or of a political subdivision of this state and the person satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801. The retired peace officer may be required to pay the cost of the course.
 - 2. If a retired peace officer who satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of subsection (b)(6) of this section for five years from the date on which the program was successfully completed, and the requalification is valid during that five-year period. If a retired peace officer who satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years year from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under subsection (b)(6)B. of this section.
 - 3. A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801 may be required to pay the cost of the program.
- (7) As used in subsection (b)(6) of this section:
- A. "Governing body." Has the same meaning as in Ohio R.C. 154.01.
 - B. "Government facility of this State or a political subdivision of this State" means any of the following:
 - 1. A building or part of a building that is owned or leased by the government of this State or a political subdivision of this State and where employees of the government of this State or the political subdivision regularly are present for the purpose of performing their official duties as employees of the State or political subdivision;
 - 2. The office of a deputy registrar serving pursuant to Ohio R.C. Chapter 4503 that is used to perform deputy registrar functions.

- C. "Qualified retired peace officer" means a person who satisfies all of the following:
 - 1. The person satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section.
 - 2. The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
 - 3. The person is not prohibited by Federal law from receiving firearms.
- D. "Retired peace officer identification card" means an identification card that is issued pursuant to subsection (b)(6)B. of this section to a person who is a retired peace officer.
- E. "Tactical medical professional." Has the same meaning as in Ohio R.C. 109.71.
- F. "Validating identification." Means photographic identification issued by the agency for which an individual serves as a peace officer that identifies the individual as a peace officer of the agency. (ORC 2923.126)

(c) Posting of Signs Prohibiting Possession. Each person, board, or entity that owns or controls any place or premises identified in Ohio R.C. 2923.126(B) as a place into which a valid license does not authorize the licensee to carry a concealed handgun, or a designee of such a person, board, or entity, shall post in the following one or more conspicuous locations in the premises a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises."
(ORC 2923.1212)

549.99 PENALTY.

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

CHAPTER 929 Sewer Rates

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| <p>929.01 Definitions.</p> <p>929.02 Rates.</p> <p>929.03 Purpose.</p> <p>929.04 Authority to make and enforce rules and regulations.</p> <p>929.05 City not exempt from payment; billing.</p> <p>929.06 Special rates for industrial discharges.</p> | <p>929.07 Measurement to determine rate.</p> <p>929.08 Collection of charges.</p> <p>929.085 Charges a lien.</p> <p>929.09 Delinquent accounts; shut-off and turn-on.</p> <p>929.10 Denial of service; legal action.</p> <p>929.11 Sewer tap fees for Russell-Ticknor area.</p> <p>929.12 Storm sewer tap permit and fees.</p> |
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CROSS REFERENCES

Council power to determine and establish rates, charges, etc. - see
CHTR. III, Sec. 8p

Rates for extended sewers - see S.U. & P.S. 923.04

Water billing procedures - see S.U. & P.S. 951.02

929.01 DEFINITIONS.

As used in this chapter:

- (a) "Sanitary sewage" means the wastes from water closets, urinals, lavatories, sinks, bath tubs, showers, household laundries, cellar floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains and stable floor drains.
- (b) "Industrial wastes" means the liquid wastes resulting from any commercial, manufacturing or industrial operation or process.
(Ord. 1733. Passed 10-5-54.)

929.02 RATES.

Effective Billings After 1/1/2015
3% Increase

Service Charge - Monthly Metered		
Unit	Inside City Limits	Outside City Limits
Per 1,000 Gallons of Water Used	12.15	15.16
Minimum bill per Dwelling or Commercial Unit	12.15	15.16
Service Charge - Monthly Unmetered		
Household Size	Inside City Limits	Outside City Limits
1 person	24.78	30.96
2 person	49.53	61.92
3 person	74.30	92.88
4 person	99.04	123.83
5 person	123.83	154.79
Each Additional Person Over 5	24.78/per person	30.96/per person

929.03 PURPOSE.

(a) It is declared necessary to establish and collect charges upon all lots, lands and premises served by or having connections with the Municipal sewerage system.

(b) All funds received from the collection of the rates and charges hereinafter provided in this chapter shall be deposited regularly with the Finance Director who shall keep the same in a separate Sewer Revenue Fund, subject to the provisions of any ordinance or indenture of mortgage authorizing and securing the issuance of mortgage revenue bonds for the system, moneys in the fund shall be used for the payment of the costs of construction, management, maintenance, operation and repair of the sewerage system and sewage pumping, treatment and disposal works and for the payment of debt charges on bonds issued for the construction, extension and improvement of the system, and any surplus in the fund over and above the requirements before mentioned may be used for additions, betterments, enlargement and replacement of the systems and parts thereof and for the payment of any interest on any debt incurred for the construction of the system or any part thereof, and for the creation of a sinking fund for the payment of the debt, but shall not be used for any other purpose which would be contrary to the purposes permitted under Ohio R.C. 729.52.
(Ord. 1733. Passed 10-5-54.)

929.04 AUTHORITY TO MAKE AND ENFORCE RULES AND REGULATIONS.

The City Manager shall make and enforce the rules and regulations as he deems necessary for the enforcement of the provisions hereof, for the proper determination and collection of the rates and charges herein provided, and for the safe, efficient and economical management of the system, and these rules and regulations, when not repugnant to existing ordinances of the City or laws of the State shall have the same force and effect as ordinances of Council.
(Ord. 1733. Passed 10-5-54.)

929.05 CITY NOT EXEMPT FROM PAYMENT; BILLING.

(a) All municipal accounts of the Municipal Water Department shall be billed for sewer rental as other customers of such Water Department who are being serviced by the sewage system.

(Ord. 3189. Passed 9-6-77.)

(b) Billing.

(1) As of November 1, 1980, only structures directly or indirectly connected to a City-maintained sewer line shall be required to pay sewer rental fees.

(2) In the case of a dispute as to whether or not a structure is indirectly connected to a City sewer, it shall be the structure owner's responsibility to prove that the structure is not connected.

(Res. 3487. Passed 10-6-80.)

929.06 SPECIAL RATES FOR INDUSTRIAL DISCHARGES.

Over and above the charges established by Council, there may be established in special instances and upon special agreement between the City and the owner of any lot, parcel of land or premises served by the system, the additional charges for industrial wastes of unusual strength or composition which are accepted for treatment by the City as may be determined to be fair and equitable. Each special agreement and the charges established thereby shall not become effective until ratified by the ordinance duly passed by Council.

(Ord. 1733. Passed 10-5-54.)

929.07 MEASUREMENT TO DETERMINE RATE.

The following measures shall be used to determine the sewer charges provided by Council upon premises served by the system:

(a) On premises using water exclusively supplied by the City and having a water meter acceptable to the City, the quantity of water used, as measured by the meter, shall determine the sewer charge thereon.

(b) On premises using water exclusively supplied from sources other than the Newton Falls Water Distribution System, where the quantity of water used thereon is not measured by a water meter acceptable to the City, the owner or other interested parties may be required at their expense to install and maintain an acceptable water meter and the quantity of water used, as measured by the meter, shall determine the water quantity for the sewer charge as herein provided, or the water quantity may be established by negotiation between the owner or party interested and City Manager.

(c) On premises using water supplied both by the Water Distribution System, and from other sources, which in either case is not measured by a water meter acceptable to the City Manager, the owner or other interested party may be required at his expense to install and maintain an acceptable water meter, and the quantity of water used, as measured by the meter shall determine the water quantity for the sewer charge as herein provided or the water quantity may be established by negotiation between the owner or party interested and the City Manager.

- (d) In the event it can be shown to the satisfaction of the City Manager, with respect to any premises, that a portion of the water from any source used thereon does not and cannot enter the system, then in each such case, the owner or other interested party may at his expense install and maintain separate water meters where necessary so as to show, to the satisfaction of the City Manager, that portion only of the water used which is discharged into the system, and that quantity of water so used, as measured by the meter or meters showing discharge into the system, shall determine the sewer charge thereon, at the rates provided herein, or if the quantity of water being discharged into the system, is established by negotiation, the negotiated quantity at the rate provided herein shall determine the sewer charge thereon.
(Ord. 1733. Passed 10-5-54.)

929.08 COLLECTION OF CHARGES.

Sewer charges shall be payable monthly at the Utility Office in the Municipal Building. Charges established in respect to the premises served by the City Water Works System shall be included in and payable with the City water bill to the premises; and in respect to premises not so served, shall be billed and payable at the same times, respectively, as the City water bills are rendered and become payable.

All property owners or other interested persons, owning or being in charge of properties situated where sewer facilities are available, and having sanitary sewage or industrial wastes as hereinafter defined, shall connect all drains with the City Sewer System and pay the established sewerage rental rates. (Ord. 1733. Passed 10-5-54.)

929.085 CHARGES A LIEN.

Each sewer charge billed pursuant to this chapter on an account in the name of the property owner is hereby made a lien upon the premises charged therewith, and if the same is not paid prior to thirty-one (31) days after the date upon which it is due and payable, it may be certified by the Finance Director to the County Auditor, who shall place the same on the tax duplicate, with interest and penalties allowed by law, to be collected as other Municipal taxes are collected. An administrative fee of one hundred fifty dollars (\$150.00) shall be added and assessed for all delinquent sewer fee charges that are certified to the County Auditor for placement on the next tax duplicate for collection. No changes of ownership or occupation shall affect the application of this chapter for the purposes of liens previously certified to the County Auditor, and failure of any owner to learn that he purchased property against which a lien for sewer charges exists shall in no way affect his responsibility for such payment.
(Ord. 2022-49. Passed 11-16-22.)

929.09 DELINQUENT ACCOUNTS; SHUT-OFF AND TURN-ON.

(a) When an account becomes forty-five days delinquent, a shut-off notice shall be issued.

(b) Turn-on request, may be referred for up to the next working day, to allow the City's Utility Billing Department to make appropriate checks, and to better allow efficient scheduling of City crews. Whenever feasible, turn-ons shall not be delayed over a weekend or City Holiday. (Res. 3678. Passed 2-28-83.)

929.10 DENIAL OF SERVICE; LEGAL ACTION.

(a) Utility service may be denied where any resident of the unit being served has had City utility service disconnected and/or is more than thirty days delinquent on any City utility bill, as of the date service is requested.

(b) Whenever an account is disconnected for nonpayment, the City Manager is hereby directed, at his discretion, to file appropriate legal actions to recover monies owed to the City. The City Manager may, hire appropriate collection agencies or persons, to assist in this effort. The payment for which shall not exceed forty percent (40%) of that total amount collected by the agency or person. (Res. 3678. Passed 2-28-83.)

929.11 SEWER TAP FEES FOR RUSSELL-TICKNOR AREA.

(a) A fee of two hundred dollars (\$200.00) plus normal sewer tap-in charge, is hereby established for residences in the Russell-Ticknor area constructed prior to May 1, 1978.

(b) Where service lines have been installed during the construction, a fee of five hundred twenty-five dollars (\$525.00) shall be paid.

(c) A fee of six hundred dollars (\$600.00), plus normal sewer tap-in charge is hereby established for residences constructed after May 1, 1978.

(d) Fees established by this section shall be deposited in the Capital Improvement Fund. (Ord. 3283. Passed 5-18-78.)

929.12 STORM SEWER TAP PERMIT AND FEES.

(a) No person, partnership or corporation shall make a tap on the City storm sewer system without first securing a permit from the City Manager.

(b) No person, partnership or corporation shall cover any tap made under the provisions of subsection (a) hereof, until the same has been inspected and approved by the Superintendent of the Street Department. It shall be the duty of all persons(s), partnership(s) or corporation(s) to cover such taps in a proper manner after inspection.

(c) Should the storm sewer tap require the cutting of or digging in the streets and rights-of-way of the City, it shall be the responsibility of the person(s), partnership(s) or corporation(s) to repair the streets and rights-of-way per the requirements of the Superintendent of the Street Department.

(d) A permit/inspection fee of ninety dollars (\$90.00) shall be charged for any and all taps to the storm sewer system.

(e) Whoever violates any of the provisions of this section shall be fined not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000). (Ord. 4093. Passed 6-2-86.)

CHAPTER 953 Water Regulations

953.01	Application for water service.	953.08	Installing water mains.
953.02	Deposit with application.	953.09	Connection to mains; cross connections.
953.03	Transfer of account.	953.10	Hydrant or other outlet.
953.04	Termination of service.	953.11	Backflow prevention devices.
953.05	Metering.	953.12	Line extensions.
953.06	Billing.	953.99	Penalty.
953.065	Charges a lien.		
953.07	Service lines.		

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.08

Backflow - see OAC 4101:2-51-38

953.01 APPLICATION FOR WATER SERVICE.

(a) All prospective water consumers are required to sign an application for water service at the Utility Office.

(b) All applications involving an original or new service line installation shall be made by and only in the name of the property owner. By such application the "Property Owner" shall be deemed to assent, agree and commit himself to all rules and regulations and charges relating to the furnishing and utilization of water service.
(Ord. 90-2. Passed 2-5-90.)

953.02 DEPOSIT WITH APPLICATION.

(a) A deposit will be required of each person, tenant or property owner, signing for water service. This may be increased to an amount comparable to the anticipated water charge for one billing period or to a larger amount if the signee has had a record of delinquent payment. This deposit is guarantee of payment of the final bill, and remains in the deposit account until the final bill is computed. The remainder, after deduction of the final bill, is returned to the water service signee upon his request, or to his authorized agent after proper identification. A deposit may be transferred to another account after the final bill has been paid. Interest will not be paid on deposits.

(b) If an unpaid balance remains after application of the deposit, no future water service will be extended to the consumer until the balance is paid in full.
(Ord. 90-2. Passed 2-5-90.)

953.03 TRANSFER OF ACCOUNTS.

(a) When a water consumer moves to another residence served by the water department, a transfer of the account will be made. No application for service transfer will be accepted if an unpaid water bill balance remains.

(b) Transfers from one property to another cannot be made by telephone. All prospective transfers must be made at the Utility Office.
(Ord. 90-2. Passed 2-5-90.)

953.04 TERMINATION OF SERVICE.

Requests for termination of service may be made in person by phone call, or by mail, by the water service signee. Normal charges for service will be made until the Water Department serviceman is able to shut off service to the property. At termination of service, the meter will be read and a final billing made.
(Ord. 90-2. Passed 2-5-90.)

953.05 METERING.

(a) Source of Billing.

- (1) The consumption of water in gallons, as recorded by the water meter, will be used to bill the consumer for water service. All water consumption registered on the water meter shall be charged and billed, regardless of whether the water was used or lost through accidental means.
- (2) If a meter stops or fails to register properly while in use, the water consumption will be estimated from the record of water consumption during a past period when conditions were similar and meter registration was correct.

(b) Testing.

- (1) In the case of a question arising as to the accuracy of the meter the consumer shall request the Utility to test the meter. If the meter is found to be correct within three percent (3%), the Utility reserves the right to charge the consumer fifteen dollars (\$15.00) for making such a test, otherwise the expenses of the test shall be borne by the Utility Office.
- (2) Any adjustment to be made where a meter inaccuracy in excess of three percent (3%) is found, shall not cover a period of water usage in excess of six months.

(c) Location.

- (1) The water meters will be furnished by the Water Department and will be set, removed, or adjusted by employees of this Department only. The location of the meter, and plans for the arrangement of a meter pit must be satisfactory to the Water Department and the plumbing must be so arranged that a meter can be set in place without disturbing any of the building water pipes. Meters will not be permitted in inaccessible places. All installations will have remote readout meters.

- (2) On property where there is no basement, the meter may be mounted in the kitchen, utility room or other protected area. The installations of meters, larger than two inches, must be equipped with a back flow prevention device approved by the City of Newton Falls Water Distribution Department.

(d) Position and Care. Meters must be placed and maintained so as to be accessible for reading and service. Passage ways must be opened at all times. If access to a meter is difficult or denied for any reason, water service to the property may be suspended.

(e) Stolen or Damaged. If a meter installed on the premises is stolen, damaged by freezing, fire, or hot water, or is damaged in any way through neglect, the cost of repairs or replacement shall be paid by the property owner. Payment must be made in full before another meter is re-set.

(f) Tampering. Evidence of tampering with the meter in any manner, is sufficient cause to deny water service to the property. In any case where the meter seal or dial glass is broken or where the meter has been disassembled in whole or part, the meter will be replaced and the consumer will be billed for the cost of repair and replacement service.
(Ord. 90-2. Passed 2-5-90.)

953.06 BILLING.

Bills for water service unpaid thirty days after the billing date will be considered delinquent and may be turned off until paid in full. A service charge must be paid along with the unpaid balance before a turn on will be made. If this turn on is requested after normal working hours, the service charge will equal three hours pay, at the overtime rate.
(Ord. 90-2. Passed 2-5-90.)

953.065 CHARGES A LIEN.

Each water charge billed pursuant to this chapter on an account in the name of the property owner is hereby made a lien upon the premises charged therewith, and if the same is not paid prior to thirty-one (31) days after the date upon which it is due and payable, it may be certified by the Finance Director to the County Auditor, who shall place the same on the tax duplicate, with interest and penalties allowed by law, to be collected as other Municipal taxes are collected. An administrative fee of one hundred fifty dollars (\$150.00) shall be added and assessed for all delinquent water charges that are certified to the County Auditor for placement on the next tax duplicate for collection. No changes of ownership or occupation shall affect the application of this chapter for the purposes of liens previously certified to the County Auditor, and failure of any owner to learn that he purchased property against which a lien for water charges exists shall in no way affect his responsibility for such payment.
(Ord. 2022-49. Passed 11-16-22.)

953.07 SERVICE LINES.

(a) Connections. The Water Department is authorized and directed to provide water service and to install water meters in newly constructed homes and buildings in the City, only upon, and not before, the receipt of official notification from the Plumbing Inspector of Trumbull County, that he has completed his inspection of the plumbing facilities and that the facilities have been approved.

(b) Water Department to Make all Taps. No person, except an authorized employee, or agent, of the Water Department, on official duty, will be permitted to tap into or connect onto a water line of the City Water Department.

(c) Owner's Expense. The service line from the water main to the building will be constructed by a plumber, approved by the City of Newton Falls, at the entire expense of the property owner. Repair and replacement of this service line will be accomplished in the same manner at the expense of the owner.

(d) Inspection Required. The installation of the service line must be inspected and approved by a Water Department employee as regards to materials, depth, location, manner of construction, and backfill. The Water Department employee serves in advisory capacity only, regarding the proper size line to be laid. Unless the service line is inspected before it is covered, it will not be accepted for connection to the City Distribution System.

(e) Size Restriction. No line smaller than 3/4 inch will be accepted for water service for a single dwelling residential home. For all other structures, a one inch or larger line will be required. A service line must be type K copper or polyethylene or polybutylene plastic, with a minimum of 160 pounds per square inch rating.

(f) Construction. No slag or ashes will be allowed in the area around the main or around the service line. Minimum depth must be at least forty inches. Fine dirt or sand must be filled at least twelve inches over the pipe. Service lines must be constructed so that they connect to the main in front of the property served and as much as possible in a straight line from the main to the building. No approval will be given for lines that cross one lot or property line to serve another property. No taps will be made, nor will service lines be permitted under driveways. Unions or couplings will not be permitted under pavement or sidewalks. Lines must be blocked well at the main.

(g) Single Property. Each property must have its own service line. The service line must be connected to the City's water main line. The service line shall not cross one property to serve another property, by any means. Where more than one dwelling exists on a lot, a single service line must be used, but each branch service must be provided without an outside curb valve. A master curb valve must be provided for the master service line near the property.

(h) Curb Valve. Each service line shall be provided with an approved outside shut off valve near the street property line as approved and furnished by the Water Department. This valve shall be controlled by the Water Department alone, except licensed plumbers may operate this valve when making plumbing repairs for the property, but for no other purpose.

(i) Building Valve. Each service line must be provided with an approved inside valve located as close as possible to the point where the service line enters the building. All service lines larger than one inch must be equipped with this type of valve on each side of the water meter to eliminate back flow when the meter is removed.

(j) Replacement; Addition or Alteration. No addition, replacement, alteration, or repair shall be made to the service lines without the expressed permission and inspection of the Water Department.

(k) Leakage; Water Waste. Where there is a defective service line or other plumbing that causes water waste, the service to the property will be suspended until corrected by the water consumer.

(Ord. 90-2. Passed 2-5-90.)

CHAPTER 960
Storm Water Utility

960.01	Established.	960.05	Capital contributions for
960.02	Budget.		regional storm water
960.03	Fee established.		management facilities.
960.04	Storm water drainage	960.06	Storm Water Utility
	fee collection.		Enterprise Fund.

CROSS REFERENCES
Storm Water Management - see S.U. & P.S. Ch. 958

960.01 ESTABLISHED.

There is hereby established a Storm Water Utility to be responsible for the operations, construction, maintenance and repair of storm water facilities, storm water system planning, and lake and river quality management as required.
(Ord. 2014-10. Passed 6-16-14.)

960.02 BUDGET.

The City of Newton Falls shall adopt an operating budget for the Storm Water Utility on an annual basis. (Ord. 2014-10. Passed 6-16-14.)

960.03 FEE ESTABLISHED.

The Storm Water drainage fee shall be a monthly service charge and shall be determined by City Council.

- (a) The Storm Water Drainage Fee for each Residential Unit shall be, and is, 100% of the approved monthly rate approved by this Ordinance. In the event of a newly constructed Unit, the charge for the Storm Water Drainage Fee attributable to that Unit shall commence upon the issuance of the certificate of occupancy for that Unit, or if construction is at least fifty percent (50%) complete and is halted for a period of three (3) months, than that Unit shall be deemed complete and the Storm Water Drainage Fee shall commence.
- (b) The Storm Water Drainage Fee for each Commercial Unit shall be, and is, 100% of the approved monthly rate approved by this ordinance. The Commercial Fees shall also apply to multi-family residential properties with greater than 6 units in aggregate. In the event of a newly developed Commercial Unit, the charge for the Storm Water Drainage Fee attributable to that Commercial Unit shall commence upon the issuance of the certificate of occupancy for such additional development, or in the event that no certificate of occupancy will be issued for that development, or in the event development has halted.

- (c) The Storm Water Drainage Fee for each Vacant Improved Property shall be, and is 100% of the rate based on the intended use.
- (d) No fee shall be imposed on any exempt property until such time that it no longer exists as exempt property. At that time the property will then be assigned non-exempt status and will then be subject to monthly fees per this ordinance.
- (e) Appeal of Drainage Fees. Any person who disagrees with a Storm Water Drainage Fee as approved in this chapter may appeal to the Utility Appeals Committee. The Utility Appeals committee shall review the appeal and issue a written recommendation as soon as practicable. The decision shall be final. The decision of the committee shall be communicated to the Appellant, in writing, within ten (10) working days of recommendation.
- (f) In an effort to provide for future capital projects (Operation, Maintenance Repair and Extension of the Collection System) beyond the initial startup of the Storm Water Utility, the following rate schedule shall, and does apply. Rates for Units for the Storm Water Utility, as stated on the following rate schedule, are stated on a monthly basis:

Monthly Charge by Property Classification

Residential Single Family: \$3.00

(Single Family residents located in other zoning districts will be calculated at the single family residential rate.)

Multi-Family:

(1 to 6) Units \$6.00

(7 to 15) Units \$10.00

More than 15 calculated at the commercial and industrial rate.

Commercial & Industrial and all other zoning classifications not listed \$3.00 per half acre lot size with a \$3.00 minimum.

(example 1/2 acres = \$3.00)(1 acre = \$6.00)

(Ord. 2014-10. Passed 6-16-14.)

960.04 STORM WATER DRAINAGE FEE COLLECTION.

(a) The Storm Water Drainage Fee shall be billed and collected monthly with the monthly City's Utility bill. For the properties utilizing multi-portions of the Utility bill (Water, Sewerage, Storm Water and Electric), billing shall be consolidated and paid by single payment. In the event that partial payment is received, the payment shall be applied according to the existing policy on partial utility payments. All bills for Storm Water Drainage Fees shall become due and payable in accordance with the rules and regulations of the City of Newton Falls pertaining to the collection of the Storm Water Drainage Fees and the existing utility terms of payment ordinance.

(b) Any charge hereunder which shall not be paid when due may be recovered in any action at law by the City of Newton Falls. In addition to any other remedies or penalties provided by this ordinance or any other ordinance of the City of Newton Falls failure of any user of City Utilities to pay said charges for same promptly when due shall subject such user to discontinuance of Utility Services and the City Manager or his designee shall enforce this provision as to any and all delinquent users. Employees of the City of Newton Falls (upon reasonable advance notice) shall, at all reasonable times, have access to any premises served by the City for inspection, repair or the enforcement of the provisions of this ordinance.
(Ord. 2014-10. Passed 6-16-14.)

(c) All Storm Water Drainage Fees billed to accounts in the name of the property owner pursuant to this chapter are hereby made a lien upon the premises charged therewith, and if the same are not paid prior to thirty-one (31) days after the date upon which they are due and payable, they may be certified by the Finance Director to the County Auditor, who shall place the same on the tax duplicate, with interest and penalties allowed by law, to be collected as other Municipal taxes are collected. An administrative fee of one hundred fifty dollars (\$150.00) shall be added and assessed for all delinquent Storm Water Drainage Fees that are certified to the County Auditor for placement on the next tax duplicate for collection. No changes of ownership or occupation shall affect the application of this chapter for the purposes of liens previously certified to the County Auditor, and failure of any owner to learn that he purchased property against which a lien for Storm Water Drainage Fees exists shall in no way affect his responsibility for such payment. (Ord. 2022-49. Passed 11-16-22.)

960.05 CAPITAL CONTRIBUTIONS FOR REGIONAL STORM WATER MANAGEMENT FACILITIES.

(a) Present or future City ordinances may require construction of on-site storm water management facilities to control storm water quantity and quality in the event of development. Implementation of regional storm water management facilities may, in some cases, render construction of on-site facilities unnecessary. For use in these cases, the City shall adopt procedures and standards to require developers of land to provide a one-time capital contribution toward construction of regional storm water management facilities in lieu of construction of on-site storm water facilities. Such one-time contribution shall not affect the obligation for payment of any Storm Water Drainage Fee assessed pursuant to this Chapter.

(b) The one-time capital contribution may be available to a development that meets the following conditions:

- (1) An adopted drainage basin study has identified an area within which the storm water management facilities normally required to be created on-site are unnecessary; and
- (2) The development is located within an area so identified; and
- (3) Implementation of regional storm water facilities required by the adopted drainage basin study is complete or under construction.

(c) For developments, which meet the conditions specified previously in this section, the Director, upon review of the development plans, shall require a development agreement which shall be presented for final approval to City Council.

(d) The amount of a one-time capital contribution shall be based upon that percentage of the regional storm water management facility capacity, which is to be allocated to the development. (Ord. 2014-10. Passed 6-16-14.)

960.06 STORM WATER UTILITY ENTERPRISE FUND.

(a) All Storm Water Drainage Fees collected by the City shall be paid into an enterprise fund known as "Storm Water Utility Fund". Such fund shall be used for the purpose of paying the costs of operation, administration and maintenance of the storm water management facilities of the City and to carry out all other purposes of the utility.

(b) The fees and charges paid shall not be used for general or other governmental or proprietary purposes of the City, except to pay for the equitable share of the cost of accounting, management and government thereof. Other than as described above, the fees and charges shall be used solely for the purposes stated previously in this section. (Ord. 2014-10. Passed 6-16-14.)

CHAPTER 1519 Fireworks

1519.01	Definitions.	1519.06	Safety requirements for fireworks showroom structures.
1519.02	Public exhibition permit required; fee; bond; records.	1519.07	Manufacturing or wholesale sale without a license; prohibitions.
1519.03	Unlawful conduct by exhibitor.	1519.08	Purchasers to comply with law; unauthorized purchases.
1519.04	Possession, sale or discharge prohibited; exceptions.	1519.99	Penalty.
1519.05	Application.		

CROSS REFERENCES

Manufacturers to comply with building and zoning ordinances - see Ohio R.C. 3743.06(F)
Wholesalers to comply with building and zoning ordinances - see Ohio R.C. 3743.19(G)
Arrests, seizure of fireworks by certified fire safety inspector - see Ohio R.C. 3743.68
Conflict of Fire Marshal's rules with rules of Ohio Board of Building Standards - see Ohio R.C. 3781.11(D)

1519.01 DEFINITIONS.

As used in this chapter:

- (a) "Beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Ohio Revised Code.
- (b) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition, and that is ignited by pulling the ends of the string.
- (c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.
- (d)
 - (1) "1.3G fireworks" means display fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.3" in Title 49, Code of Federal Regulations.
 - (2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.4" in Title 49, Code of Federal Regulations.
- (e) "Controlled substance" has the same meaning as in section 3719.01 of the Ohio Revised Code.

- (f) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, except ordinary matches and except as provided in section 3743.80 of the Ohio Revised Code.
- (g) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.
- (h) "Fountain device" means a specific type of 1.4G firework that meets all of the following criteria:
 - (1) It is nonaerial and nonreport producing.
 - (2) It is recognized and manufactured in accordance with sections 3.1.1 and 3.5 of APA standard 87-1 (2001 edition).
 - (3) It is a ground-based or hand-held sparkler with one or more tubes containing a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition, with or without additional effects that may include a colored flame, audible crackling effect, audible whistle effect, or smoke.
 - (4) It contains not more than seventy-five grams of the nonexplosive pyrotechnic mixture in any individual tube and not more than five hundred grams or less for multiple tubes.
- (i) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.
- (j) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to sections 3743.50 to 3743.55 of the Ohio Revised Code.
- (k) "Licensed fountain device retailer" or "licensed retailer" means a person licensed pursuant to section 3743.26 of the Ohio Revised Code.
- (l) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to sections 3743.02 to 3743.08 of the Ohio Revised Code.
- (m) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to sections 3743.15 to 3743.21 of the Ohio Revised Code.
- (n) "List of licensed exhibitors" means the list required by division (C) of section 3743.51 of the Ohio Revised Code.
- (o) "List of licensed manufacturers" means the list required by division (C) of section 3743.03 of the Ohio Revised Code.
- (p) "List of licensed wholesalers" means the list required by division (C) of section 3743.16 of the Ohio Revised Code.
- (q) "Manufacturing of fireworks" means the making of fireworks from raw materials, none of which in and of themselves constitute a fireworks, or the processing of fireworks.
- (r) "Navigable waters" means any body of water susceptible of being used in its ordinary condition as a highway of commerce over which trade and travel is or may be conducted in the customary modes, but does not include a body of water that is not capable of navigation by barges, tugboats, and other large vessels.
- (s) "Novelties and trick noisemakers" include the following items:
 - (1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers, and snappers;
 - (2) Snakes or glow worms;
 - (3) Smoke devices;
 - (4) Trick matches.

- (t) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.
- (u) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.
- (v) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry, or plant.
- (w) "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.
- (x) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.
- (y) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.
- (z) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.
- (aa) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.
- (bb) "Wire sparkler" means a sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture.
- (cc) "Wholesale sale" or "sell at wholesale" means a sale of fireworks to a purchaser who intends to resell the fireworks so purchased.
- (dd) "Licensed premises" means the real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.
- (ee) "Licensed building" means a building on the licensed premises of a licensed manufacturer or wholesaler of fireworks that is approved for occupancy by the building official having jurisdiction.
- (ff) "Fireworks incident" means any action or omission that occurs at a fireworks exhibition, that results in injury or death, or a substantial risk of injury or death, to any person, and that involves either of the following:
 - (1) The handling or other use, or the results of the handling or other use, of fireworks or associated equipment or other materials;
 - (2) The failure of any person to comply with any applicable requirement imposed by this chapter or any applicable rule adopted under this chapter.
- (gg) "Discharge site" means an area immediately surrounding the mortars used to fire aerial shells.
- (hh) "Fireworks incident site" means a discharge site or other location at a fireworks exhibition where a fireworks incident occurs, a location where an injury or death associated with a fireworks incident occurs, or a location where evidence of a fireworks incident or an injury or death associated with a fireworks incident is found.

- (ii) "Storage location" means a single parcel or contiguous parcels of real estate approved by the state fire marshal pursuant to division (I) of section 3743.04 of the Ohio Revised Code or division (F) of section 3743.17 of the Ohio Revised Code that are separate from a licensed premises containing a retail showroom, and which parcel or parcels a licensed manufacturer or wholesaler of fireworks may use only for the distribution, possession, and storage of fireworks in accordance with this chapter.
(ORC 3743.01)

**1519.02 PUBLIC EXHIBITION PERMIT REQUIRED; FEE; BOND;
RECORDS.**

(a) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition within the Municipality shall apply for approval to conduct the exhibition to the Fire Chief and from the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

The required approval shall be evidenced by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer, signing a permit for the exhibition, the form for which shall be prescribed by the State Fire Marshal. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the Fire Marshal or, if it is available, from the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

(b) Before a permit is signed and issued to a licensed exhibitor of fireworks, the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show the applicant's license as an exhibitor of fireworks to the Fire Chief or Fire Prevention Officer.

The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke the permit for noncompliance with the rules.

(c) The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the applicant pays a permit fee of twenty-five dollars (\$25.00) plus any necessary costs of investigation of the applicant and of inspecting the premises on which the exhibition will be conducted.

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars (\$1,000,000), with surety satisfactory to the Fire Chief or Fire Prevention Officer and to Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars (\$1,000,000) for liability arising from injury, death or loss to persons or property emanating from the fireworks exhibition. The Legislative Authority may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this subsection. The Fire Chief or Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this subsection.

- (d) (1) Each permit for a fireworks exhibition issued by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall contain a distinct number, designate the Municipality, and identify the certified Fire Safety Inspector, Fire Chief or Fire Prevention Officer who will be present before, during, and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, issuing it to the Fire Marshal, who shall keep a record of the permits received. A permit is not transferable or assignable.
- (2) The Fire Chief, Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition and the number of the permit issued to the exhibitor for the exhibition.

(e) The governing authority having jurisdiction in the location where an exhibition is to take place shall require that a certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer be present before, during, and after the exhibition, and shall require the certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter and Ohio R.C. Chapter 3743. (ORC 3743.54)

1519.03 UNLAWFUL CONDUCT BY EXHIBITOR.

(a) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) or to comply with Divisions (C) and (D) of that section.

(b) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Section 1519.02 or if a permit so secured is revoked by the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement official or a designee of such Police Chief or other similar law enforcement official pursuant to that section.

(c) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55.

(d) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer or controlled substance while on the premises on which the exhibition is being conducted.

(e) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the Fire Marshal under Ohio R.C. 3743.56. (ORC 3743.64)

**1519.04 POSSESSION, SALE OR DISCHARGE PROHIBITED;
EXCEPTIONS.**

(a) No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 to 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, a licensed fountain device retailer as authorized by Ohio R.C. 3743.27, a person as authorized by Ohio R.C. 3743.44 and 3743.45, or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 to 3743.55, or as authorized by any municipal ordinance that is substantially equivalent to any of these statutes, and except as provided in Ohio R.C. 3743.80 or a substantially equivalent municipal ordinance.

(b) Except as provided in subsection (h) and Section 1519.05 or a substantially equivalent municipal ordinance, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 through 3743.55 or a substantially equivalent municipal ordinance, no person shall discharge, ignite or explode any fireworks in this municipality.

(c) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(d) No person shall sell fireworks of any kind to a person under eighteen years of age. No person under eighteen years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under eighteen years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.

(e) Except as otherwise provided in Ohio R.C. 3743.44, no person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3 G fireworks.

(f) No person shall negligently discharge, ignite or explode fireworks while in possession or control of, or under the influence of, any intoxicating liquor, beer, or controlled substance.

(g) No person shall negligently discharge, ignite or explode fireworks on the property of another person without that person's permission to use fireworks on that property.
(ORC 3743.65)

(h) Purchase, Use and Local Regulation of Consumer-Grade Fireworks.

- (1) Any person who intends to obtain possession in this state of 1.4G fireworks purchased in this state shall obtain possession of the 1.4G fireworks only from a licensed retailer, licensed manufacturer, or licensed wholesaler and shall be subject to subsection (h).
- (2) Any person authorized under subsection (h) to possess 1.4G fireworks in this state may discharge, ignite or explode those fireworks on private property, with authorization from the property owner, on the following days each year:
 - A. January 1st;
 - B. Chinese new year's day;
 - C. May 5th;
 - D. The last Monday in May, and the Saturday and Sunday immediately preceding that day;
 - E. June 19th;
 - F. July 3rd, 4th, and 5th;
 - G. The first Friday, Saturday and Sunday before and after July 4th;
 - H. The first Monday in September, and the Saturday and Sunday immediately preceding that day;
 - I. Diwali;
 - J. December 31st.
- (3) Fireworks discharged, ignited or exploded pursuant to this subsection (h) shall not be considered a public exhibition;
- (4) The municipality may do either of the following:
 - A. Restrict the dates and times a person may discharge, ignite or explode fireworks purchased pursuant to this subsection (h).
 - B. Ban the discharge, ignition or explosion of fireworks purchased pursuant to this subsection (h).
- (5) This subsection (h) does not limit the enforcement of any ordinance, resolution or statute that regulates noise, disturbance of the peace, or disorderly conduct. (ORC 3743.45)

1519.05 APPLICATION.

This chapter does not prohibit or apply to the following:

- (a) The manufacture, sale, possession, transportation, storage or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation or highway use;
- (b) The manufacture, sale, possession, transportation, storage or use of fusees, torpedoes or other signals necessary for the safe operation of railroads;
- (c) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;

- (d) The manufacture for, the transportation, storage, possession or use by, or the sale to the armed forces of the United States and the militia of this state, as recognized by the Adjutant General of Ohio, of pyrotechnic devices;
- (e) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps;
- (f) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms or model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models;
- (g) The manufacture, sale, possession, transportation, storage or use of wire sparklers.
- (h) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges, provided that the exhibition complies with all of following:
 - (1) No explosive aerial display is conducted in the exhibition;
 - (2) The exhibition is separated from spectators by not less than two hundred feet;
 - (3) The person conducting the exhibition complies with regulations of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition.(ORC 3743.80)

1519.06 SAFETY REQUIREMENTS FOR FIREWORKS SHOWROOM STRUCTURES.

- (a)
 - (1) Except as described in subsection (a)(2) of this section, all retail sales of 1.4G fireworks by a licensed manufacturer or wholesaler shall only occur from an approved retail sales showroom on a licensed premises or from a representative sample showroom as described in this section on a licensed premises. For the purposes of this section, a retail sale includes the transfer of the possession of the 1.4G fireworks from the licensed manufacturer or wholesaler to the purchaser of the fireworks.
 - (2) Sales of 1.4G fireworks to a licensed exhibitor for a properly permitted exhibition shall occur in accordance with the provisions of the Ohio Revised Code and rules adopted by the State Fire Marshal under Ohio R.C. Chapter 119. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under Ohio R.C. 3743.51, that the exhibitor possesses a valid exhibition permit issued in accordance with Ohio R.C. 3743.54, and that the fireworks shipped are to be used at the specifically permitted exhibition.
- (b) All wholesale sales of fireworks by a licensed manufacturer or wholesaler shall only occur from a licensed premises to persons who intend to resell the fireworks purchased at wholesale. A wholesale sale by a licensed manufacturer or wholesaler may occur as follows:
 - (1) The direct sale and shipment of fireworks to a person outside of this state;
 - (2) From an approved retail sales showroom as described in this section;
 - (3) From a representative sample showroom as described in this section;

- (4) By delivery of wholesale fireworks to a purchaser at a licensed premises outside of a structure or building on that premises. All other portions of the wholesale sales transaction may occur at any location on a licensed premises.
 - (5) Any other method as described in rules adopted by the Fire Marshal under Ohio R.C. Chapter 119.
- (c)
- (1) A licensed manufacturer or wholesaler shall only sell 1.4G fireworks from a representative sample showroom or a retail sales showroom. Each licensed premises shall only contain one sales structure.
 - (2) A representative sample showroom shall consist of a structure constructed and maintained in accordance with the Nonresidential Building Code adopted under Ohio R.C. Chapter 3781 and the Fire Code adopted under Ohio R.C. 3737.82 for a use and occupancy group that permits mercantile sales. A representative sample showroom shall not contain any pyrotechnics, pyrotechnic materials, fireworks, explosives, explosive materials, or any similar hazardous materials or substances. A representative sample showroom shall be used only for the public viewing of fireworks product representations, including paper materials, packaging materials, catalogs, photographs, or other similar product depictions. The delivery of product to a purchaser of fireworks at a licensed premises that has a representative sample structure shall not occur inside any structure on a licensed premises. Such product delivery shall occur on the licensed premises in a manner prescribed by rules adopted by the State Fire Marshal pursuant to Ohio R.C. Chapter 119.
 - (3) If a manufacturer or wholesaler elects to conduct sales from a retail sales showroom, the showroom structures, to which the public may have any access and in which employees are required to work, on all licensed premises, shall comply with the following safety requirements:
 - A. A fireworks showroom that is constructed or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the Superintendent of Industrial Compliance in the Department of Commerce.
 - B.
 - 1. A fireworks showroom that first begins to operate on or after June 30, 1997, or that resumes operations at any time after a period of inactive status or licensure greater than one year, and to which the public has access for retail purposes shall not exceed 7,500 square feet in floor area.
 - 2. A fireworks showroom that, through construction of a new showroom, expansion of an existing showroom, or similar means, first exceeds 5,000 square feet, to which the public has access for retail purposes, after February 7, 2022, shall be equipped with a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under "NFPA 13, Standard for the Installation of Sprinkler Systems (2019 Edition)".

3. Notwithstanding subsection (d) of this section, the State Fire Marshal may provide a variance to the requirements of subsection (c)(3)B.2. of this section pursuant to Ohio R.C. 3743.59 for a sprinkler system that matches or exceeds the degree of safety provided by a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under "NFPA 13, Standard for the Installation of Sprinkler Systems (2019 Edition)".
- C. A newly constructed or an existing fireworks showroom structure that exists on September 23, 2008, but that, on or after September 23, 2008, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to Ohio R.C. 3791.04, shall comply with a graphic floor plan layout that is approved by the State Fire Marshal and Superintendent of Industrial Compliance showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the State Fire Marshal and Superintendent of Industrial Compliance.
- D. A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the State Fire Marshal and Superintendent of Industrial Compliance, and that are submitted under seal as required by Ohio R.C. 3791.04.

(d) The safety requirements established in subsection (c) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code. (ORC 3743.25)

1519.07 MANUFACTURING OR WHOLESALE SALE WITHOUT A LICENSE; PROHIBITIONS.

(a) No licensed manufacturer or licensed wholesaler of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.05 and 3743.18 or the requirements of Ohio R.C. 3743.06 and 3743.19.

(b) No licensed manufacturer or licensed wholesaler of fireworks shall fail to maintain complete inventory, wholesale sale and retail records as required by Ohio R.C. 3743.07 and 3743.20, or to permit an inspection of these records or the premises of a fireworks plant or the wholesaler pursuant to Ohio R.C. 3743.08 and 3743.21.

(c) No licensed manufacturer or licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.01(B)(1) and 3743.21(B)(1) within the specified period of time.

(d) No licensed manufacturer or licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.08(B)(2) and 3743.21(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied or the seventy-two hour period specified in those divisions has expired, whichever occurs first.

(e) No person shall smoke or shall carry a pipe, cigarette or cigar, or a match, lighter, other flame-producing item, or open flame on, or shall carry a concealed source of ignition into, the premises of a fireworks plant or on the premises of a wholesaler of fireworks, except as smoking is authorized in specified lunchrooms or restrooms by a manufacturer or wholesaler pursuant to Ohio R.C. 3743.06(C) or 3743.19(D).

(f) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises of the fireworks plant or on the premises of a wholesaler of fireworks.

(g) No licensed manufacturer of fireworks or licensed wholesaler of fireworks shall negligently fail to furnish a safety pamphlet to a purchaser of 1.4G fireworks as required by Ohio R.C. 3743.47(A).

(h) No licensed manufacturer of fireworks or licensed wholesaler of fireworks shall negligently fail to have safety glasses available for sale as required by Ohio R.C. 3743.47(B). (ORC 3743.60, 3743.61)

1519.08 PURCHASERS TO COMPLY WITH LAW; UNAUTHORIZED PURCHASES.

(a) No person who purchases fireworks in this municipality shall obtain possession of the fireworks in this municipality unless the person complies with Ohio R.C. 3743.44 to 3743.46.

(b) Except for the purchase of 1.4G fireworks made under Section 1519.04, no person who resides in another state and who purchases fireworks in this state shall obtain possession of fireworks in this state other than from a licensed manufacturer or wholesaler, or fail, when transporting 1.3G fireworks, to transport them directly out of this state within seventy-two hours after the time of their purchase.

(c) No person who purchases fireworks in this state under Section 1519.04, shall give or sell to any other person in this municipality fireworks that the person has acquired in this state. (ORC 3743.63)

1519.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for a first offense and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both. (ORC 3743.99(C))

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-07
SPONSOR: Councilperson Baryak

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN
AGREEMENT WITH TEREX UTILITIES, INC. TO PURCHASE A TEREX
COMMANDER 4047 HYDRAULIC ROTATING DIGGER DERRICK FOR THE
ELECTRIC DEPARTMENT**

WHEREAS, the Village Electric Department needs to replace its hydraulic rotating digger derrick and has investigated the available options for purchasing that piece of equipment; and

WHEREAS, the Electric Department has determined that a Terex Commander 4047 model offered by Terex Utilities, Inc. of Watertown, South Dakota, at the Sourcewell cooperative purchasing Contract #110421-TER price, is the most suitable equipment for the Department's needs at the best price; and

WHEREAS, Council desires to authorize the purchase of said equipment.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein authorizes the City Manager to execute all documents necessary to effectuate the purchase of a Terex Commander 4047 Hydraulic Rotating Digger Derrick with a turntable winch for the Electric Department, at the Sourcewell cooperative purchasing Contract #110421-TER price, in accordance with the quote and specifications that are attached hereto and incorporated herein by reference.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS 15TH DAY OF FEBRUARY, 2023.

ORDINANCE NO.: 2023-07
PAGE TWO

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

VILLAGE OF NEWTON FALLS, OHIO

RESOLUTION NO.: 01-2023

CO -SPONSORS: Mayor Kline, Councilpersons Fetterolf, Baryak, Spletzer, Rufener, and Stimpert

**A RESOLUTION HONORING
SEARGENT BRIAN FOOR
FOR 30 YEARS OF SERVICE TO NEWTON FALLS**

WHEREAS, Mr. Brian Foor has retired as a long-time and dedicated employee of the Newton Falls Police Department after thirty years of service to Newton Falls; and

WHEREAS, the Village and its citizens wish to congratulate Mr. Foor on his retirement and thank him for his service to the community.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Newton Falls, Ohio:

SECTION 1. That the Mayor and Council of Newton Falls, on their behalf and on behalf of the Officials, Employees, and Citizens of the Village, hereby congratulate Mr. Foor on his retirement and thank him for his 30 years of service to the community.

SECTION 2. All formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. This Resolution shall take effect immediately upon adoption in accordance with Article III, Section 22 of the Charter of Newton Falls.

PASSED IN COUNCIL THIS 1st DAY OF FEBRUARY, 2022.

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

VILLAGE OF NEWTON FALLS, OHIO

RESOLUTION NO.: 02-2023

CO -SPONSORS: Mayor Kline, Councilpersons Fetterolf, Baryak, Spletzer, Rufener, and Stimpert

**A RESOLUTION HONORING WATER TREATMENT DEPARTMENT EMPLOYEE
RAY KOVACS
FOR 31 YEARS OF SERVICE TO NEWTON FALLS**

WHEREAS, Mr. Ray Kovacs has retired as a long-time and dedicated employee of the Newton Falls Street Department after thirty-one years of service to Newton Falls; and

WHEREAS, the Village and its citizens wish to congratulate Mr. Kovac on his retirement and thank him for his service to the community.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Newton Falls, Ohio:

SECTION 1. That the Mayor and Council of Newton Falls, on their behalf and on behalf of the Officials, Employees, and Citizens of the Village, hereby congratulate Mr. Kovacs on his retirement and thank him for his 31 years of service to the community.

SECTION 2. All formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. This Resolution shall take effect immediately upon adoption in accordance with Article III, Section 22 of the Charter of Newton Falls.

PASSED IN COUNCIL THIS 1st DAY OF FEBRUARY, 2023.

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-08
SPONSOR: Councilperson Fetterolf

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH 12 POINT CONSULTING, LLC TO PROVIDE TEMPORARY OPERATION SERVICES TO THE WATER DEPARTMENT ON AN AS NEEDED BASIS

WHEREAS, due to a recent, unexpected retirement and the anticipated current and future staffing needs of the Village Water Department until additional training and certifications can be completed; the Village is best served to retain the services of an entity that has the necessary certifications to operate a water system, on an as needed basis, in the event the need for such temporary services arises; and

WHEREAS, the City Manager has interviewed individuals and entities that are qualified to provide the above services and determined that 12 Point Consulting, LLC is the best fit for the Village in connection with the provision of those services.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein authorizes the City Manager to enter into the attached Temporary Contract Operations Agreement, or an agreement substantially similar thereto, with 12 Point Consulting, LLC of Struthers, Ohio, for the provision of temporary operation services to the Water Department on an as needed basis.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS ____ DAY OF _____, 2023.

ORDINANCE NO.: 2023-08
PAGE TWO

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

CONTRACT BETWEEN

THE CITY OF NEWTON FALLS
AND
12 POINT CONSULTING, LLC
FOR

THE TEMPORARY CONTRACT OPERATIONS OF THE NEWTON FALLS WATER TREATMENT FACILITY

This Temporary Contract is entered into this _____ day of _____, 2023 (the "Execution Date"), by and between The City of Newton Falls (hereinafter, "**the System**") and 12 Point Consulting, LLC, (hereinafter, "**the Operator**").

RECITALS:

The System hereby contracts for the services of **the Operator** to furnish contract professional certified operator(s) for the temporary contract operation of its water facilities in accordance with the Ohio Environmental Protection Agency (Ohio EPA) rules and regulations. **The Operator's** operation of **the System's** public water system shall be in compliance with all rules covered by Chapter 3745 of the Ohio Administrative Code (OAC).

THE PARTIES AGREE TO AS FOLLOWS:

SECTION I – SERVICES

The Operator will provide a minimum of one professional certified operator with not less than an Ohio Class 3 Water Supply Professional Operator's certification to provide services to **the System**.

The Operator will serve as backup operator and will be physically present, as requested, at the facility to meet the minimum staffing requirements as required by OAC Rule 3745-7-03.

SERVICES PROVIDED BY THE OPERATOR SHALL BE AS FOLLOWS:

1. Visit the Newton Falls Water Treatment Facility and check operations as required by OAC Rule 3745-7-03.
2. Perform the technical operation of the facility.
3. Be responsible for process adjustments and the proper operation and maintenance of the facility. This shall include routine and preventative maintenance.

4. Maintain a log book record of all operational activities at the facility in accordance with OAC Rule 3745-7-09.
5. Direct, observe, and log routine and preventative maintenance, in accordance with OAC Rule 3745-7-09, and instruct **the System's** maintenance personnel on any of the day-to-day checks, as may be needed.
6. Ensure all necessary laboratory work and process testing is performed by or at the direction of a certified professional operator.
7. Ensure sampling and testing are performed on time and as required.
8. Perform administrative duties when submitting and reporting information required by Ohio EPA.
9. Ensure all relevant personnel, including but not limited to the owner and other certified professional operators associated with a facility, are notified of written correspondence from or to Ohio EPA. Ensure that correspondence from Ohio EPA, including compliance letters, monitoring schedules, and relevant permits, are shared between **the System, the Operator**, and any certified professional operators associated with the facility.
10. Be available on a 24-hour on-call basis to give on-site assistance and respond to emergencies within one (1) hour of being notified when serving as Backup Operator.
11. Ensure certified professional operators under employment comply with the responsibilities of a certified professional operator and provisions of OAC Chapters 3745, 6111, and 6109 and the rules promulgated thereunder.
12. Ensure an appropriately certified professional operator is provided when the listed professional operator of record for the facility is unavailable due to vacation, holiday, illness, etc., as requested by the **System**.

SECTION II - THE SYSTEM REQUIREMENTS

THE SYSTEM SHALL DO THE FOLLOWING:

1. Provide **the Operator** and its authorized agents access to all property and easements which contain or support the facilities.
2. Designate **the Operator** as a contact to also receive **ALL** Ohio EPA correspondence.

3. Ensure all relevant personnel, including but not limited to other certified professional operators associated with a facility, are notified of written correspondence from or to Ohio EPA. Ensure that correspondence from Ohio EPA, including compliance letters, monitoring schedules, and relevant permits, are shared between the System, the Operator, and any certified professional operators associated with the facility.
4. Be responsible for general operation, including performance of proper routine and preventative maintenance.
5. Provide the necessary funding for the operation and maintenance of the system to keep the system in compliance, as required by Ohio EPA or any other jurisdictional authority.
6. Provide funding to return **the System** to compliance pursuant to instructions, recommendations, and requirements of the Operator.
7. Pursue the correction of any deficiencies, repairs, or replacements of failed or damaged equipment or system components for adequate operation of **the System** as identified by **the Operator**, Ohio EPA, or any other jurisdictional authority.
8. Designate an individual (Manager, Board President, Owner, Maintenance Person, etc.) to approve the expenditure of funds, authorize repairs, and receive all communications and correspondence from the Operator.
9. **The System** maintenance personnel may perform duties under the direction of the Operator. Many of the routine duties involved in the operation and maintenance of the system including, but not limited to, tap-in inspections, line cleaning and repairs, equipment maintenance, and facility operation.
10. Perform daily visits to the facility on days when the certified professional operator is not fulfilling the minimum staffing requirements.
11. Ensure the appropriately certified professional operator of record completes, signs, and submits all necessary governmental agency reporting for the operation of the facilities, which will include monthly and annual requirements. A copy of all reports shall be submitted to the village, city, town, etc., by **the System**.

SECTION III - FEES

The payment for services rendered in connection with this contract shall be in

accordance with the attached Addendum 1 – Schedule of Payment.

SECTION IV - THE SYSTEM'S INDEMNIFICATION OF THE OPERATOR

The System hereby agrees that the Operator, its employees and officers shall not be responsible or liable for any loss, charge, claim, cost, or cause of action of whatever nature which arises out of the operation of the System while this Temporary Contract is in force, except in those instances for which the Operator, its employees, and officers would otherwise be liable for any such loss, charge, claim, cost, or cause of action of whatever nature, pursuant to applicable law or regulation, irrespective of this Temporary Contract.

SECTION V - TERM OF THE CONTRACT

The term of this Temporary Contract shall be for a period of twelve (12) months from date hereof. The Temporary Contract shall be renewed automatically for additional one-year periods, unless either party shall give the other party sixty (60) days written notice prior to the expiration date of the contract (either original term or renewal) of intent to terminate at the end of the one-year period (either original term or renewal). Both parties shall maintain a copy of the contract for a period of three (3) years after the end date of the contract. Both Parties shall ensure that a copy of the contract is kept onsite at the facility.

SECTION VI - NOTIFICATION OF OHIO EPA

The Operator will provide the Ohio EPA with signed copies of this Temporary Contract upon request. **The System** will also provide the Ohio EPA with the name, address, phone number and certification of the professional operator(s) of record in charge of **the System**. **The System** hereby consents to providing this information to the Ohio EPA.

SECTION VII - GOVERNING LAW

This Temporary Contract has been executed and will be performed in the State of Ohio, and the laws of that state shall govern its interpretation.

SECTION VII - BINDING ON SUCCESSORS AND ASSIGNS

The terms and provisions of this Temporary Contract shall inure to the benefit of and shall be binding upon the successors and assigns of the parties hereto.

SECTION VIII - NONASSIGNABILITY

Neither party shall have the right to assign its respective duties and obligations hereunder to any other party without first obtaining the written consent of the other party to this Temporary Contract.

SECTION IX - WORKER'S COMPENSATION AND LIABILITY INSURANCE

The Operator will provide the System with proof of Worker's Compensation coverage for any of its qualifying or eligible employees. The Operator also agrees to maintain and provide proof of its liability insurance coverage to the System as such coverage is stated in the attached Certificate of Insurance, in the dollar amounts so stated in said certificate or in such other amounts as may be lawfully required in order for the Operator to fulfill its obligations of this Temporary Contract.

IN WITNESS WHEREOF, the parties have caused this Temporary Contract to be executed on the date and year first set forth above.

[The Operator]

BY:

Name, Title

Date

[The System]

BY:

Name, Title

Date

System

ADDENDUM I

SCHEDULE OF PAYMENT

DATE: ____/____/____

By both parties executing this Temporary Contract, The City of Newton Falls, Ohio agrees to pay 12 Point Consulting, LLC, the following rates:

- \$95.00 per hour for every hour worked under normal, scheduled operating condition; and
- Port-to-port Mileage reimbursement equal to the Federal Mileage Rate (\$0.655/mile as of 1/30/2023)

for the temporary contract operations of the System(s), on an as needed basis, beginning on

_____, 20____ and terminating on _____, 20_____.

Any and all major or minor maintenance and repair work and additional services above and beyond the technical supervision of the system, including but not limited to valve repair, pump trouble shooting, replacement and/or repair, and equipment and pipe repairs shall be the responsibility of the System.

Additional unscheduled, holiday, or emergency operations or services performed by 12 Point Consulting, LLC will be charged at the rate of \$140 per hour following the same payment terms.

*** TERMS ***

- Net invoice amounts due within 30 days upon presentation of invoices. A 1% discount will apply to balances paid within 10 calendar days of the date of invoice. A 2% per month finance charge will be charged on all amounts over 30 days from date of invoice.
- Any invoice outstanding for 60 days or more shall be considered delinquent.
- Service will be terminated for delinquent accounts.
- Payments will be applied against the oldest invoice on record.
- Delinquent accounts must first be cleared before service is resumed.

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-09
SPONSOR: Councilperson Baryak

**AN ORDINANCE ESTABLISHING SECTION 153.01 OF THE ADMINISTRATIVE
CODE PERTAINING TO HOLIDAYS**

WHEREAS, the City Manager and Council desire to amend the Holidays provision last contained in Section IV of Village Ordinance No. 2018-06 and place those provisions into the Administrative Code title of the Village's Codified Ordinances.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein amends the Holidays provision last contained in Section IV of Village Ordinance No. 2018-06 and establishes those provisions in the Administrative Code title of the Village's Codified Ordinances as Codified Ordinance Section 153.01, as set forth in the attachment hereto that is incorporated herein by reference.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

153.01 HOLIDAYS.

(a) Designated Holidays. The following days are designated as holidays for full-time employees: New Year's Day, Martin Luther King Day, President's Day, Good Friday (Non-Police Officers Only), Easter Sunday (Police Officers Only), Memorial Day, Juneteenth, Independence Day, Labor Day, Thanksgiving Day, Day After Thanksgiving, Veteran's Day, Christmas Eve, and Christmas Day.

(b) Holiday Pay. All full-time employees shall receive eight hours of holiday pay at their current rate for such holidays as are in full force and effect. All full-time employees shall be governed by the following: When one of the above holidays falls on a Sunday, the next Monday will be observed as the holiday. When a holiday falls on a Saturday, the preceding Friday will be observed as the holiday. When Christmas Eve falls on a Friday, it shall be observed on the preceding Thursday. When Christmas Eve falls on a Sunday, it shall be observed on the next Tuesday. Any holiday that falls during any employee's scheduled vacation shall not be counted as a day of vacation. Any holiday that falls during an employee's sick leave shall not be counted as a day of sick leave. All full-time employees who are required to work during a holiday, shall receive pay at their regular rate plus one and one-half times their base rate for the hours actually worked; ~~however, for the sixth and/or seventh day(s) an employee must actually work those days to be eligible for time and one half pay.~~