

# FIVE RIVERS METROPARKS CODE OF RULES AND REGULATIONS

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## TITLE I: GENERAL PROVISIONS

Chapter

**10. GENERAL PROVISIONS**

## **CHAPTER 10: GENERAL PROVISIONS**

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### **§ 10.01 TITLE OF CODE.**

This codification of rules and regulations by and for the Five Rivers MetroParks and the Board of Park Commissioners of Five Rivers MetroParks shall be designated as the Code of Rules and Regulations of the Five Rivers MetroParks and may be so cited.

### **§ 10.02 AUTHORITY.**

The following Rules and Regulations set forth in this code are adopted by the Board of Park Commissioners of Five Rivers MetroParks, pursuant to R.C. § 1545.09, for the preservation of good order within and adjacent to parks and reservations of land, and for the protection and preservation of the parks, parkways, and other reservations of land under its jurisdiction and control and of property and natural life therein.

(Rules and Regs. § 1)

### **§ 10.03 INTERPRETATION.**

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Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

### § 10.04 APPLICATION TO FUTURE RULES AND REGULATIONS.

All provisions of Title I compatible with future legislation shall apply to rules and regulations hereafter adopted, amending or supplementing this code unless otherwise specifically provided.

### § 10.05 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

### § 10.06 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ANOTHER.** When used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.  
(R.C. § 1.02(B))

**BOARD OF PARK COMMISSIONERS** or **BOARD.** The Board of Park Commissioners of Five Rivers MetroParks.  
(Rules and Regs. § 2)

**CODE, THIS CODE** or **THIS CODE OF RULES AND REGULATIONS.** The Five Rivers MetroParks Code of Rules and Regulations as modified by amendment, revision, and adoption of new titles, chapters, or sections.

**COUNTY.** Any county in which there exists a MetroParks facility.

**EXECUTIVE DIRECTOR** or **DIRECTOR.** The chief executive officer of Five Rivers MetroParks.  
(Rules and Regs. § 2)

**IMPRISONED.** Shall have the same meaning as in R.C. § 1.05.

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

**LAND** or **REAL ESTATE.** Includes rights and easements of incorporeal nature.  
(R.C. § 701.01(E))

**LEGISLATIVE AUTHORITY.** The Board of Park Commissioners of Five Rivers MetroParks.

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**MAY.** Is permissive.

**METROPARKS.** Five Rivers MetroParks (formerly known as the Montgomery County Park District).

(Rules and Regs. § 2)

**MONTH.** A calendar month.

**MOTORBOAT.** Any watercraft propelled by any mechanical device, electric motor, or internal combustion engine.

(Rules and Regs. § 2)

**MOTOR VEHICLE.** Any vehicle propelled or drawn by power other than muscular power.

(Rules and Regs. § 2)

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

(R.C. § 1.59, § 701.01(C))

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

**PARK.** Any land or water area owned, leased, managed, or otherwise controlled by Five Rivers MetroParks.

(Rules and Regs. § 2)

**PEACE OFFICER.** A MetroParks Ranger qualified to enforce the rules and regulations of Five Rivers MetroParks pursuant to R.C. § 1545.13, and every other law enforcement officer of the State of Ohio or of any political subdivision thereof, including, but not limited to, state highway patrolmen, sheriffs, deputy sheriffs, constables, and Division of Wildlife game protectors. MetroParks Rangers as defined herein are not members of a police department as defined in R.C. §§ 4117.01(F)(2) and 4117.01(N).

(Rules and Regs. § 2)

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

(R.C. § 1.59(C), § 701.01)

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

**PRECEDING** or **FOLLOWING.** Next before or next after, respectively.

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

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

(R.C. § 701.01(D))

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

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

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

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

**REGISTERED MAIL.** Includes certified mail; and **CERTIFIED MAIL** includes registered mail.

(R.C. § 1.02(G))

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**ROAD.** Includes alleys, avenues, boulevards, lanes, streets, highways, viaducts, and all other public thoroughfares which are adjacent to or through the Five Rivers MetroParks and which are designed and intended for motor vehicle traffic.

**SHALL.** Is mandatory.

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

**STATE.** The State of Ohio.

**SUBCHAPTER.** A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

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

**TRAIL.** Includes footpaths, bikepaths, horsepaths, and all other passageways maintained by MetroParks, and which are not specifically reserved for motor vehicle traffic.  
(Rules and Regs. § 2)

**VEHICLE.** Everything on wheels.  
(Rules and Regs. § 2)

**WATERCRAFT.** Any vessel designed for navigation on water, including, but not limited to, any rowboat, sailboat, personal watercraft or motorboat.  
(Rules and Regs. § 2)

**WATERS.** Any lake, pond, reservoir, stream, channel, lagoon, or other body of water, or any part thereof, whether natural or artificial, located in or adjoining a park.  
(Rules and Regs. § 2)

**WEEK.** Seven consecutive days.  
(R.C. § 1.44)

**WHOEVER.** Includes all persons, natural and artificial; partners; principals, agents, and employees; and all officials, public or private.  
(R.C. § 1.02(A))

**WRITTEN or IN WRITING.** Includes printing and any representation of words, letters, symbols, or figures; this provision does not affect any law relating to signatures.  
(R.C. § 1.59, § 701.01(B))

**YEAR.** Twelve consecutive months.  
(R.C. § 1.44)

### § 10.07 RULES OF INTERPRETATION.

The construction of all rules and regulations of the MetroParks shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same rule or regulation:

(A) **AND or OR.** Either conjunction shall include the other as if written and/or, if the sense requires it.

(B) **Acts by assistants.** When a statute, ordinance, rule or regulation requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

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(C) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

### **§ 10.08 SEVERABILITY.**

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

(R.C. § 1.50)

### **§ 10.09 REFERENCE TO OTHER SECTIONS.**

Whenever in 1 section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

### **§ 10.10 REFERENCE TO OFFICES.**

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

### **§ 10.11 ERRORS AND OMISSIONS.**

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

### **§ 10.12 OFFICIAL TIME.**

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The official time, as established by applicable state/federal laws, shall be the official time within the MetroParks for the transaction of all MetroParks business.

### **§ 10.13 REASONABLE TIME.**

(A) In all cases where a rule or regulation requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

### **§ 10.14 RULES AND REGULATIONS REPEALED.**

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior rules and regulations pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

### **§ 10.15 RULES AND REGULATIONS UNAFFECTED.**

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

### **§ 10.16 EFFECTIVE DATE OF RULES AND REGULATIONS.**

All rules and regulations passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Rules and regulations not requiring publication shall take effect from their passage, unless otherwise expressly provided.

### **§ 10.17 REPEAL OR MODIFICATION OF RULES AND REGULATIONS.**

(A) Whenever any rule or regulation or part of a rule or regulation shall be repealed or modified by a subsequent rule or regulations, the rule or regulation or part of a rule or regulation thus repealed or modified shall continue in force until the due publication of the rule or regulation repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any rule or regulation previous to its repeal shall in any way be

affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the rule or regulation had continued in force unless it is otherwise expressly provided.

(C) When any rule or regulation repealing a former rule, regulation, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former rule, regulation, clause, or provision, unless it is expressly provided.

#### **§ 10.18 RULES AND REGULATIONS WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any rule or regulation which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed rule or regulation, a caption or title shall be shown in concise form above the rule or regulation.

#### **§ 10.19 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific section number of the original rules and regulations is listed following the text of the code section. Example: (Rules and Regs. § 2)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute.

Example: (R.C. § 733.48) (Rules and Regs. § 4)

(2) If a statutory cite is set forth as a statutory reference following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

##### **§ 39.01 PUBLIC RECORDS AVAILABLE.**

This park district shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

##### ***Statutory reference:***

*For provisions concerning the inspection of public records, see R.C. § 149.43*

#### **§ 10.98 VIOLATIONS; EJECTION FROM PARK.**

(A) Police officers may order any person violating any of the provisions of these Rules and Regulations to leave a park and no person shall fail to obey such an order.

(B) Any person repeatedly violating these Rules and Regulations may lose the privilege of entering a park for a period of time as designated by the Director.  
(Rules and Regs. § 20)

#### **§ 10.99 GENERAL PENALTY.**



Pursuant to R.C. § 1545.99, any person who violates any provision of the Rules and Regulations shall be fined not more than \$100 for a first offense; for each subsequent offense such person shall be fined not more than \$500.

(Rules and Regs. § 22)

**Statutory reference:**

*State law penalty, see R.C. § 1545.99*

## TITLE III: ADMINISTRATION

Chapter

### 30. GENERAL PROVISIONS

## CHAPTER 30: GENERAL PROVISIONS

Section

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  - 30.02 Park Commissioners
  - 30.03 Board of Park Commissioners
  - 30.04 Bylaws, rules and regulations
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  - 30.07 Contracts for park district law enforcement officers to render police services to political subdivisions or state universities or colleges
  - 30.08 Park district law enforcement departments providing police services to political subdivisions without contract
- Appendix: Statutory provisions of R.C. Chapter 1545

### § 30.01 APPLICATION OF TITLE III.

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

### § 30.02 PARK COMMISSIONERS.

(A) *Appointment.* Upon the creation of a park district, the probate judge shall appoint 3 commissioners who shall take office immediately and whose terms shall expire 1, 2, and 3

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years, respectively, from the first day of January next after the date of their appointment. Thereafter, their successors shall be appointed by the probate judge for terms of 3 years.

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

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

(D) *Membership.* Any board of park commissioners of a park district may elect to expand the membership of the board from 3 members to 5 members upon a majority vote of the board. Upon such a vote, the board shall certify to the probate judge a resolution requesting the judge to appoint 2 additional members to the board. The probate judge shall appoint those additional members, and they shall take office immediately upon their appointment. One member shall be appointed to a term that expires on the first day of January of the year following the year of that member's appointment, and 1 member shall be appointed to a term that expires on the first day of January of the second year following the year of that member's appointment. Thereafter, their successors shall be appointed by the probate judge for terms of 3 years.

(R.C. § 1545.05)

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

The Commissioners appointed in accordance with § 30.02 or pursuant to R.C. § 1545.041 shall constitute the Board of Park Commissioners of the park district. The Board shall be a body politic and corporate, and may sue and be sued as provided in R.C. §§ 1545.01 through 1545.28. (R.C. § 1545.07)

### **§ 30.04 BYLAWS, RULES AND REGULATIONS.**

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

(B) (1) As used in division (B)(2) of this section, ***SIMILAR VIOLATION UNDER STATE LAW*** means a violation of any section of the Revised Code, other than division (C) of this section, that is similar to a violation of a bylaw or rule adopted under division (A) of this section.

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

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

(b) For a violation of a bylaw or rule adopted under division (A) of this section for which the similar violation under state law does not bear a penalty or for which there is no similar violation under state law, a fine of not more than \$150 for a first offense and not more than \$1,000 for each subsequent offense.

(3) Any bylaw adopted under division (B)(2) of this section shall be published as provided in case of ordinances of municipal corporations before taking effect.

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

(R.C. § 1545.09)

### **§ 30.05 EMPLOYEES.**

(A) The Board of Commissioners may employ a secretary and such other employees as are necessary in the performance of the powers conferred upon the Board.

(R.C. § 1545.07)

(B) (1) Acts of employees of MetroParks, to the extent necessary for the performance of their authorized duties, shall be exempt from the provisions of these Rules and Regulations.

(2) Acts of employees of the Miami Conservancy District on land leased by MetroParks from the Miami Conservancy District, or of employees of the City of Dayton on land leased from or managed in conjunction with the City of Dayton, to the extent necessary for the performance of their authorized duties, shall be exempt from the provisions of these Rules and Regulations.

(3) The Director may from time to time designate a MetroParks employee, employees or other person to exercise any authority permitted him or her under these Rules and Regulations.

(Rules and Regs. § 19)

### **§ 30.06 POLICE POWERS.**

The employees that the legislative authority designates for that purpose, may exercise all the powers of police officers within and adjacent to the lands under the jurisdiction and control of the legislative authority or when acting as authorized by R.C. §§ 1545.131 or 1545.132.

Before exercising the powers of police officers, the designated employees shall comply with the certification requirement established in R.C. § 109.77, take an oath, and give a bond to the state in the sum that the legislative authority prescribes, for the proper performance of their duties in this respect. This section is subject to R.C. § 1545.13(C) as set forth in the Appendix at the end of this chapter.

(R.C. § 1545.13)

**§ 30.07 CONTRACTS FOR PARK DISTRICT LAW ENFORCEMENT OFFICERS TO RENDER POLICE SERVICES TO POLITICAL SUBDIVISIONS OR STATE UNIVERSITIES OR COLLEGES.**

(A) The Board of Park Commissioners of a park district may enter into contracts with 1 or more townships, township police districts, municipal corporations, or county sheriffs of this state, with 1 or more township park districts created pursuant to R.C. § 511.18 or other park districts, with 1 or more state universities or colleges, as defined in R.C. § 3345.12, or with a contiguous political subdivision of an adjoining state, and a township, township police district, municipal corporation, county sheriff, township park district, other park district, or state university or college may enter into a contract with a park district upon any terms that are agreed to by them, to allow the use of the park district police or law enforcement officers designated under R.C. § 1545.13 to perform any police function, exercise any police power, or render any police service on behalf of the contracting entity that the entity may perform, exercise, or render.

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

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

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

- (1) A fixed annual charge to be paid at the times agreed upon and stipulated in the contract;
- (2) Compensation based upon the following:
  - (a) A stipulated price for each call or emergency;
  - (b) The number of members or pieces of equipment employed;
  - (c) The elapsed time of service required in each call or emergency.
- (3) Compensation for loss or damage to equipment while engaged in rendering police services outside the limits of the subdivision that owns and furnishes the equipment;
- (4) Reimbursement of the subdivision in which the police force or law enforcement department members are employed for any indemnity award or premium contribution assessed against the employing subdivision for workers' compensation benefits for injuries or death of its police force or law enforcement department members occurring while engaged in rendering police services pursuant to the contract.

(R.C. § 1545.131)

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

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

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

(C) Police force or law enforcement department members acting, as provided in this section, outside the park district by which they are employed shall be entitled to participate in any pension or indemnity fund established by their employer to the same extent as while acting within the park district by which they are employed. Those members shall be entitled to all rights and benefits of R.C. Chapter 4123 to the same extent as while performing services within the park district by which they are employed.  
(R.C. § 1545.132)

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

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

#### Section

##### CREATION OF PARK DISTRICTS

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### CREATION OF PARK DISTRICTS

#### **§ 1545.01 Park districts created.**

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

#### **§ 1545.02 Application to probate judge for creation.**

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

### **§ 1545.03 Notice and hearing.**

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

### **§ 1545.04 Evidence; argument; judgment.**

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

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

### **§ 1545.041 Conversion of township park district; resolution; election; ballot language; tax levies; board of park commissioners.**

(A) Any township park district created pursuant to section 511.18 of the Revised Code that includes park land located outside the township in which the park district was



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established may be converted under the procedures provided in this section into a park district to be operated and maintained as provided for in this chapter, provided that there is no existing park district created under section 1545.04 of the Revised Code in the county in which the township park district is located. The proposed park district shall include within its boundary all townships and municipal corporations in which lands owned by the township park district seeking conversion are located, and may include any other townships and municipal corporations in the county in which the township park district is located.

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

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

district;

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

(C) Upon adoption of the resolution provided for in division (B) of this section, the board of park commissioners of the township park district seeking conversion under this section shall certify the resolution to the board of elections of the county in which the park district is located no later than four p.m. of the seventy-fifth day before the day of the election at which the question will be voted upon. Upon certification of the resolution to the board, the board of elections shall make the necessary arrangements to submit the question of conversion of the township park into a park district operated and maintained under Chapter 1545 of the Revised Code, to the electors qualified to vote at the next primary or general election who reside in the territory of the proposed park district. The question shall provide for a tax levy if such a levy is specified in the resolution.

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

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

(Name townships and municipal corporations)

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

For the proposed conversion



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Against the proposed conversion

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

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

(2) All rights, assets, properties, and other interests of the former township park district shall become vested in the new park district, including the rights to any tax revenues previously vested in the former township park district; provided, that all tax levies in excess of the ten-mill limitation approved for the benefit of the former township park district shall be removed from the tax

lists after the February settlement next succeeding the conversion. Any tax levy approved in connection with the conversion shall be certified as provided in section 5705.25 of the Revised Code.

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

### PARK COMMISSIONERS; POWERS AND DUTIES

#### **§ 1545.05 Park commissioners.**

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

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

**§ 1545.06 Removal of park commissioners; vacancy.**

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

**§ 1545.07 Board of park commissioners; employees; treasurer.**

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

**§ 1545.071 Group insurance for park district employees and park commissioners; alternatives.**

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

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

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

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

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

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

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

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

### **§ 1545.072 Credit cards for work-related expenses.**

(A) The board of park commissioners may authorize an officer, employee, or appointee of the board to use a credit card held by the park district to pay for expenses related to park district business. The debt incurred as a result of the use of a credit card under this section shall be paid from park district funds.

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

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

(D) Any officer, employee, or appointee who is authorized to use a credit card held by the board of park commissioners and who suspects the loss, theft, or possibility of another person's unauthorized use of the credit card shall notify the board of park commissioners of the suspected loss, theft, or possible unauthorized use immediately in writing. The officer, employee, or appointee may be held personally liable for unauthorized debt resulting from such loss, theft, or unauthorized use, in the amount of \$50 or the amount charged to the credit card as a result of the loss, theft, or unauthorized use, whichever is less.

### **§ 1545.08 Reports of board of park commissioners.**

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

### **§ 1545.09 Bylaws, rules and regulations.**

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

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

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

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

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

(3) Any bylaw adopted under division (B)(2) of this section shall be published as provided in case of ordinances of municipal corporations before taking effect.

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

### **§ 1545.10 Contract with corporation or association maintaining museum of natural history.**

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

comprising the district for the purpose of obtaining for such district such services and assistance as can be rendered by such corporation or association.

**§ 1545.11 Power to acquire property.**

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

In case of appropriation, the proceedings shall be instituted in the name of the board, and shall be conducted in the manner provided in section 163.01 to 163.22, inclusive, of the Revised Code.

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

**§ 1545.12 Sale or lease of lands; notice; approval by probate court.**

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

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

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

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

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

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

### **§ 1545.13 Park commission employees designated as law enforcement officers.**

(A) As used in this section, “felony” has the same meaning as in section 109.511 of the Revised Code.

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

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

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

- (i) Pleads guilty to a felony;



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

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

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

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

### **§ 1545.131 Contracts for park district law enforcement officers to render police services to political subdivisions or state universities or colleges.**

The board of park commissioners of a park district may enter into contracts with one or more townships, township police districts, municipal corporations, or county sheriffs of this state, with one or more township park districts created pursuant to section 511.18 of the Revised Code or other park districts, with one or more state universities or colleges, as defined in section 3345.12 of the Revised Code, or with a contiguous political subdivision of an adjoining state, and a township, township police district, municipal corporation, county sheriff, township park district, other park district, or state university or college may enter into a contract with a park district upon any terms that are agreed to by them, to allow the use of the park district police or law enforcement officers designated under section 1545.13 of the Revised Code to perform any police function, exercise any police power, or render any police service on behalf of the contracting entity that the subdivision may perform, exercise, or render. Chapter 2744 of the Revised Code, insofar as it applies to the operation of police departments, applies to the contracting entities and to the members of the police force or law enforcement department when they are rendering service outside their own subdivisions pursuant to that contract.

Members of the police force or law enforcement department acting outside the political subdivision in which they are employed, pursuant to that contract, shall be entitled to participate in any indemnity fund established by their employer to the same extent as while acting within the employing subdivision. Those members shall be entitled to all the rights and benefits of Chapter 4123 of the Revised Code, to the same extent as while performing service within the subdivision. The contracts entered into pursuant to this section may provide for the following:

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

- (B) Compensation based upon the following:
  - (1) A stipulated price for each call or emergency;
  - (2) The number of members or pieces of equipment employed;
  - (3) The elapsed time of service required in each call or emergency.
- (C) Compensation for loss or damage to equipment while engaged in rendering police services outside the limits of the subdivision that owns and furnishes the equipment;
- (D) Reimbursement of the subdivision in which the police force or law enforcement department members are employed for any indemnity award or premium contribution assessed against the employing subdivision for workers' compensation benefits for injuries or death of its police force or law enforcement department members occurring while engaged in rendering police services pursuant to the contract.

**§ 1545.132 Park district law enforcement departments providing police services to political subdivisions without contract.**

The police force or law enforcement department of any park district may provide police protection to any county, municipal corporation, township, or township police district of this state, to any other park district or any township park district created pursuant to section 511.18 of the Revised Code, or to a governmental entity of an adjoining state without a contract to provide police protection, upon the approval, by resolution, of the board of park commissioners of the park district in which the police force or law enforcement department is located and upon authorization by an officer or employee of the police force or department providing the police protection who is designated by title of office or position, pursuant to the resolution of the Board of Park Commissioners, to give the authorization. Chapter 2744 of the Revised Code, insofar as it applies to the operation of police departments, shall apply to any park district and to members of its police force or law enforcement department when those members are rendering police services pursuant to this section outside the park district by which they are employed.

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

**§ 1545.14 Agreements with other public authorities to assume control of parks.**

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



boulevards owned or controlled by any other public authority except by agreement as provided in this section.

ANNEXATION; IMPROVEMENTS; TAXES AND ASSESSMENTS

**§ 1545.15 Annexation procedure.**

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

**§ 1545.16 Powers of budget commissioners, auditors, and treasurers in relation to annexed territories.**

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

**§ 1545.17 Improvement of public highway.**

When a public highway extends into or through a park area, or when a public highway forms all or part of a suitable connection between two or more park areas, and it is deemed advisable to make alterations in the route or width of such highway, or to grade, drain, pave, or otherwise improve such highway, boards of park commissioners may enter into agreements with the public authorities in charge or control of so much of said highway as lies within such park area or which forms the whole or part of a connecting link between two or more park areas, providing for the doing of any of such things, under the procedure authorized by law in case of

such public authorities, and for the payment by such boards of so much of the cost thereof as is agreed upon. This section does not affect the legal status of such highway.

**§ 1545.18 Assessment and collection of cost of improvement.**

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

**§ 1545.19 Assessment may be increased with consent of property owners.**

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

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

**§ 1545.20 Tax levy.**

A board of park commissioners may levy taxes upon all the taxable property within the park district in an amount not in excess of one-half of one mill upon each dollar of the assessed value of the property in the district in any one year, subject to the combined maximum levy for all purposes otherwise provided by law. After the budget commission of the county in which said

district is located certifies such levy, or such modification thereof as it deems advisable, to the county auditor, he shall place it upon the tax duplicate. The board may then borrow money in anticipation of the collection of such tax, and issue the negotiable notes of such board therefor in an amount not in excess of fifty percent of the proceeds of such tax, based upon the amount of the current tax valuation. Such notes shall not be issued for a period longer than one year, and shall be payable out of the proceeds of such levy. To the extent of such notes and the interest which accrues thereon such levy shall be exclusively appropriated to the payment of such notes. Any portion of such notes remaining unpaid through any deficiency in such levy shall be payable out of the next ensuing levy which shall be made by said board in the next ensuing year in an amount at least sufficient to provide for the payment of said notes, but not in excess of one half of one mill in accordance with section 133.17 of the Revised Code.

**§ 1545.21 Voted tax levy; anticipation bonds.**

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

(A) The day of the next general election;

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

Such bonds shall bear interest at a rate not to exceed the rate provided in section 9.95 of the Revised Code.

**§ 1545.211 Tax anticipation notes to meet current expenses and debt charges.**

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

**§ 1545.22 Appointed treasurer's duties; depositories; certification of funds; duties of county auditor.**

(A) If a treasurer is appointed by a board of park commissioners pursuant to section 1547.07 of the Revised Code, the accounts of the board shall be kept by that treasurer. The treasurer shall be an ex officio officer of the board. No contract of the board shall become effective until the treasurer certifies that there are funds of the board sufficient to provide for that contract.

(B) If no treasurer is appointed by the board pursuant to section 1545.07 of the Revised Code:

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

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

(3) Any such board of park commissioners may select a depository for the funds of the district, in the manner provided in sections 135.01 to 135.21 of the Revised Code, upon the adoption of a resolution declaring such intent. The resolution shall be certified to the board of county commissioners and to the treasurer in the counties in

which the district is located. The board of park commissioners shall thereupon become the governing board for such district with respect to the deposit of funds of such district.

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

BONDS; REPLACEMENT FUND

**§ 1545.24 Issuance of bonds.**

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

**§ 1545.27 Lawful investments.**

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

**§ 1545.28 Replacement fund.**

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

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

DISSOLUTION OF PARK DISTRICT

**§ 1545.35 Methods of dissolution of park district; allocation by class of district.**

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

### **§ 1545.36 Dissolution by petition of voters for election.**

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

(B) The petition shall:

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

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

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

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

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

### **§ 1545.37 Dissolution by application to probate court; procedure where territory has been annexed.**

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

(B) The application shall:

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

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

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

(C) Each page of the application:

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

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

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

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

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

On motion, any applicant may be named as a party at the discretion of the court. Any party may be heard on his own or through counsel. On motion by any party made at least five days before the hearing, evidence based on the statement of issues filed with the application shall be heard in accordance with the Rules of Civil Procedure. At the hearing, evidence may be heard at the discretion of the court. Argument for and against the dissolution shall be heard by the court, and may be limited at its discretion. A verbatim record of the hearing shall be taken. Upon completion of the hearing, the court shall issue its findings together with its reasons therefor to all parties. No more than thirty days shall pass between the adjournment of the hearing and the issuing of the findings. If the court finds that dissolution is conducive to the public welfare, no other park district shall be created within the same jurisdiction or part of it pursuant to sections



1545.01 to 1545.04 or 1545.15 of the Revised Code for four years from the date of finding. If the court finds that dissolution is not conducive to the public welfare, it shall find against it. Upon a finding against dissolution, the court shall impound the application, and advise each party that no further application for hearing on dissolution shall be received for four years from the date of finding.

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

**§ 1545.38 County auditor to certify to probate court if there has been no action in funds of district for five years; procedure for dissolution.**

On receipt of written notice from the county auditor that no deposits to or expenditures from the funds of a park district have been made for a period of five years, the probate court shall immediately serve written notice on the board of park commissioners and the auditor of a date for hearing on the dissolution of the district. The notice shall also order the board to forward to the court a complete, current financial statement of the assets and liabilities of the district, an inventory of its real and personal property, available deeds to, maps or plats for, and other records of real property of the park district, and copies of any available plans of the district for park acquisition and development, or capital improvements. A copy of the notice shall be served on each party. The court shall publish notice of the hearing for five consecutive days in a daily newspaper of general circulation within the district, ending not less than fifteen days before the hearing. The issue of dissolution shall be heard and determined by the court in accordance with the applicable provisions of division (F) of section 1545.37 of the Revised Code. If the court finds for dissolution, it shall, as applicable, proceed in accordance with section 1545.40 of the Revised Code.

**§ 1545.39 No land to be acquired during pendency of proceedings.**

On receipt of notice of the filing of a petition with the county board of elections or an application for hearing or a notice of hearing from the probate court, the board of park commissioners shall cease all acquisition of land and the development of existing land unless valid options or contracts for which funds have been committed have been previously signed. No activity shall be resumed until the board of elections or the court determines, respectively, that



the petition or application is invalid and the issue will not be voted on or heard, or the issue fails election, or the court finds against dissolution, whichever is earlier.

**§ 1545.40 Probate court to supervise winding up of district business; disposition of property; termination of tax levies.**

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

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

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

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

**§ 1545.99 Penalty.**

Whoever violates division (C) of section 1545.09 of the Revised Code shall be punished as follows:

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

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

## **TITLE V: PUBLIC WORKS**

(This title is reserved for rules and regulations dealing with sewer, water, trash collection, etc.)

## **TITLE VII: TRAFFIC CODE**

Chapter

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

### **CHAPTER 70: GENERAL PROVISIONS**

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Section

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70.01	Definitions
70.02	Compliance with state law
70.03	Purposes of way
70.04	Impounding vehicles in violation
70.05	Testing, washing or repairing vehicles in parks
70.99	Penalty

**§ 70.01 DEFINITIONS.**

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

**AGRICULTURAL TRACTOR.** Every self-propelled vehicle designed or used for drawing other vehicles or wheeled machinery, but having no provision for carrying loads independently of such other vehicles, and used principally for agricultural purposes.

**BICYCLE.** Every device, other than a tricycle designed solely for use as a play vehicle by a child, propelled solely by human power, upon which any person may ride having 2 tandem wheels, or 1 wheel in the front and 2 wheels in the rear, or 2 wheels in the front and 1 wheel in the rear, any of which is more than 14 inches in diameter.

**BUS.** Every motor vehicle designed for carrying more than 9 passengers, and used for the transportation of persons other than in a ridesharing arrangement, and every motor vehicle, automobile for hire, or funeral car, other than a taxicab or motor vehicle used in a ridesharing arrangement, designed and used for the transportation of persons for compensation.

**CHAUFFEURED LIMOUSINE.** A motor vehicle that is designed to carry 9 or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. Prearranged contract means an agreement, made in advance of boarding, to provide transportation from a specific location in an chauffeured limousine at a fixed rate per hour or trip. **CHAUFFEURED LIMOUSINE** does not include any vehicle that is used exclusively in the business of funeral directing.  
(R.C. § 4501.01(LL))

**CHILD DAY-CARE CENTER** and **TYPE A FAMILY DAY-CARE HOME.** These terms shall have the same meanings as set forth in R.C. § 5104.01.

**COMMERCIAL TRACTOR.** Every motor vehicle having motive power designed or used for drawing other vehicles, and not so constructed as to carry any load thereon, or designed or used for drawing other vehicles while carrying a portion of the other vehicles, or the load thereon, or both.

**CROSSWALK.**

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

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

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(3) Notwithstanding the foregoing provisions of this definition, there shall not be a crosswalk where the Legislative Authority has placed signs indicating no crossing.

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

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

**EXPLOSIVES.** Any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion that contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by a detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, such that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb. Manufactured articles shall not be held to be explosives when the individual units contain explosives in limited quantities of such nature or in such packing that it is impossible to procure a simultaneous or a destructive explosion of the units, to the injury of life, limb, or property by fire, friction, concussion, percussion, or by a detonator, such as fixed ammunition for small arms, firecrackers, or safety fuse matches.

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

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

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

### **INTERSECTION.**

(1) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of 2 highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(2) Where a highway includes 2 roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection. If an intersecting highway also includes two roadways 30 feet or more apart, then every crossing of 2 roadways of the highways shall be regarded as a separate intersection.

(3) The junction of an alley with a street or highway, or with another alley, shall not constitute an intersection.

**LANED HIGHWAY.** A highway the roadway of which is divided into 2 or more clearly marked lanes for vehicular traffic.

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

**MOTOR VEHICLE.** Every vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, except motorized bicycles, road rollers, traction engines, power shovels, power cranes and other equipment used in construction work, and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in

and around a marina, when drawn or towed on a street or highway for a distance of no more than 10 miles and at a speed of 25 miles per hour or less.

**MOTORCYCLE.** Every motor vehicle other than a tractor having a seat or saddle for the use of the operator and designed to travel on not more than 3 wheels in contact with the ground, including, but not limited to, motor vehicles known as motor-driven cycle, motor scooter, or motorcycle without regard to weight or brake horsepower.

**MOTORIZED BICYCLE.** Any vehicle having either 2 or more tandem wheels, or 1 wheel in the front and 2 in the rear, that is capable of being pedaled and is equipped with an electric helper motor and is capable of propelling the vehicle at a speed of no greater than 20 miles per hour on a level surface.

**MOTORIZED WHEELCHAIR.** Any self-propelled vehicle designed for, and used by, a person with a disability and that is incapable of a speed in excess of 8 miles per hour.

**MULTI-WHEEL AGRICULTURAL TRACTOR.** A type of agricultural tractor that has 2 or more wheels or tires on each side of 1 axle at the rear of the tractor, is designed or used for drawing other vehicles or wheeled machinery, has no provision for carrying loads independently of the drawn vehicles or machinery, and is used principally for agricultural purposes.

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

**PARKING or PARKED.** The standing of a vehicle upon a street, road, alley, highway or public ground, whether accompanied or unaccompanied by a driver, but does not include the temporary standing of a vehicle for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

**PEDESTRIAN.** Any natural person afoot.

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

**POLE TRAILER.** Every trailer or semitrailer attached to the towing vehicle by means of a reach, pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

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

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

(1) A violation of R.C. §§ 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78, or 4511.84;

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

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

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

**PRIVATE ROAD OR DRIVEWAY.** Every way or place in private ownership used for vehicular travel by the owner, and those having express or implied permission from the owner, but not by other persons.

**PUBLIC SAFETY VEHICLE.** Any of the following:

- (1) Ambulances, including private ambulance companies under contract to a municipality, township, or county, and private ambulances and nontransport vehicles bearing license plates issued under R.C. § 4503.49;
- (2) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the state;
- (3) Any motor vehicle when properly identified as required by the Director of Public Safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The State Fire Marshal shall be designated by the Director of Public Safety as the certifying agency for all public safety vehicles described herein;
- (4) Vehicles used by fire departments, including motor vehicles when used by volunteer firefighters responding to emergency calls in the fire department service when identified as required by the Director of Public Safety;
- (5) Any vehicle used to transport or provide emergency medical service to an ill or injured person, when certified as a **PUBLIC SAFETY VEHICLE**, shall be considered such a vehicle when transporting an ill or injured person to a hospital, regardless of whether such vehicle has already passed a hospital;
- (6) Vehicles used by the Motor Carrier Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission as specified in R.C. § 5503.34.

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

**RAILROAD SIGN OR SIGNAL.** Any sign, signal, or device erected by authority of a public body or official or by a railroad, and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

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

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

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

- (1) The right of a vehicle or pedestrian to proceed uninterruptedly in a lawful manner in the direction in which it, he or she is moving, in preference to another vehicle or pedestrian approaching from a different direction into its, his or her path;
- (2) A general term denoting land, property, or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation purposes. When used in this context, **RIGHT-OF-WAY** includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the state or local authority.

**ROAD SERVICE VEHICLE.** Means wreckers, utility repair vehicles, and state, county, and municipal service vehicles equipped with visual signals by means of flashing, rotating, or oscillating lights.

**ROADWAY.** That portion of a highway improved, designed, or ordinarily used for vehicular travel, except the berm or shoulder. If a highway includes 2 or more separate roadways, the term **ROADWAY** means any roadway separately, but not all the roadways collectively.

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

**SAFETY ZONE.** The area or space officially set apart within a roadway for the exclusive use of pedestrians, and protected or marked or indicated by adequate signs so as to be plainly visible at all times.

**SCHOOL BUS.** Every bus designed for carrying more than 9 passengers which is owned by a public, private, or governmental agency or institution of learning, and operated for the transportation of children to or from a school session or a school function, or owned by a private person and operated for compensation for the transportation of children to or from a school session or a school function; provided **SCHOOL BUS** does not include a bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of a municipality, or within such limits and the territorial limits of municipalities immediately contiguous to the municipality, nor a common passenger carrier certified by the Public Utilities Commission unless the bus is devoted exclusively to the transportation of children to and from a school session or a school function, and **SCHOOL BUS** does not include a van or bus used by a licensed child day-care center or Type A Family Day-Care Home to transport children from the child day-care center or Type A Family Day-Care Home to a school if the van or bus does not have more than 15 children in the van or bus at any time.

**SCOOTER.** A foot-powered vehicle consisting of a platform mounted between 2 wheels with an upright handle attached to the front wheel or platform.  
(Rules and Regs. § 2)

**SEMITRAILER.** Every vehicle designed or used for carrying persons or property with another and separate motor vehicle so that in operation a part of its own weight or that of its load, or both, rests upon and is carried by another vehicle.

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

**SKATEBOARD.** A narrow board, about 2 feet long mounted on rollerskate wheels, propelled solely by human power upon which any person may ride.  
(Rules and Regs. § 2)

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

**STOP INTERSECTION.** Any intersection at 1 or more entrances of which stop signs are erected.

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

**STREET** or **HIGHWAY.** The entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel.

**TRAFFIC.** Pedestrians, ridden or herded animals, vehicles and other devices, either singly or together, while using any highway for purposes of travel.

**TRAFFIC-CONTROL DEVICES.** All flagpersons, signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic, including signs denoting names of streets and highways.

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**TRAFFIC-CONTROL SIGNAL.** Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop, to proceed, to change direction, or not to change direction.

**TRAIL.** Footpath, bike path, horse path, and all other passageways maintained by MetroParks, and which are not specifically reserved for motor vehicle traffic.

**TRAILER.** Every vehicle designed or used for carrying persons or property wholly on its own structure, and for being drawn by a motor vehicle, including any vehicle when formed by or operated as a combination of a semitrailer and a vehicle of the dolly type, such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a street or highway at a speed greater than 25 miles per hour and a vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of more than 10 miles or at a speed of more than 25 miles per hour.

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

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

(R.C. § 4511.01)

### **§ 70.02 COMPLIANCE WITH STATE LAW.**

All motor vehicles and operators shall comply with the requirements of all sections of the Ohio Revised Code pertaining to motor vehicles and operators, while using Five Rivers MetroParks roads.

(Rules and Regs. § 16.1) Penalty, see § 70.99

### **§ 70.03 PURPOSES OF WAY.**

No person shall use any portion of a park for purposes of way except drives, roadways, walks and trails established for such purposes. Trails established as horse trails, foot trails, bicycle trails or multipurpose trails shall not be used for motor vehicular traffic.

(Rules and Regs. § 16.2)

### **§ 70.04 IMPOUNDING VEHICLES IN VIOLATION.**

Vehicles in parks in violation of these Rules and Regulations shall be removed or caused to be removed by police officers to a location, in or outside of a park, where the same may be



kept until owners or their authorized representative obtain an order from the Director or his or her agents releasing such vehicles to the owners thereof or their authorized representatives. (Rules and Regs. § 16.10)

**§ 70.05 TESTING, WASHING OR REPAIRING VEHICLES IN PARK.**

No person shall test, repair, wash or wax any vehicle or mechanical device within the parks.

Penalty, see § 70.99

**§ 70.99 PENALTY.**

(A) *Generally.* Pursuant to R.C. § 1545.99, any person who violates any provision of this traffic code where no specific penalty is otherwise provided, shall be fined not more than \$100 for a first offense; for each subsequent offense such person shall be fined not more than \$500.

(Rules and Regs. § 22)

(B) *State law penalty.*

(1) Whoever violates any provision of this traffic code, for which no penalty otherwise is provided, is guilty of 1 of the following:

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

(b) If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 violation of any provision of this traffic code for which no penalty is otherwise provided or of a state law or municipal ordinance that is substantially similar to any provisions of this traffic code for which no penalty is otherwise provided, a misdemeanor of the fourth degree;

(c) If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 2 or more violations of any provision described in division (B)(1)(b) or any state law or municipal ordinance that is substantially similar to those provisions, a misdemeanor of the third degree.

(2) Notwithstanding R.C. § 2929.21, upon a finding that a person operated a motor vehicle in violation of division (B)(3) of § 72.102, the court, in addition to all other penalties provided by law, shall impose a fine of 2 times the usual amount imposed for the violation.

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**CHAPTER 71: LICENSING PROVISIONS**

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Section

*General Provisions*

71.01 Display of license plates or validation stickers; registration

*Prohibitions*

## Five Rivers Metroparks Code of Ordinances

71.05	Prohibited acts
71.06	Display of license
71.07	Prohibition against false statements
71.08	(Reserved)
71.09	Use of unauthorized plates
71.10	Operating with number of former owner
71.11	Driving without license
71.12	Driving without license plates

## GENERAL PROVISIONS

### **§ 71.01 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS; REGISTRATION.**

(A) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the front and rear of the motor vehicle the distinctive number and registration mark, including any county identification sticker and any validation sticker issued under R.C. §§ 4503.19 and 4503.191, furnished by the Director of Public Safety, except that a manufacturer of motor vehicles or dealer therein, the holder of an in-transit permit, and the owner or operator of a motorcycle, motorized bicycle, manufactured home, mobile home, trailer, or semitrailer shall display on the rear only. A motor vehicle that is issued 2 license plates shall display the validation sticker only on the rear license plate, except that a commercial tractor that does not receive an apportioned license plate under the international registration plan shall display the validation sticker on the front of the commercial tractor. An apportioned vehicle receiving an apportioned license plate under the international registration plan shall display the license plate only on the front of a commercial tractor and on the rear of all other vehicles. All license plates shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.

(2) No person to whom a temporary license placard or windshield sticker has been issued for the use of a motor vehicle under R.C. § 4503.182, and no operator of that motor vehicle, shall fail to display the temporary license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. No temporary license placard or windshield sticker shall be covered by any material that obstructs its visibility.

(R.C. § 4503.21(A))

(B) Except as otherwise provided by R.C. §§ 4503.103, 4503.173, 4503.41, 4503.43, and 4503.46, no person who is the owner or chauffeur of a motor vehicle operated or driven upon the public roads or highways shall fail to file annually the application for registration or to pay the tax therefor.

(R.C. § 4503.11(A))

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

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

(R.C. § 4549.12(A))

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

(R.C. § 4503.21(B))

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

(R.C. § 4503.11(D))

(3) Whoever violates division (C) of this section is guilty of illegal operation by a resident of this state of a motor vehicle bearing the distinctive number or identification mark issued by a foreign jurisdiction, a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.

(R.C. § 4549.12(B))

## PROHIBITIONS

### § 71.05 PROHIBITED ACTS.

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

(1) Display or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended, or altered;

(2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;

(3) Display, or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit not issued to the person so displaying the same;

(4) Fail to surrender to the Registrar of Motor Vehicles, upon the Registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit that has been suspended or canceled;

(5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit or any renewal or duplicate thereof, knowingly conceal a material fact or present any physician's statement required under R.C. § 4507.08 or 4507.081 when knowing the same to be false or fictitious.

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

(R.C. § 4507.30)

**§ 71.06 DISPLAY OF LICENSE.**

(A) The operator of a motor vehicle shall display the operator's driver's license, or furnish satisfactory proof that the operator has a driver's license, upon demand of any peace officer or of any person damaged or injured in any collision in which the licensee may be involved. When a demand is properly made, and the operator has the operator's driver's license on or about the operator's person, the operator shall not refuse to display the license. A person's failure to furnish satisfactory evidence that the person is licensed under R.C. Chapter 4507 when the person does not have the person's license on or about the person's person shall be prima facie evidence of the person's not having obtained a driver's license.

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.  
(R.C. § 4507.35)

**§ 71.07 PROHIBITION AGAINST FALSE STATEMENTS.**

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

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.  
(R.C. § 4507.36)

**§ 71.08 (RESERVED)**

**§ 71.09 USE OF UNAUTHORIZED PLATES.**

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

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

(3) It belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the public roads and highways in this municipality when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the public roads and highways in this municipality during the 30-day period described in R.C. § 4503.12(A)(4).

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

(C) *State law penalty.* Whoever violates division (A)(1), (A)(2), or (A)(3) of this section is guilty of operating a motor vehicle bearing an invalid license plate or identification

mark, a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense.

(R.C. § 4549.08) Penalty, see § 70.99

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

(A) *Generally.* No person shall operate or drive upon the highways of this park district a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration.

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

(R.C. § 4549.11)

### **§ 71.11 DRIVING WITHOUT LICENSE.**

No person shall drive a motor vehicle within a park unless such person has been licensed as an operator or chauffeur, or cause or permit a minor under 18 years of age to drive a motor vehicle within a park unless such minor has first obtained a license or permit to drive a motor vehicle.

(Rules and Regs. § 16.17) Penalty, see § 70.99

***Statutory reference:***

*Similar provisions, see R.S. §§ 4507.01 through 4507.39*

*Specifically, see R.S. § 4507.31*

### **§ 71.12 DRIVING WITHOUT LICENSE PLATES.**

No person who is the owner or operator of a motor vehicle shall operate, cause or permit such motor vehicle to be operated within the park unless such vehicle displays the distinctive number and registration marks of license plates, legally issued for the current year, securely fastened to the vehicle.

(Rules and Regs. § 16.16) Penalty, see § 70.99

## **CHAPTER 72: TRAFFIC RULES**

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### Section

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- 72.001 Lanes of travel upon roadways
- 72.002 Vehicles traveling in opposite directions
- 72.003 Emergency vehicles to proceed cautiously past red or stop signal

## Five Rivers Metroparks Code of Ordinances

- 72.004 Obeying traffic-control devices
- 72.005 Prohibition against alteration, defacing, or removal prohibited
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- 72.070 Reckless operation of vehicle
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- 72.100 Obstruction and interference affecting view and control of driver
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- 72.103 Slow speed; speed limit

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- 72.104 Transporting child not in child-restraint system prohibited
- 72.105 Occupant restraining devices
- 72.106 Street racing defined; prohibited on public highways
- 72.107 Driving through safety zone
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- 72.109 Defacement of surface

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

*Operation of motorized vehicles on trails designed for walking or biking, see § 131.21*

## **GENERAL PROVISIONS**

### **§ 72.001 LANES OF TRAVEL UPON ROADWAYS.**

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

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

(B) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, and far enough to the right to allow passing by faster vehicles if such passing is safe and reasonable, except under any of the following circumstances:

- (a) When overtaking and passing another vehicle proceeding in the same direction;
- (b) When preparing for a left turn;
- (c) When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.

(2) Nothing in division (B)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.

(C) Upon any roadway having 4 or more lanes for moving traffic and providing for 2-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left of the center of the roadway for use by traffic not otherwise permitted to use the lanes, or except as permitted under division (A)(2) of this section. This division shall not be construed as

prohibiting the crossing of the center line in making a left turn into or from an alley, private road, or driveway.

(D) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.25)

#### **§ 72.002 VEHICLES TRAVELING IN OPPOSITE DIRECTIONS.**

(A) Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than 1 line of traffic in each direction, each operator shall give to the other ½ of the main traveled portion of the roadway or as nearly ½ as is reasonably possible.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.26)

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

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

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.03)

#### **§ 72.004 OBEYING TRAFFIC-CONTROL DEVICES.**



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(A) (1) No pedestrian or driver of a vehicle shall disobey the instructions of any traffic-control device placed in accordance with the provisions of this traffic code, unless at the time otherwise directed by a police officer.

(2) No provision of this traffic code for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this traffic code does not state that signs are required, that section shall be effective even though no signs are erected or in place.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.12)

***Statutory reference:***

*Traffic-control devices to conform to the state manual and specifications, see R.C. § 4511.11*

### **§ 72.005 PROHIBITION AGAINST ALTERATION, DEFACING, OR REMOVAL PROHIBITED.**

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

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

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

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

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

(2) Except as otherwise provided in this division, whoever violates division (A)(2) of this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates division (A)(2) of this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates division (A)(2) of this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.17)

**§ 72.006 ONE-WAY HIGHWAYS AND ROTARY TRAFFIC ISLANDS.**

(A) (1) Upon a roadway designated and posted with signs for 1-way traffic, a vehicle shall be driven only in the direction designated.

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

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.32) (Rules and Regs. § 16.7)

**§ 72.007 RULES FOR DRIVING IN MARKED LANES.**

(A) Whenever any roadway has been divided into 2 or more clearly marked lanes for traffic, or wherever within the municipality traffic is lawfully moving in 2 or more substantially continuous lines in the same direction, the following rules apply:

(1) A vehicle shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from the lane or line until the driver has first ascertained that the movement can be made with safety.

(2) Upon a roadway which is divided into 3 lanes and provides for the 2-way movement of traffic, a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where the center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding, and is posted with signs to give notice of such allocation.

(3) Official signs may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction, regardless of the center of the roadway, or restricting the use of a particular lane to only buses during certain hours or during all hours, and drivers of vehicles shall obey the directions of such signs.

(4) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway, and drivers of vehicles shall obey the directions of every such device.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.33)

**§ 72.008 SPACE BETWEEN MOVING VEHICLES.**

(A) (1) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicle and the traffic upon and the condition of the highway.

(2) The driver of any truck, or motor vehicle drawing another vehicle, when traveling upon a roadway outside a business or residence district, shall maintain a sufficient space, whenever conditions permit, between the vehicle and another vehicle ahead so an overtaking motor vehicle may enter and occupy the space without danger. This division (B) does not prevent overtaking and passing nor does it apply to any lane specially designated for use by trucks.

(3) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade shall maintain a sufficient space between the vehicles so an overtaking vehicle may enter and occupy the space without danger. This division (C) shall not apply to funeral processions.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.34)

**§ 72.009 NO PASSING.**

No person, while operating a vehicle on a park road, except authorized agents in park vehicles, shall pass another moving vehicle on the left, except as set forth in § 72.001.

Penalty, see § 70.99

**§ 72.010 RULES FOR TURNS AT INTERSECTIONS.**

(A) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:

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

(2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the center line where it enters the intersection, and, after entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) At any intersection where traffic is restricted to 1 direction on 1 or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach

the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle, and, after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane of the roadway being entered lawfully available to traffic moving in that lane.

(B) The Department of Transportation and local authorities may cause markers, buttons, or signs to be placed within or adjacent to intersections, and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons, or signs are so placed, no operator of a vehicle shall turn the vehicle at an intersection other than as directed and required by the markers, buttons, or signs.

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.36)

#### **§ 72.011 U-TURNS AND TURNING IN ROADWAY PROHIBITED.**

(A) Except as provided in division (B) of this section, no vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, if such vehicle cannot be seen within 500 feet by the driver of any other vehicle approaching from either direction.

(B) The driver of an emergency vehicle or public safety vehicle, when responding to an emergency call, may turn the vehicle so as to proceed in the opposite direction. This division applies only when the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least 1 flashing, rotating, or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, and when the driver of the vehicle is giving an audible signal by siren, exhaust whistle, or bell. This division does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.37)

#### **§ 72.012 STARTING AND BACKING VEHICLES.**

(A) (1) No person shall start a vehicle which is stopped, standing, or parked until the movement can be made with reasonable safety.

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(2) Before backing, operators of vehicles shall give ample warning, and while backing they shall exercise vigilance not to injure person or property on the street or highway.

(3) No person shall back a motor vehicle on a freeway, except:

(a) In a rest area;

(b) In the performance of public works or official duties;

(c) As a result of an emergency caused by an accident or breakdown

of a motor vehicle.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.38)

### **§ 72.013 TURN AND STOP SIGNALS.**

(A) (1) No person shall turn a vehicle or move right or left upon a highway unless and until the person has exercised due care to ascertain that the movement can be made with reasonable safety, nor without giving an appropriate signal in the manner hereinafter provided.

(2) When required, a signal of intention to turn or move right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that in the case of a person operating a bicycle, the signal shall be made not less than 1 time but is not required to be continuous. A bicycle operator is not required to make a signal if the bicycle is in a designated turn lane, and a signal shall not be given when the operator's hands are needed for the safe operation of the bicycle.

(3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear, when there is opportunity to give a signal.

(4) Any stop or turn signal required by this section shall be given either by means of the hand and arm, or by signal lights that clearly indicate to both approaching and following traffic the intention to turn or move right or left, except that any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lights when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet, whether a single vehicle or a combination of vehicles.

(5) The signal lights required by this section shall not be flashed on 1 side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on 1 side only of a parked vehicle except as may be necessary for compliance with this section.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the

offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.39)

**§ 72.014 HAND AND ARM SIGNALS.**

(A) Except as provided in division (B) of this section, all signals required by the provisions of this traffic code, when given by hand and arm, shall be given from the left side of the vehicle in the following manner, and the signals shall indicate as follows:

- (1) Left turn, hand and arm extended horizontally;
- (2) Right turn, hand and arm extended upward;
- (3) Stop or decrease speed, hand and arm extended downward.

(B) As an alternative to division (A)(2) of this section, a person operating a bicycle may give a right turn signal by extending the right hand and arm horizontally and to the right side of the bicycle.

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.40)

**§ 72.015 COMPLIANCE WITH ORDER OF POLICE OFFICER.**

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

(C) *State law penalty.*

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

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

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

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

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



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

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

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

1. The duration of the pursuit;
2. The distance of the pursuit;
3. The rate of speed at which the offender operated the motor vehicle during the pursuit;
4. Whether the offender failed to stop for traffic lights or stop signs during the pursuit;
5. The number of traffic lights or stop signs for which the offender failed to stop during the pursuit;
6. Whether the offender operated the motor vehicle during the pursuit without lighted lights during a time when lighted lights are required;
7. Whether the offender committed a moving violation during the pursuit;
8. The number of moving violations the offender committed during the pursuit;
9. Any other relevant factors indicating that the offender's conduct is more serious than conduct normally constituting the offense.

(D) In addition to any other sanction imposed for a violation of this section, the court shall impose a class two suspension from the range specified in R.C. § 4510.02(A)(2). If the offender previously has been found guilty of an offense under this section or under R.C. § 2921.331, the court shall impose a class one suspension as described in R.C. § 4510.02(A)(1). The court shall not grant limited driving privileges to the offender. No judge shall suspend the first 3 years of suspension under a class two suspension of an offender's license, permit, or privilege required by this division or any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this division.

(E) *Definitions.* As used in this section:

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

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

(R.C. § 2921.331(A) through (C), (E), (F))

***Cross-reference:***

*Resisting arrest, see § 136.06*

**§ 72.016 PROHIBITION AGAINST RESISTING OFFICER.**

(A) *Generally.* No person shall resist, hinder, obstruct, or abuse any sheriff, constable, or other official while that official is attempting to arrest offenders under any provisions of this

Title. No person shall interfere with any person charged under any provision of this title with the enforcement of the law relative to public highways.

(B) *State law penalty.* Whoever violates this section is guilty of a minor misdemeanor. (R.C. § 4513.36)

(C) *Defense.* It is a defense to prosecution under this section that the hindrance, obstruction, resistance, or interference alleged consisted of constitutionally protected speech only.

## RIGHT-OF-WAY

### § 72.030 RIGHT-OF-WAY AT INTERSECTIONS.

(A) When 2 vehicles approach or enter an intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(B) The right-of-way rule declared in division (A) of this section is modified at through highways and otherwise as stated in this traffic code or R.C. Chapter 4511.

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (R.C. § 4511.41)

### § 72.031 RIGHT-OF-WAY WHEN TURNING LEFT.

(A) The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (R.C. § 4511.42)

### § 72.032 RIGHT-OF-WAY AT THROUGH HIGHWAYS; STOP SIGNS; YIELD SIGNS.



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(A) Except when directed to proceed by a law enforcement officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.

(B) The driver of a vehicle approaching a yield sign shall slow down to a speed reasonable for the existing conditions, and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways. Whenever a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, the collision shall be prima facie evidence of the driver's failure to yield the right-of-way.

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.43)

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

(A) The driver of a vehicle emerging from an alley, building, private road, driveway, or parking area, shall stop the vehicle immediately prior to driving onto a sidewalk or trail or onto the sidewalk or trail area extending across the alley, building entrance, road, driveway, or parking area, or in the event there is no sidewalk or trail area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.431)

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

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

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.44)

**§ 72.035 FAILURE TO YIELD TO PEDESTRIANS.**

No person while operating a motor vehicle, bicycle or riding a horse shall fail to yield to a pedestrian.

Penalty, see § 70.99

***Statutory reference:***

*Right-of-way of pedestrian on sidewalk, see  
R.C. § 4511.441*

**§ 72.036 FAILURE TO YIELD TO EMERGENCY VEHICLES.**

No person shall fail to yield to an emergency vehicle engaged in a law enforcement or rescue capacity.

Penalty, see § 10.99

***Statutory reference:***

*Right-of-way of public safety vehicles, see R.C. § 4511.45*

**§ 72.037 ANIMAL COMPLIANCE.**

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

(R.C. § 4511.05)

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

(A) Upon the immediate approach of a public safety vehicle, as stated in R.C. § 4511.45 or a substantially similar municipal ordinance, every pedestrian shall yield the right-of-way to the public safety vehicle.

(B) This section shall not relieve the driver of a public safety vehicle from the duty to exercise due care to avoid colliding with any pedestrian.

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.452)

**§ 72.039 PEDESTRIAN ON CROSSWALK HAS RIGHT-OF-WAY.**

(A) When traffic-control signals are not in place, not in operation, or are not clearly assigning the right-of-way, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, or if required by R.C. § 4511.132 or a substantially similar municipal ordinance, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(B) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(C) Division (A) of this section does not apply under the conditions stated in R.C. § 4511.48(B), or a substantially similar municipal ordinance.

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

(E) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.46)

**§ 72.040 RIGHT-OF-WAY YIELDED TO BLIND PERSON.**

(A) (1) As used in this section **BLIND PERSON** or **BLIND PEDESTRIAN** means a person having not more than 20/200 visual acuity in the better eye with correcting lenses, or visual acuity greater than 20/200, but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20°.

(2) The driver of every vehicle shall yield the right-of-way to every blind pedestrian guided by a guide dog, or carrying a cane which is predominantly white or metallic in color, with or without a red tip.

(B) No person, other than a blind person, while on any public highway, street, alley, or other public thoroughfare, shall carry a white or metallic cane, with or without a red tip.

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been

convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.47)

**§ 72.041 RIGHT-OF-WAY YIELDED BY PEDESTRIAN.**

(A) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(B) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all traffic upon the roadway.

(C) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(D) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

(E) This section does not relieve the operator of a vehicle from exercising due care to avoid colliding with any pedestrian upon any roadway.

(F) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.48)

**PEDESTRIANS**

**§ 72.055 PEDESTRIAN MOVEMENT IN CROSSWALKS.**

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

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.49)

**§ 72.056 PROHIBITION AGAINST SOLICITING RIDES; RIDING ON OUTSIDE OF VEHICLE.**

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

(B) *Standing on highway for solicitation; exceptions.*

(1) Except as provided in division (B)(2) of this section, no person shall stand on a highway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle.

(2) The Legislative Authority, by ordinance, may authorize the issuance of a permit to a charitable organization to allow a person acting on behalf of the organization to solicit charitable contributions from the occupant of a vehicle by standing on a highway, other than a freeway as provided in R.C. § 4511.051(A)(1), that is under the jurisdiction of the municipality. The permit shall be valid for only 1 period of time, which shall be specified in the permit, in any calendar year. The Legislative Authority also may specify the locations where contributions may be solicited and may impose any other restrictions on or requirements regarding the manner in which the solicitations are to be conducted that the Legislative Authority considers advisable.

(3) As used in subsection (B)(2) of this division, **CHARITABLE ORGANIZATION** means an organization that has received from the Internal Revenue Service a currently valid ruling or determination letter recognizing the tax-exempt status of the organization pursuant to Internal Revenue Code § 501(c)(3).

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

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

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

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

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

(F) *Riding in cargo area not permitted; exceptions.* No driver of a truck, trailer, or semitrailer shall permit any person, except for those workers performing specialized highway or street maintenance or construction under authority of a public agency, to ride in the cargo storage area or on a tailgate of the driver's vehicle while the tailgate is unlatched.

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(G) (1) Except as otherwise provided in this division, whoever violates any provision of divisions (A) to (D) of this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates any provision of divisions (A) to (D) of this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates any provision of divisions (A) to (D) of this section is guilty of a misdemeanor of the third degree.

(2) Whoever violates division (E) or (F) of this section is guilty of a minor misdemeanor.  
(R.C. § 4511.51)

## RECKLESS OPERATION

### § 72.070 RECKLESS OPERATION OF VEHICLE.

No person shall operate a vehicle along or over any road or drive within or adjacent to the park in a reckless manner or without due regard for the safety and the rights of pedestrians and drivers and occupants of all other vehicles.

(Rules and Regs. § 16.13) Penalty, see § 70.99

### § 72.071 OPERATOR TO BE IN REASONABLE CONTROL.

(A) No person shall operate a motor vehicle, agricultural tractor, or agricultural tractor that is towing, pulling, or otherwise drawing a unit of farm machinery on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle, agricultural tractor, or unit of farm machinery.

(B) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor.  
(R.C. § 4511.202)

## ACCIDENTS

### § 72.085 EXCHANGE OF IDENTITY AND VEHICLE REGISTRATION.

(A) (1) In case of accident to or collision with persons or property upon any of the public roads or highways, due to the driving or operation thereon of any motor vehicle, the person driving or operating the motor vehicle, having knowledge of the accident or collision, immediately shall stop the driver's or operator's motor vehicle at the scene of the accident or collision and shall remain at the scene of the accident or collision until the driver or operator has given the driver's or operator's name and address and, if the driver or operator is not the owner,



the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to any person injured in the accident or collision or to the operator, occupant, owner, or attendant of any motor vehicle damaged in the accident or collision, or to any police officer at the scene of the accident or collision.

(2) In the event the injured person is unable to comprehend and record the information required to be given by this section, the other driver involved in the accident or collision forthwith shall notify the nearest police authority concerning the location of the accident or collision, and the driver's name, address, and the registered number of the motor vehicle the driver was operating, and then remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance.

(3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.

(B) Whoever violates division (A) of this section is guilty of failure to stop after an accident, a misdemeanor of the first degree. If the violation results in serious physical harm or death to a person, failure to stop after an accident is a felony to be prosecuted under appropriate state law. The court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(5). No judge shall suspend the first 6 months of suspension of an offender's license, permit, or privilege required by this division.

(R.C. § 4549.02) Penalty, see § 70.99

## **§ 72.086 ACCIDENT INVOLVING INJURY TO PERSONS OR PROPERTY.**

(A) (1) In case of accident or collision resulting in injury or damage to persons or property upon any public or private property other than public roads or highways, due to the driving or operation thereon of any motor vehicle, the person driving or operating the motor vehicle, having knowledge of the accident or collision, shall stop, and, upon request of the person injured or damaged, or any other person, shall give that person the driver's or operator's name and address, and, if the driver or operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, and, if available, exhibit the driver's or operator's driver's or commercial driver's license.

(2) If the owner or person in charge of the damaged property is not furnished such information, the driver of the motor vehicle involved in the accident or collision, within 24 hours after the accident or collision, shall forward to the police department of the municipality the same information required to be given to the owner or person in control of the damaged property and give the date, time, and location of the accident or collision.

(3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.

(B) Whoever violates division (A) of this section is guilty of failure to stop after a nonpublic road accident, a misdemeanor of the first degree. If the violation results in serious physical harm or death to a person, failure to stop after a nonpublic road accident is a felony to be prosecuted under appropriate state law. The court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(5). No judge shall suspend the first 6 months of suspension of an offender's license, permit, or privilege required by this division.

(R.C. § 4549.021)

**§ 72.087 ACCIDENT INVOLVING DAMAGE TO REALTY.**

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

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

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

(R.C. § 4549.03)

**§ 72.088 FAILURE TO REPORT ACCIDENT.**

(A) No person shall fail to report a motor vehicle accident as required under state or local law.

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

(R.C. § 4509.74)

**PROHIBITIONS**

**§ 72.100 OBSTRUCTION AND INTERFERENCE AFFECTING VIEW AND CONTROL OF DRIVER.**



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(A) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, as to obstruct the view of the driver to the front or sides of the vehicle, or to interfere with the driver's control over the driving mechanism of the vehicle.

(B) No passenger in a vehicle shall ride in a position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

(C) No person shall open the door of a vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

(D) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.70)

### **§ 72.101 DRIVING ON CLOSED ROADS.**

No person shall drive upon or along any park road or drive which has been closed or posted with appropriate signs or barricades. No person in a park shall drive around, cause to be moved, or damage any barricade barrier, so placed to temporarily or permanently close a road to sign traffic.

(Rules and Regs. § 16.3) Penalty, see § 70.99

### **§ 72.102 FOLLOWING AN EMERGENCY OR PUBLIC VEHICLE PROHIBITED; APPROACHING STATIONARY PUBLIC SAFETY VEHICLE WITH CAUTION.**

(A) *Following an emergency or public vehicle prohibited.* The driver of any vehicle, other than an emergency vehicle or public safety vehicle on official business, shall not follow any emergency vehicle or public safety vehicle traveling in response to an alarm closer than 500 feet, or drive into or park the vehicle within the block where the fire apparatus has stopped in answer to a fire alarm, unless directed to do so by a police officer or a firefighter.

(R.C. § 4511.72(A))

(B) *Approaching stationary public safety vehicle with caution.*

(1) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, an emergency vehicle, or a road service vehicle that is displaying the appropriate visual signals by means of flashing, oscillating, or rotating lights, as prescribed in R.C. § 4513.17, shall do either of the following:

(a) If the driver of the motor vehicle is traveling on a highway that consists of at least 2 lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to

the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, an emergency vehicle, or a road service vehicle.

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

(2) This division (B) does not relieve the driver of a public safety vehicle, an emergency vehicle, or a road service vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(3) No person shall fail to drive a motor vehicle in compliance with divisions (B)(1)(a) or (B)(1)(b) of this section when so required by division (B) of this section. (R.C. § 4511.213(A) - (C))

(C) *Penalty.*

(1) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(2) Notwithstanding R.C. § 2929.28, upon a finding that a person operated a motor vehicle in violation of division (B)(3) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of 2 times the usual amount imposed for the violation.

(R.C. §§ 4511.213(D), 4511.72(B))

## **§ 72.103 SLOW SPEED; SPEED LIMIT.**

(A) *Slow speed.*

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

(2) Whenever the Director of Transportation or local authorities determine on the basis of an engineering and traffic investigation that slow speeds on any part of a controlled-access highway, expressway, or freeway consistently impede the normal and reasonable movement of traffic, the Director or such local authority may declare a minimum speed limit below which no person shall operate a motor vehicle, except when necessary for safe operation or in compliance with the law. No minimum speed limit established hereunder shall be less than 30 miles per hour, greater than 50 miles per hour, nor effective until the provisions of R.C. § 4511.21 or a substantially similar municipal ordinance, relating to appropriate signs, have been fulfilled and local authorities have obtained the approval of the Director.

(3) In a case involving a violation of this section, the trier of fact, in determining whether the vehicle was being operated at an unreasonably slow speed, shall consider the capabilities of the vehicle and its operator.

(R.C. § 4511.22)

(B) *Speed limit.* No person in a park shall operate a motor vehicle at a greater speed than will permit him or her to bring it to a stop within the assured clear distance ahead, but in no event at a greater speed than the posted speed limit.

(Rules and Regs. § 16.4)

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.22)

#### **§ 72.104 TRANSPORTING CHILD NOT IN CHILD RESTRAINT SYSTEM PROHIBITED.**

(A) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in R.C. § 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

- (1) A child who is less than 4 years of age;
- (2) A child who weighs less than 40 pounds.

(B) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased, or otherwise under the control of a nursery school or day-care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

- (1) A child who is less than 4 years of age;
- (2) A child who weighs less than 40 pounds.

(C) When any child who is less than 8 years of age and less than 4 feet 9 inches in height, who is not required by division (A) or (B) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in R.C. § 4511.01 or a vehicle that is regulated under R.C. § 5104.011, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.

(D) When any child who is at least 8 years of age but not older than 15 years of age, and who is not otherwise required by division (A), (B), or (C) of this section to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in R.C. § 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal

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motor vehicle safety standards or in an occupant restraining device as defined in R.C. § 4513.263.

(E) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of division (C) or (D) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of division (C) or (D) of this section or causing the arrest of or commencing a prosecution of a person for a violation of division (C) or (D) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of division (C) or (D) of this section has been or is being committed.

(F) The Director of Public Safety shall adopt such rules as are necessary to carry out this section.

(G) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat, or an occupant restraining device as required in this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.

(H) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this state under R.C. Chapter 4731 or a chiropractor licensed to practice in this state under R.C. Chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat, or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician or chiropractor as noted on the affidavit.

(I) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation, or summons issued for violating this section.

(J) (1) Whoever violates division (A), (B), (C), or (D) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than 1 child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:

(a) Except as otherwise provided in division (J)(1)(b) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than \$25 nor more than \$75.

(b) If the offender previously has been convicted of or pleaded guilty to a violation of division (A), (B), (C), or (D) of this section or of a state law or municipal

ordinance that is substantially equivalent any of those divisions, the offender is guilty of a misdemeanor of the fourth degree.

(2) All fines imposed pursuant to division (J)(1) of this section shall be forwarded to the State Treasurer for deposit in the Child Highway Safety Fund created by R.C. § 4511.81(I).

(R.C. § 4511.81(A) - (H), (K), (L))

(G) *State law penalty.*

(1) Whoever is a resident of this state and violates division (A) or (B) of this section shall be punished as follows:

(a) Except as otherwise provided in division (G)(1)(b) of this section, the offender is guilty of a minor misdemeanor.

(b) If the offender previously has been convicted of or pleaded guilty to a violation of division (A) or (B) or a state law or municipal ordinance that is substantially similar to either of those divisions, the offender is guilty of a misdemeanor of the fourth degree.

(2) Whoever is not a resident of this state, violates division (A) or (B) of this section, and fails to prove by a preponderance of the evidence that his or her use or nonuse of a child restraint system was in accordance with the law of the state of which he or she is a resident is guilty of a minor misdemeanor on a first offense; on a second or subsequent offense, that person is guilty of a misdemeanor of the fourth degree.

(3) All fines imposed pursuant to this division shall be forwarded to the State Treasurer for deposit in the child highway safety fund created by R.C. § 4511.81.

(R.C. § 4511.99(H))

## § 72.105 OCCUPANT RESTRAINING DEVICES.

(A) *Definitions.* As used in this section:

**AUTOMOBILE.** Means any commercial tractor, passenger car, commercial car, or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966", 80 Stat. 719, 15 U.S.C. § 1392.

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

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

**OCCUPANT RESTRAINING DEVICE.** A seat safety belt, shoulder belt, harness, or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum federal vehicle safety standards established by the United States Department of Transportation.

**PASSENGER.** Any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

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

**TORT ACTION.** A civil action for damages for injury, death, or loss to person or property. The term includes a product liability claim, as defined in R.C. § 2307.71, and as asbestos claim, as defined in R.C. § 2307.91, but does not include a civil action for damages for breach of contract or another agreement between persons.

**VEHICLE** and **MOTOR VEHICLE**. As used in the definitions of the terms set forth above, **VEHICLE** and **MOTOR VEHICLE** have the same meanings as in R.C. § 4511.01.

(B) *Prohibited acts*. No person shall do any of the following:

(1) Operate an automobile on any street or highway unless he or she is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless he or she is wearing all of the available elements of the device, as properly adjusted.

(2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device.

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless he or she is wearing all of the available elements of a properly adjusted occupant restraining device.

(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(C) *Exceptions*. Division (B)(3) of this section does not apply to a person who is required by R.C. § 4511.81 or a substantially equivalent municipal ordinance to be secured in a child restraint device or booster seat. Division (B)(1) of this section does not apply to a person who is an employee of the United States Postal Service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees. Divisions (B)(1) and (B)(3) of this section do not apply to a person who has an affidavit signed by a physician licensed to practice in this state under R.C. Chapter 4731 or a chiropractor licensed to practice in this state under R.C. Chapter 4734 that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

(D) *Officers not permitted to stop cars to determine violation*. Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (B) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for the violation or for causing the arrest of or commencing a prosecution of a person for the violation. No law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether the violation has been or is being committed.

(E) *Use of fines for educational program*. All fines collected for violations of division (B) of this section shall be forwarded to the State Treasurer for deposit in the funds as set forth in R.C. § 4513.263(E).

(F) *Limitations on evidence used for prosecution*.

(1) Subject to division (F)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(1) or (B)(3) of this section or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(2) of this section shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But, the trier of fact may determine based on evidence admitted consistent with the Ohio Rules of Evidence that the failure contributed to the harm

alleged in the tort action and may diminish a recovery of compensatory damages that represents non-economic loss, as defined in R.C. § 2307.011, in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.

(2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:

- (a) It seeks to recover damages for injury or death to the occupant;
- (b) The defendant in question is the manufacturer, designer, distributor, or seller of the passenger car;
- (c) The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.

(G) *Penalty.*

- (1) Whoever violates division (B)(1) of this section shall be fined \$30.
- (2) Whoever violates division (B)(2) shall be subject to the penalty set forth in § 70.99(B).
- (3) Whoever violates division (B)(3) of this section shall be fined \$20.
- (4) Except as otherwise provided in this division, whoever violates division (B)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of division (B)(4) of this section, whoever violates division (B)(4) of this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4513.263)

## **§ 72.106 STREET RACING DEFINED; PROHIBITED ON PUBLIC HIGHWAYS.**

(A) *Definition.* As used in this section, **STREET RACING** means the operation of 2 or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of 1 or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds. Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants. The operation of 2 or more vehicles side by side either at speeds in excess of prima facie lawful speeds established by R.C. § 4511.21(B)(1)(a) through (B)(8) or a substantially similar municipal ordinance, or rapidly accelerating from a common starting point to a speed in excess of such prima facie lawful speeds shall be prima facie evidence of street racing.



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

(C) *State law penalty.* Whoever violates this section is guilty of street racing, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privileges for not less than 30 days or more than 3 years. No judge shall suspend the first 30 days of any suspension of an offender's license, permit, or privilege imposed under this division.  
(R.C. § 4511.251)

### **§ 72.107 DRIVING THROUGH SAFETY ZONE.**

(A) No vehicle shall at any time be driven through or within a safety zone.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.60)

### **§ 72.108 OPERATING MOTOR VEHICLE WHILE WEARING EARPHONES OR EARPLUGS.**

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

(B) This section does not apply to:

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

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.84)

**§ 72.109 DEFACEMENT OF SURFACE.**

No person in a park shall intentionally accelerate a motor vehicle causing the rubber tires to mark or deface park roadway surfaces.

(Rules and Regs. § 16.11) Penalty, see § 70.99

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**CHAPTER 73: PARKING REGULATIONS**

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Section

- 73.01 Condition when motor vehicle left unattended
- 73.02 Officer may remove ignition key
- 73.03 Parking permitted in designated parking areas only
- 73.04 After hours parking
- 73.05 Handicapped parking

***Cross-reference:***

*Impounding vehicles in violation, see § 70.04*

**§ 73.01 CONDITION WHEN MOTOR VEHICLE LEFT UNATTENDED.**

(A) (1) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake, and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.

(2) The requirements of this section relating to the stopping of the engine, locking of the ignition, and removing the key from the ignition of a motor vehicle shall not apply to an emergency vehicle or a public safety vehicle.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.661)

**§ 73.02 OFFICER MAY REMOVE IGNITION KEY.**

A law enforcement officer may remove the ignition key left in the ignition switch of an unlocked and unattended motor vehicle parked on a street or highway. The officer removing the key shall place notification upon the vehicle detailing his or her name and badge number, the

place where the key may be reclaimed, and the procedure for reclaiming the key. The key shall be returned to the owner of the motor vehicle upon presentation of proof of ownership. (R.C. § 4549.05)

**§ 73.03 PARKING PERMITTED IN DESIGNATED PARKING AREAS ONLY.**

No person shall park any motor vehicle, bicycle, or other vehicle within any traveled roadway within the park or any location where posted signs prohibit parking except in emergencies, or upon any sod, gravel or other surface not specifically designated as a parking area.

(Rules and Regs. § 16.5) Penalty, see § 70.99

**§ 73.04 AFTER HOURS PARKING.**

No person shall leave a vehicle in a park during the hours when a park is closed.

(Rules and Regs. § 16.6) Penalty, see § 70.99

**§ 73.05 HANDICAPPED PARKING.**

No person who is not handicapped or operating a motor vehicle to transport a handicapped person shall stop, stand, or park any motor vehicle at specially designated locations provided for the handicapped.

(Rules and Regs. § 16.12) Penalty, see § 70.99

***Statutory reference:***

*Privileges for persons with disabilities, see R.C. § 4511.69*

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## **CHAPTER 74: EQUIPMENT AND LOADS**

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Section

***Equipment***

- 74.01 Driving a vehicle in an unsafe condition
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## EQUIPMENT

### § 74.01 DRIVING A VEHICLE IN AN UNSAFE CONDITION.

No person shall drive or move within the park any vehicle or combination of vehicles which is in an unsafe condition so as to endanger any person. This includes the provisions of R.C. §§ 4513.01 to 4513.65 inclusive, and R.C. § 4513.99(A).  
(Rules and Regs. § 16.15)

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

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

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

**MULTIPURPOSE PASSENGER VEHICLE** means a motor vehicle with motive power, except a motorcycle, designed to carry 10 persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.

**PASSENGER CAR** means any motor vehicle with motive power, designed for carrying 10 persons or less, except a multipurpose passenger vehicle or motorcycle.

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

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

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

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

(E) *Heavy duty equipment; normal wear.* Nothing contained in this section or in the rules adopted pursuant to R.C. § 4513.021 shall be construed to prohibit either of the following:

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

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

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

(G) *State law penalty.* Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of this section or R.C. § 4513.021, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4513.021)

***Statutory reference:***

*Maximum height on bumpers, see O.A.C. Chapter 4501-43*

**§ 74.03 LIGHTED LIGHTS REQUIRED.**

(A) Every vehicle, other than a motorized bicycle, operated upon a street or highway within this state shall display lighted lights and illuminating devices as required by R.C. §§ 4513.04 to 4513.37 during all of the following times:

(1) The time from sunset to sunrise;

(2) At any other time when, due to insufficient natural light or unfavorable atmospheric conditions, persons, vehicles, and substantial objects on the highway are not discernible at a distance of 1,000 feet ahead;

(3) At any time when the windshield wipers of the vehicle are in use because of precipitation on the windshield.

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

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

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

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

(R.C. § 4513.03)

(F) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.

(R.C. § 4513.99)

#### **§ 74.04 HEADLIGHTS.**

(A) (1) Every motor vehicle, other than a motorcycle, shall be equipped with at least 2 headlights with at least 1 near each side of the front of the motor vehicle.

(2) Every motorcycle shall be equipped with at least 1 and not more than 2 headlights.

(R.C. § 4513.04)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.

(R.C. § 4513.99)

#### **§ 74.05 TAIL LIGHTS AND ILLUMINATION OF REAR LICENSE PLATE.**

(A) (1) Every motor vehicle, trailer, semitrailer, pole trailer or vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least 1 tail light mounted on the rear which, when lighted, shall emit a red light visible from a distance of 500 feet to the rear, provided that in the case of a train of vehicles only the tail light on the rearmost vehicle need be visible from the distance specified.

(2) Either a tail light or a separate light shall be so constructed and placed as to illuminate with a white light the rear registration plate, when such registration plate is required, and render it legible from a distance of 50 feet to the rear. Any tail light, together with any separate light for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlights or auxiliary driving lights are lighted, except where separate lighting systems are provided for trailers for the purpose of illuminating such registration plate.

(R.C. § 4513.05)

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(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.  
(R.C. § 4513.99)

### **§ 74.06 STOPLIGHT REGULATIONS.**

(A) (1) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a highway shall be equipped with 2 or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least 1 stop light. Stop lights shall be mounted on the rear of the vehicle, actuated upon application of the service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of 500 feet to the rear; provided that in the case of a train of vehicles only the stop lights on the rearmost vehicle need be visible from the distance specified.

(2) Such stop lights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.

(3) When stop lights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under R.C. § 4513.19.

(4) Historical motor vehicles as defined in R.C. § 4503.181, not originally manufactured with stop lights, are not subject to this section.  
(R.C. § 4513.071)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.  
(R.C. § 4513.99)

### **§ 74.07 RED LIGHT OR FLAG REQUIRED.**

Whenever the load upon any vehicle extends to the rear 4 feet or more beyond the bed or body of this vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in R.C. § 4513.03 or a substantially similar municipal ordinance, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required by this section is in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 16 inches square.  
(R.C. § 4513.09)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of



the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.  
(R.C. § 4513.99)

**§ 74.08 LIGHTS ON PARKED VEHICLES.**

(A) Except in case of an emergency, whenever a vehicle is parked or stopped upon a roadway open to traffic or a shoulder adjacent thereto, whether attended or unattended, during the times mentioned in R.C. § 4513.03 or a substantially similar municipal ordinance, such vehicle shall be equipped with 1 or more lights which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of such vehicle, and a red light visible from a distance of 500 feet to the rear. No lights need be displayed upon any such vehicle when it is stopped or parked within the municipality where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon such highway. Any lighted headlights upon a parked vehicle shall be depressed or dimmed.  
(R.C. § 4513.10)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.  
(R.C. § 4513.99)

**§ 74.09 SPOTLIGHT AND AUXILIARY DRIVING LIGHTS.**

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

(2) Any motor vehicle may be equipped with not more than 3 auxiliary driving lights mounted on the front of the vehicle. Any such lights which do not conform to the specifications for auxiliary driving lights and the regulations for their use prescribed by the Director of Public Safety shall not be used.  
(R.C. § 4513.12)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.  
(R.C. § 4513.99)

**§ 74.10 TWO LIGHTS DISPLAYED.**

(A) At all times mentioned in R.C. § 4513.03 or a substantially similar municipal ordinance, at least 2 lighted lights shall be displayed, 1 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.

(R.C. § 4513.14)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.

(R.C. § 4513.99)

#### **§ 74.11 HEADLIGHTS REQUIRED.**

(A) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in R.C. § 4513.03 or a substantially similar municipal ordinance, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons, vehicles and substantial objects at a safe distance in advance of the vehicle, subject to the following requirements:

(1) Whenever the driver of a vehicle approaches an oncoming vehicle, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

(2) Every new motor vehicle registered in this state which has multiple-beam road lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlights is in use, and shall not otherwise be lighted. This indicator shall be so designed and located that, when lighted, it will be readily visible without glare to the driver of the vehicle.

(R.C. § 4513.15)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.

(R.C. § 4513.99)

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

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

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

violator of the law, in which case the driver of the emergency vehicle shall sound such equipment when it is necessary to warn pedestrians and other drivers of the approach thereof.  
(R.C. § 4513.21)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.  
(R.C. § 4513.99)

#### **§ 74.13 MUFFLERS; EXCESSIVE SMOKE OR GAS.**

(A) (1) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

(2) No person shall own, operate or have in the person's possession any motor vehicle or motorcycle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation.  
(R.C. § 4513.22)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.  
(R.C. § 4513.99)

#### **§ 74.14 REARVIEW MIRRORS.**

(A) Every motor vehicle and motorcycle shall be equipped with a mirror so located as to reflect to the operator a view of the highway to the rear of such vehicle or motorcycle. Operators of vehicles and motorcycles shall have a clear and unobstructed view to the front and to both sides of their vehicles and motorcycles and shall have a clear view to the rear of their vehicles and motorcycles by mirror.  
(R.C. § 4513.23)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.  
(R.C. § 4513.99)

#### **§ 74.15 WINDSHIELDS AND WIPERS.**

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

(B) No person shall drive any motor vehicle, other than a bus, with any sign, poster, or other nontransparent material upon the front windshield, sidewings, side, or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster, or decal not to exceed 4 inches in height by 6 inches in width. No sign, poster, or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when, in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.

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

(R.C. § 4513.24)

(D) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.

(R.C. § 4513.99)

**§ 74.16 REQUIREMENTS FOR SAFETY GLASS IN MOTOR VEHICLES; USE OF TINTED GLASS OR REFLECTORIZED MATERIAL.**

(A) *Safety glass.*

(1) No person shall sell any new motor vehicle nor shall any new motor vehicle be registered, and no person shall operate any motor vehicle, which is registered in this state and which has been manufactured or assembled on or after January 1, 1936, unless the motor vehicle is equipped with safety glass, wherever glass is used in the windshields, doors, partitions, rear windows, and windows on each side immediately adjacent to the rear window.

(2) **SAFETY GLASS** means any product composed of glass so manufactured, fabricated, or treated as substantially to prevent shattering and flying of the glass when it is struck or broken, or such other or similar product as may be approved by the Registrar of Motor Vehicles.

(3) Glass other than safety glass shall not be offered for sale, or sold for use in, or installed in any door, window, partition, or windshield that is required by this section to be equipped with safety glass.

(R.C. § 4513.26)

(B) *Tinted or reflectORIZED material.*

(1) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is registered in this state unless the motor vehicle conforms to the requirements concerning tinted

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glass and reflectorized material of R.C. § 4513.241 and of any applicable rule adopted under that section.

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

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

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

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

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

(7) This division (B) does not apply to any school bus that is to be sold and operated outside the municipality.

(R.C. § 4513.241(C) - (I))

(C) (1) Whoever violates division (A) of this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.

(R.C. § 4513.99)

(2) Whoever violates division (B)(1), (2), (3) or (4) of this section is guilty of a minor misdemeanor.

(R.C. § 4513.241(J))

### **Statutory reference:**

*Administrative regulations, see O.A.C. Chapter 4501-41*

## LOADS

### **§ 74.30 SAFETY AND LOAD LIMITS.**

(A) No person in a park shall operate a motor vehicle when such motor vehicle is in excess of the 10-ton gross load limit without a permit from the Director.

(B) **PERMIT** is herein defined as any written permission by the Director.  
(Rules and Regs. § 16.9) Penalty, see § 70.99

### **§ 74.31 PERMIT REQUIRED FOR OPERATION OF TRUCKS IN PARKS.**

(A) No person in a park shall drive a truck, tractor, or other vehicle which is at that time used for the transportation of goods or materials over any park road without a permit from the Director.

(B) **PERMIT** is herein defined as any written permission by the Director.  
(Rules and Regs. § 16.8) Penalty, see § 70.99

**§ 74.32 LIMITATION OF LOAD EXTENSION ON LEFT SIDE OF VEHICLE.**

(A) No passenger-type vehicle shall be operated on a highway with any load carried on the vehicle which extends more than 6 inches beyond the line of the fenders on the vehicle's left side.

(R.C. § 4513.30)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.

(R.C. § 4513.99)

**§ 74.33 ALL LOADS SHALL BE PROPERLY SECURED.**

(A) (1) No vehicle shall be driven or moved on any highway unless the vehicle is so constructed, loaded, or covered as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand or other substances may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining the roadway.

(2) Except for a farm vehicle used to transport agricultural produce or agricultural production materials or a rubbish vehicle in the process of acquiring its load, no vehicle loaded with garbage, swill, cans, bottles, waste paper, ashes, refuse, trash, rubbish, waste, wire, paper, cartons, boxes, glass, solid waste, or any other material of an unsanitary nature that is susceptible to blowing or bouncing from a moving vehicle shall be driven or moved on any highway unless the load is covered with a sufficient cover to prevent the load or any part of the load from spilling onto the highway.

(R.C. § 4513.31)

(C) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within 1 year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within 1 year after the first offense, the person is guilty of a misdemeanor of the third degree.

(R.C. § 4513.99)

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**CHAPTER 75: BICYCLES AND MOTORCYCLES**

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Section

## Five Rivers Metroparks Code of Ordinances

- 75.01 Provisions applicable to bicycles
- 75.02 Bicycle operation permitted on roads or designated trails
- 75.03 Compliance with state law required
- 75.04 Reckless operation
- 75.05 Operation of motorcycles; required equipment
- 75.06 Operation of motorized bicycle
- 75.07 Rules for bicycles, motorcycles, and snowmobiles
- 75.08 Prohibition against attaching bicycles and sleds to vehicles
- 75.09 Riding bicycles; motorcycles abreast
- 75.10 Equipment of bicycles

### **§ 75.01 PROVISIONS APPLICABLE TO BICYCLES.**

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

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

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

(D) Divisions (B) and (C) of this section do not apply to violations of R.C. § 4511.19, or a substantially equivalent municipal ordinance.  
(R.C. § 4511.52)

### **§ 75.02 BICYCLE OPERATION PERMITTED ON ROADS OR DESIGNATED TRAILS.**

No person in a park shall operate a bicycle except on paved roads, or in areas or on trails designated for such purpose.

(Rules and Regs. § 17.1) Penalty, see § 70.99

### **§ 75.03 COMPLIANCE WITH STATE LAW REQUIRED.**



Bicycle operators shall comply with the requirements of all sections of the Ohio Revised Code pertaining to motor vehicles, operators, and bicycles while using MetroParks roads. (Rules and Regs. § 17.2) Penalty, see § 70.99

**§ 75.04 RECKLESS OPERATION.**

No person in a park shall operate a bicycle in a reckless manner so as to endanger the operator or any other person or any property. No person shall operate a bicycle in excess of a speed that will permit him or her to bring it to a stop within the assured clear distance ahead. (Rules and Regs. § 17.3) Penalty, see § 70.99

**§ 75.05 OPERATION OF MOTORCYCLES; REQUIRED EQUIPMENT.**

No person shall operate a motorcycle or motorbike over or upon any roadway within a park without having a muffler in good working order, a fender covering each tire, and in the night time, having a headlight emitting a white light and a taillight emitting red light. (Rules and Regs. § 16.14) Penalty, see § 70.99

**§ 75.06 OPERATION OF MOTORIZED BICYCLE.**

(A) *Generally.* No person shall operate a motorized bicycle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking, unless all of the following conditions are met:

(1) The person is 14 or 15 years of age and holds a valid probationary motorized bicycle license issued after the person has passed the test provided for in this section, or the person is 16 years of age or older and holds either a valid commercial driver's license issued under R.C. Chapter 4506 or a driver's license issued under R.C. Chapter 4507 or a valid motorized bicycle license issued after the person has passed the test provided for in this section, except that if a person is 16 years of age, has a valid probationary motorized bicycle license and desires a motorized bicycle license, the person is not required to comply with the testing requirements provided for in this section.

(2) The motorized bicycle is equipped in accordance with the rules adopted under division (B) of this section and is in proper working order.

(3) The person, if under 18 years of age, is wearing a protective helmet on the person's head with the chin strap properly fastened and the motorized bicycle is equipped with a rearview mirror.

(4) The person operates the motorized bicycle when practicable within 3 feet of the right edge of the roadway obeying all traffic rules applicable to vehicles.

(B) *Adoption, promulgation of rules.* The Director of Public Safety, subject to R.C. Chapter 119, shall adopt and promulgate rules concerning protective helmets, the equipment of motorized bicycles, and the testing and qualifications of persons who do not hold a valid driver's or commercial driver's license. The test shall be as near as practicable to the examination required for a motorcycle operator's endorsement under R.C. § 4507.11. The test shall also

require the operator to give an actual demonstration of the operator's ability to operate and control a motorized bicycle by driving 1 under the supervision of an examining officer.

(C) *Expiration of license.* Every motorized bicycle license expires on the birthday of the applicant in the fourth year after the date it is issued, but in no event shall any motorized bicycle license be issued for a period longer than 4 years.

(D) *One person on motorized bicycle.* No person operating a motorized bicycle shall carry another person upon the motorized bicycle.

(E) *Helmet; rearview mirror.* The protective helmet and rearview mirror required by division (A)(3) of this section shall, on and after January 1, 1985, conform with rules adopted by the Director under division (B) of this section.

(F) *Probationary license laminated.* Each probationary motorized bicycle license or motorized bicycle license shall be laminated with a transparent plastic material.

(G) *State law penalty.* Whoever violates division (A), (D), or (E) of this section is guilty of a minor misdemeanor.

(R.C. § 4511.521)

## **§ 75.07 RULES FOR BICYCLES, MOTORCYCLES, AND SNOWMOBILES.**

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

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

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

(3) No person shall ride upon a motorcycle that is equipped with a saddle other than while sitting astride the saddle, facing forward, with 1 leg on each side of the motorcycle.

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

(5) No person operating a bicycle shall carry any package, bundle, or article that prevents the driver from keeping at least 1 hand upon the handlebars.

(6) No bicycle or motorcycle shall be used to carry more persons at 1 time than the number for which it is designed and equipped, nor shall any motorcycle be operated on a highway when the handlebars or grips are more than 15 inches higher than the seat or saddle for the operator.

(7) No person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. No person who is under the age of 18 years, or who holds a motorcycle operator's endorsement or license bearing a NOVICE designation that is currently in effect as provided in R.C. § 4507.13, shall operate a motorcycle on a highway, or be a passenger on a motorcycle, unless wearing a protective helmet on the person's head, and no other person shall be a passenger on a motorcycle operated by such a

person unless similarly wearing a protective helmet. The helmet, safety glasses, or other protective eye device shall conform with regulations prescribed and promulgated by the Director of Public Safety. The provisions of this paragraph or a violation thereof shall not be used in the trial of any civil action.

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

(D) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.53)

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

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

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

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

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.  
(R.C. § 4511.54)

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

(A) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or 1 proceeding in the same direction.

(B) Persons riding bicycles or motorcycles upon a roadway shall ride not more than 2 abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles or motorcycles.

(C) This section does not require a person operating a bicycle to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so,

including if the lane is too narrow for the bicycle and an overtaking vehicle to travel safely side by side within the lane.

(D) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1e predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.55)

## **§ 75.10 EQUIPMENT OF BICYCLES.**

(A) Every bicycle when in use at the times specified in R.C. § 4513.03 or a substantially similar municipal ordinance shall be equipped with the following:

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

(2) A red reflector on the rear that shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle;

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

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

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

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

(E) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within 1 year of the offense, the offender previously has been convicted of or pleaded guilty to 1 predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within 1 year of the offense, the offender previously has been convicted of 2 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.56)

## **TITLE IX: GENERAL REGULATIONS**

Chapter

- 90. ANIMALS
- 91. BOATING AND WATERCRAFT
- 92. FIRE PREVENTION; FIREWORKS
- 93. ALCOHOLIC BEVERAGES
- 94. PERMITS

## CHAPTER 90: ANIMALS

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Section

- 90.01 Authority to impound or destroy feral or diseased animals
- 90.02 Hunting, trapping or molesting wildlife; trapshooting
- 90.03 Fishing
- 90.04 Fishing license required
- 90.05 Household pets and other animals; pets prohibited in play areas
- 90.06 Releasing or abandoning animals; livestock
- 90.07 Regulation of horses
- 90.08 Jacklighting prohibited

***Cross-reference:***

*Animal compliance with traffic regulations, see § 72.037*

### **§ 90.01 AUTHORITY TO IMPOUND OR DESTROY FERAL OR DISEASED ANIMALS.**

Five Rivers MetroParks shall have the right to impound or destroy any feral or diseased animal found in a park.

(Rules and Regs. § 5.8)

### **§ 90.02 HUNTING, TRAPPING OR MOLESTING WILDLIFE; TRAPSHOOTING.**

(A) No person within the confines of a park shall hunt, pursue with dogs, trap, or in any other way molest any wild bird or animal found within the confines of the park, or rob or molest any bird nest, or take the eggs of any bird.

(Rules and Regs. § 5.1)

(B) (1) *Trapshooting.* Live birds or fowl shall not be used as targets in trapshooting.

(R.C. § 959.17)

(2) *State law penalty.* Whoever violates this division (B) is guilty of a misdemeanor of the fourth degree.

(R.C. § 959.99(C)) Penalty, see § 10.99

### **§ 90.03 FISHING.**

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(A) No person in a park shall fish in park waters in a manner, or at a time, prohibited by R.C. Chapter 1533 as now in effect or as hereafter amended. The use of hooks left unattended, traps, spears or gigs, or bows and arrows for fishing is prohibited.

(B) No person shall fish in park waters in violation of any sign or signs prohibiting fishing or a manner thereof. Ice fishing is permitted at designated areas and times only. (Rules and Regs. §§ 5.2, 5.3) Penalty, see § 10.99

### **§ 90.04 FISHING LICENSE REQUIRED.**

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

(B) *Fee.* The fee for an annual license shall be \$39 for a resident of a state that is not a party to an agreement under R.C. § 1533.91. The fee for an annual license shall be \$18 for a resident of a state that is a party to such an agreement. The fee for an annual license for residents of this state shall be \$18 unless the rules adopted under R.C. § 1533.12(B) provide for issuance of a resident fishing license to the applicant free of charge. Except as provided in rules adopted under R.C. § 1533.12(B)(2), each applicant who is a resident of this state and who at the time of application is 66 years of age or older shall procure a special senior fishing license, the fee for which shall be one-half of the annual resident fishing license fee.

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

(D) *Tourist license; fee.* The chief of the division of wildlife may issue a tourist's license expiring 3 days from the effective date of the license to a resident of a state that is not a party to an agreement under R.C. § 1533.91. The fee for a tourist's license shall be \$18.

(E) *Adoption of rules.* The chief shall adopt rules under R.C. § 1531.10 providing for the issuance of a 1-day fishing license to a resident of this state or of any other state. The fee for such a license shall be 55% of the amount established under this section for a tourist's license, rounded up to the nearest whole dollar. A 1-day fishing license shall allow the holder to take or catch fish by angling in the waters in the state, engage in fishing in those waters, or take or catch frogs or turtles in those waters for 1 day without obtaining an annual license or a tourist's license under this section. At the request of a holder of a 1-day fishing license who wishes to obtain an annual license, a clerk or agent authorized to issue licenses under R.C. § 1533.13, not later than the last day on which the 1-day license would be valid if it were an annual license, shall credit the amount of the fee paid for the 1-day license toward the fee charged for the annual license if so authorized by the chief. The clerk or agent shall issue the annual license upon presentation of the 1-day license and payment of a fee in an amount equal to the difference between the fee for the annual license and the fee for the 1-day license. Unless otherwise



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

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

(G) *Fraud; procurement of license.* No person shall procure or attempt to procure a fishing license by fraud, deceit, misrepresentation, or any false statement.

(H) *Exemption.* Owners of land over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, together with the members of the immediate families of such owners, may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. This exemption extends to tenants actually residing upon such lands and to the members of the immediate families of the tenants. Residents of state or county institutions, charitable institutions, and military homes in this state may take frogs and turtles without procuring the required license, provided that a member of the institution or home has an identification card, which shall be carried on that person when fishing.

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

(R.C. § 1533.32)

(J) *State law penalty.* Whoever violates any provision of this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 1533.99(F)) Penalty, see § 10.99

### **§ 90.05 HOUSEHOLD PETS AND OTHER ANIMALS; PETS PROHIBITED IN PLAY AREAS.**

(A) No persons shall bring pets or other animals onto the grounds of Cox Arboretum, Stillwater Gardens, Aullwood Garden or the farm complexes at Carriage Hill and Possum Creek MetroPark.

(B) No persons shall bring, permit, have or keep in the park any dog, cat, household pet or other animal destructive to birds and other wildlife, except that dogs or cats are permitted if they are controlled at all times on a leash not more than 8 feet long.

(C) No pets or other animals shall be allowed to become obnoxious or disturbing to the other users of park facilities.

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

(E) Pets are not permitted in play equipment areas in a park.

(Rules and Regs. §§ 5.4, 5.5) Penalty, see § 10.99

### **§ 90.06 RELEASING OR ABANDONING ANIMALS; LIVESTOCK.**

No person shall herd, graze, drive or permit to run at large within a park, any cattle, horse, mule, donkey, goat, swine, sheep or other animal, or any poultry or other fowl.

(Rules and Regs. §§ 5.6, 5.7) (Amendment approved 3-13-2009) Penalty, see § 10.99



***Cross-reference:***

*Regulations for permits for use of MetroParks, see Chapter 94*

**§ 90.07 REGULATION OF HORSES.**

(A) No person in a park shall ride a horse except in areas or on trails designated for this use.

(B) No person in a park shall ride a horse in such manner as to endanger the rider, the horse or any other person or any property. Horseback riders in a park shall yield right-of-way to pedestrians and motorists at points where bridle trails intersect foot trails, roads, drives and parkways.

(C) No person in a park shall leave a horse unattended other than for the purpose of stabling at a designated stable.

(D) No person in a park shall over-ride, cruelly mistreat, mutilate, or torture a horse. (Rules and Regs. § 12) Penalty, see § 10.99

**§ 90.08 JACKLIGHTING PROHIBITED.**

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

(B) *Exception.* This section does not apply to law enforcement officers, wildlife officers, military personnel, and officers or employees of the Department of Natural Resources while in the performance of their duties, or to any landowner or lessee having a reason to use a light while engaged in surveillance or protection of his or her property.

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

(R.C. § 1533.161)

(D) *State law penalty.* Whoever violates division (A) of this section is guilty of a misdemeanor of the third degree.

(R.C. § 1533.99(B))

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**CHAPTER 91: BOATING AND WATERCRAFT**

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Section

- 91.01 Watercraft operation permitted only on designated waters
- 91.02 Compliance with state law required
- 91.03 Restrictions on child operators; duty of supervisory adult
- 91.04 Safe operation
- 91.05 Unlicensed inflatable watercraft prohibited; freestyle maneuvers

## Five Rivers Metroparks Code of Ordinances

- 91.06 Motorboats on Huffman Lake and Miller Lakes
- 91.07 Regulations for Eastwood Lake
- 91.08 Provisions not applicable to authorized competitions

### ***Statutory reference:***

*Watercraft certificates of title, see R.C. Chapter 1548*

*Watercraft, vessels and waterways, see R.C. Chapter 1547*

### **§ 91.01 WATERCRAFT OPERATION PERMITTED ONLY ON DESIGNATED WATERS.**

No person in a park shall operate a watercraft on any park waters except those designated by the Director.

(Rules and Regs. § 14.1) Penalty, see § 10.99

### **§ 91.02 COMPLIANCE WITH STATE LAW REQUIRED.**

All watercraft and their operators shall comply with the requirements of Chapter 1547 and 1548 of the Ohio Revised Code when using any park waters under the jurisdiction of Five Rivers MetroParks.

(Rules and Regs. § 14.2)

### **§ 91.03 RESTRICTIONS ON CHILD OPERATORS; DUTY OF SUPERVISORY ADULT.**

(A) Except as otherwise provided in this division, no person under 16 years of age shall operate a personal watercraft on the waters under the jurisdiction of Five Rivers MetroParks. A person who is not less than 12 nor more than 15 years of age may operate a personal watercraft if a supervising person 18 years of age or older is aboard the personal watercraft and, in the case of a supervising person born on or after January 1, 1982, if the supervising person holds a certificate obtained under R.C. § 1547.05 or, in the case of a rented powercraft, meets the requirements of R.C. § 1547.052(A) and (B).

(B) No person under 12 years of age shall operate any vessel on the waters under the jurisdiction of Five Rivers MetroParks unless the person is under the direct visual and audible supervision, during the operation, of a person who is 18 years of age or older. This division does not apply to a personal watercraft, which shall be governed by division (A) of this section, or to a powercraft, other than a personal watercraft, powered by more than 10 horsepower, which shall be governed by division (C) of this section.

(C) No person under 12 years of age shall operate on the waters under the jurisdiction of Five Rivers MetroParks a powercraft, other than a personal watercraft, powered by more than 10 horsepower unless the person is under the direct visual and audible supervision, during the operation, of a person 18 years of age or older who is aboard the powercraft and, in the case of such a supervising person born on or after January 1, 1982, who holds a certificate obtained

under R.C. § 1547.05 or, in the case of a rented powercraft, meets the requirements of R.C. § 1547.052(A) and (B).

(D) No supervising person 18 years of age or older shall permit any person who is under the supervising person's supervision and who is operating a vessel on the waters in this municipality to violate any section of this chapter, R.C. Chapter 1547 or a rule adopted under it. (R.C. § 1547.06) Penalty, see § 10.99

#### **§ 91.04 SAFE OPERATION.**

(A) No person in a park shall operate a watercraft on park waters in such a manner as to endanger the operator or any other person or any property.

(B) Every watercraft shall at all times maintain a proper lookout by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision. No person shall operate or permit to be operated any watercraft on park waters, in violation of this rule.  
(Rules and Regs. §§ 14.4, 14.15)

#### **§ 91.05 UNLICENSED INFLATABLE WATERCRAFT PROHIBITED; FREESTYLE MANEUVERS.**

(A) No person shall use any unlicensed inflatable watercraft in or on park waterways.

(B) No operator of a personal watercraft, or passenger on a personal watercraft, shall engage in freestyle maneuvers. For the purpose of this section, freestyle maneuvers shall mean the operation or use of a personal watercraft in any manner for which it was not designed.  
(Rules and Regs. §§ 14.6, 14.14)

#### **§ 91.06 MOTORBOATS ON HUFFMAN LAKE AND MILLER LAKES.**

No person shall operate a motorboat, except by electric motor power, on the waters of Huffman Lake and the Englewood North Park Lakes. This, however, shall not prohibit the presence of gas motors on boats at these lakes as long as the motors are not operated. Boat trailers must be parked in designated areas and exist as indicated.  
(Rules and Regs. § 14.5) Penalty, see § 10.99

#### **§ 91.07 REGULATIONS FOR EASTWOOD LAKE.**

(A) No person shall operate a watercraft on the waters of Eastwood Lake in excess of the posted speed limit or at a greater speed than that which will permit him or her to safely bring it to a stop within a distance appropriate to the prevailing circumstances or conditions.

(B) No person shall launch a watercraft on to the waters of Eastwood Lake except in areas specifically designated for that purpose. Rigging of sailboats or making repairs to

watercraft on launching ramps in such a manner as to impede the use of ramps by others is prohibited.

(C) Boat trailers must be parked in designated areas. No person shall knowingly or recklessly launch a watercraft on to the waters of Eastwood Lake when the presence of such watercraft shall exceed the posted boat capacity of the lake.

(D) No person shall operate a watercraft on the waters of Eastwood Lake in a manner which violates any sign or posted regulation which regulates the operation of watercraft.

(E) No person shall operate a watercraft on the waters of Eastwood Lake so as to create a wake, within 100 feet of shore or in any other restricted area.

(Rules and Regs. §§ 14.7, 14.9 - 14.12) Penalty, see § 10.99

### **§ 91.08 PROVISIONS NOT APPLICABLE TO AUTHORIZED COMPETITIONS.**

The provisions of this chapter shall not apply to any watercraft competing in an authorized race as herein provided, held under the auspices of duly incorporated boating or racing associations approved by the Director.

(Rules and Regs. § 14.13)

## **CHAPTER 92: FIRE PREVENTION; FIREWORKS**

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### Section

92.01 Fires

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

*Regulations for permits for use of MetroParks, see Chapter 94*

### **§ 92.01 FIRES.**

No person shall start or maintain a fire in a park except privately owned grills, or fires in designated areas, except that the Director may at his or her discretion prohibit fires for limited periods at any location or for any purpose when necessary for the protection of park property. All fires shall be put out by the person, or persons starting or using the same before leaving the immediate vicinity of the fire. The dumping of hot ashes or fire from portable picnic grills onto the grass or plants is prohibited. No person in a park shall collect wood for any purpose.

(Rules and Regs. § 7) Penalty, see § 10.99

## **CHAPTER 93: ALCOHOLIC BEVERAGES**

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### Section

93.01 Definitions

93.02 Permit required for sale of alcoholic beverages

93.03 Consumption, possession or display of alcoholic beverages

93.04 Bringing alcohol onto permit premises

## Five Rivers Metroparks Code of Ordinances

93.05	Permit required; activities prohibited without permit
93.06	Underage person shall not purchase intoxicating liquor or beer
93.07	Prohibitions; minors under 18 years; low-alcohol beverages
93.08	Misrepresentation to obtain alcoholic beverage for a minor prohibited
93.09	Misrepresentation by a minor under 21 years
93.10	Sale to underage persons prohibited
93.11	Consumption in motor vehicle prohibited

### § 93.01 DEFINITIONS.

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

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

**ALCOHOLIC BEVERAGES.** Beer and/or intoxicating liquor as defined in R.C. § 4301.01.

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

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

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

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

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

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

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

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

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

**INTOXICATING LIQUOR** and **LIQUOR**. All liquids and compounds, other than beer, containing 0.5% or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. **INTOXICATING LIQUOR** and **LIQUOR** include wine even if it contains less than 4% of alcohol by volume, mixed beverages even if they contain less than 4% of alcohol by volume, cider, alcohol, and all solids and confections which contain any alcohol.

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

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

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

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

**NIGHTCLUB**. A place habitually operated for profit, where food is served for consumption on the premises, and 1 or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons.

**PERSON**. Includes firms and corporations.

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

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

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

**SALES AREA OR TERRITORY**. An exclusive geographic area or territory that is assigned to a particular A or B permit holder and that either has 1 or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. **SALES AREA OR TERRITORY** does not include, however, any particular retail location in an exclusive geographic area or territory that had been assigned to another A or B permit holder before April 9, 2001.

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

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

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

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

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

### **§ 93.02 PERMIT REQUIRED FOR SALE OF ALCOHOLIC BEVERAGES.**

No person in a park shall sell or offer for sale any intoxicating liquor or alcoholic beverage, without a permit from the Director.  
(Rules and Regs. § 6.10) Penalty, see § 10.99

***Cross-reference:***

*Regulations for permits for use of MetroParks, see Chapter 94*

### **§ 93.03 CONSUMPTION, POSSESSION OR DISPLAY OF ALCOHOLIC BEVERAGES.**

No person shall consume, possess or display the presence of any alcoholic beverage in a park, except within a reserved building or area which, pursuant to a permit issued by the Director, has been temporarily reserved by a person or persons to the exclusion of the general public. For the purpose of this section, the term **ALCOHOLIC BEVERAGES** shall mean beer and/or intoxicating liquor as defined in R.C. § 4301.01.

(Rules and Regs. § 6.13) Penalty, see § 10.99

***Cross-reference:***

*Regulations for permits for use of MetroParks, see Chapter 94*

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

No person in a park shall have in his or her possession an opened container of beer or intoxicating liquor within the designated premises of the holder of any permit from the Department of Liquor Control as defined in R.C. § 4301.62 except as lawfully purchased from the permit holder for consumption on the designated premises.

(Rules and Regs. § 6.14) Penalty, see § 10.99

### **§ 93.05 PERMIT REQUIRED; ACTIVITIES PROHIBITED WITHOUT PERMIT.**



## Five Rivers Metroparks Code of Ordinances

### (A) *Permit required.*

(1) No person personally or by the person's clerk, agent, or employee, shall manufacture, manufacture for sale, offer, keep, or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this state, or transport, import, or cause to be transported or imported any beer, intoxicating liquor, or alcohol in or into this municipality for delivery, use or sale, unless the person has fully complied with R.C. Chapters 4301 and 4303 or is the holder of a permit issued by the Division of Liquor Control and in force at the time.

(2) No manufacturer, supplier, wholesale distributor, broker, or retailer of beer or intoxicating liquor, or other person shall employ, retain, or otherwise utilize any person in this state to act as an employee, agent, solicitor, or salesperson, or act in any other representative capacity to sell, solicit, take orders, or receive offers to purchase or expressions of interest to purchase beer or intoxicating liquor from any person, at any location other than a liquor permit premises, except as specifically authorized by R.C. Chapter 4301 or R.C. Chapter 4303 or rules adopted thereunder. No function, event, or party shall take place at any location other than a liquor permit premises where any person acts in any manner to sell, solicit, take orders, or receive offers to purchase or expressions of intent to purchase beer or intoxicating liquor to or from any person, except as specifically authorized by R.C. Chapter 4301 or R.C. Chapter 4303 Code or rules adopted thereunder.

(R.C. § 4303.25)

### (B) *Activities prohibited without permit.*

(1) No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A permit issued by the Division of Liquor Control, in force at the time, and authorizing the manufacture of beer or intoxicating liquor, or who is not an agent or employee of the Department authorized to manufacture beer or intoxicating liquor, shall manufacture any beer or intoxicating liquor for sale, or shall manufacture spirituous liquor.

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

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

(R.C. § 4301.58)

(C) *State law penalty.* Whoever violates division (B) of this section is guilty of a misdemeanor of the first degree.

(R.C. § 4301.99(C))

## **§ 93.06 UNDERAGE PERSON SHALL NOT PURCHASE INTOXICATING LIQUOR OR BEER.**

Five Rivers Metroparks Code of Ordinances

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person under the age of 21 years shall purchase beer or intoxicating liquor.  
(R.C. § 4301.63)

(B) Whoever violates this section shall be fined not less than \$25 nor more than \$100. The court imposing a fine for a violation of this section may order that the fine be paid by the performance of public work at a reasonable hour rate established by the court. The court shall designate the time within which the public work shall be completed.  
(R.C. § 4301.99(E))

**§ 93.07 PROHIBITIONS; MINORS UNDER 18 YEARS; LOW-ALCOHOL BEVERAGES.**

(A) *Definition.* As used in this section, **UNDERAGE PERSON** means a person under 18 years of age.

(B) *Purchase by underage person.* No underage person shall purchase any low-alcohol beverage.

(C) *Underage person; order, pay, share cost.* No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.

(D) *False information as to name, age, identification of underage person.* No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.

(E) *Knowingly provide false information.* No underage person shall knowingly show or give false information concerning his or her name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this municipality.

(F) *Physician, religious purposes.* No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his or her practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

(G) (1) *Knowingly allow underage person to remain on premises.* No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low-alcohol beverage.

(2) *Exemption from liability.* An owner of a public or private place is not liable for acts or omissions in violation of division (G)(1) that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(H) *Permit; non suspension, revocation* No permit issued by the Division of Liquor Control shall be suspended, revoked, or cancelled because of a violation of either division (F) or (G).

(I) *Exception.* No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless he or she is accompanied by a parent,

spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of his or her practice or given for established religious purposes.

(J) *Parent, spouse; violation.* No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section.

(R.C. § 4301.631)

(K) *State law penalty.*

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

(R.C. § 4301.99(B))

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

(R.C. § 4301.99(E))

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

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

(R.C. § 4301.633)

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

(R.C. § 4301.99(C))

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

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

(R.C. § 4301.634)

(B) *State law penalty.*

(1) Whoever violates division (A) of this section is guilty of a misdemeanor of the first degree. If, in committing a first violation of division (A), the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by

any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$250 and not more than \$1,000, and may be sentenced to a term of imprisonment of not more than 6 months.

(2) On a second violation in which, for the second time, the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$500 nor more than \$1,000, and may be sentenced to a term of imprisonment of not more than 6 months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operation privilege from the range specified in R.C. § 4510.02(A)(7).

(3) On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$500 nor more than \$1,000, and may be sentenced to a term of imprisonment of not more than 6 months. The court also shall impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of 21 years. The court also may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

(R.C. § 4301.99(F))

### **§ 93.10 SALE TO UNDERAGE PERSONS PROHIBITED.**

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

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

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

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

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

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

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

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

(2) *Diversion program.*

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

(b) If a person is charged in a criminal complaint with violating division (E)(1) of this section, R.C. § 2935.36 shall apply to the offense, except that a person is ineligible for diversion under that section if the person previously has been diverted pursuant to divisions (E)(2)(a) or (E)(2)(b) of this section. If the person completes the diversion program to

the satisfaction of the court, the court shall dismiss the complaint and order the record in the case sealed under R.C. § 2953.52. If the person fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(F) *Parent, spouse; violation.* No parent, spouse who is not an underage person, or legal guardian of a minor shall knowingly permit the minor to violate this section or R.C. §§ 4301.63, 4301.633, or 4301.634, or any substantially similar municipal ordinance.

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

(H) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

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

**LICENSED HEALTH PROFESSIONAL AUTHORIZED TO PRESCRIBE DRUGS and PRESCRIPTION.** Have the same meanings as in R.C. § 4729.01.

**MINOR.** A person under the age of 18 years.

**UNDERAGE PERSON.** A person under the age of 21 years.

(R.C. § 4301.69)

(I) *Affect of R.C. §§ 4301.633 through 4301.637.* The provisions of R.C. §§ 4301.633 through 4301.637, or substantially similar municipal ordinances, shall not be deemed to modify or affect divisions (A) through (H) of this section or R.C. § 4301.69.

(R.C. § 4301.638)

(J) *State law penalty.*

(1) Except as provided in division (J)(2) of this section, whoever violates this section is guilty of a misdemeanor of the first degree. If an offender who violates division (E)(1) of this section was under the age of 18 years at the time of the offense and the offense occurred while the offender was the operator of or a passenger in a motor vehicle, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit or probationary driver's license for a period of 6 months. If the offender is 15 years and 6 months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of 6 months. If the offender has not attained the age of 15 years and 6 months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.

(R.C. § 4301.99(C))

(2) Whoever violates division (A) of this section is guilty of a misdemeanor, shall be fined not less than \$500 nor more than \$1000, and in addition to the fine, may be imprisoned for a definite term of not more than 6 months.

(R.C. § 4301.99(I))

### **§ 93.11 CONSUMPTION IN MOTOR VEHICLE PROHIBITED.**

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



(R.C. § 4301.64)

(B) *State law penalty.* Whoever violates this section is guilty of a misdemeanor of the fourth degree. If an offender who violates this section was under the age of 18 years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit, probationary driver's license or driver's license for a period of not less than 6 months and not more than one year. If the offender is 15 years and 6 months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of 6 months. If the offender has not attained the age of 15 years and 6 months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.

(R.C. § 4301.99(B))

## CHAPTER 94: PERMITS

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### Section

94.01	In general; supplemental guidelines
94.02	Permit requirement
94.03	Application for permits
94.04	Processing of application for permits
94.05	Certain routine permits
94.06	Procedures for review; waivers
94.07	Fines

### **§ 94.01 IN GENERAL; SUPPLEMENTAL GUIDELINES.**

To assure good order and the reasonable use of the area and facilities for which a permit is granted, the Executive Director or his or her designee may grant a permit on an exclusive basis for a particular place and time. Subject to the foregoing, and except as hereinafter provided, all MetroParks facilities may be used by members of the general public, without permit, for recreational purposes not inconsistent with the MetroParks Rules and Regulations, the nature of the facility and the safety of the public and of MetroParks property. The Executive Director may, from time to time, establish supplemental guidelines based on the intended use and classification of each facility in the MetroParks system (see § 94.02(D)) and for obtaining permits pursuant to this chapter. Such guidelines shall be based on a due regard for the purpose for which the facility is established, the safety of those using the facility, of park employees and of the public, the safety and maintenance of MetroParks property, the need for and the availability of supervisory personnel, and the maximum number of people who can safely use the facility at one time.

(Approved 3-13-2009)

### **§ 94.02 PERMIT REQUIREMENT.**



## Five Rivers Metroparks Code of Ordinances

- (A) *General.* No person shall, without a permit:
- (1) Conduct, sponsor or promote any meeting, speech, picnic or other public activity involving more than 200 individuals;
  - (2) Circulate or distribute any leaflets, handbills, notices, pamphlets, books, documents or papers of any kind in any special event facility, limited use area or other area not designated for public assembly;
  - (3) Conduct any exhibit, music or dramatic performance, wedding, fair, circus, concert, festival, parade, play, radio or television broadcast, other than a news transmission;
  - (4) Exhibit or display any motion picture, television program, light or laser light display, or similar event; or film a media broadcast (other than a news transmission), motion picture, or still commercially distributed photography;
  - (5) Operate a vehicle (other than a personal mobility device for handicap accessibility), except upon park roadways or parking lots, or upon a publicly dedicated street, alley, watercourse or other thoroughfare which may abut or traverse a park;
  - (6) Operate or play a radio, TV, musical instrument or other amplifying or sound equipment, except that an individual may operate a radio, recorder, compact disc player or other device possessed and used by an individual for his or her own enjoyment so long as it is operated in such a manner as not to interfere with the use and enjoyment of the park by any other person;
  - (7) Station or erect any building, tent, play equipment, mechanical ride, canopy, stand, bandstand, stage, tower, scaffold, sound stage, platform, rostrum or other structure (except beach umbrellas and similar items to provide personal shade);
  - (8) Station or use any electrical or electronic device or equipment that would require outdoor auxiliary power;
  - (9) Sell or offer for sale any article, thing, privilege or service (unless such sale or offer is pursuant to a contract with MetroParks), or otherwise use a park for commercial purposes;
  - (10) Post, distribute or place any sign, advertisement, circular, notice or statement, or display any banner, emblem or design, other than a permanent sign (painted or otherwise not readily removable) on a vehicle; or display, post or distribute any other writing containing commercial advertising matter within the MetroParks system;
  - (11) Bring, land or cause to ascend or descend or alight within MetroParks property, any airplane, helicopter, flying machine, hot air balloon, parachute or other apparatus for aviation;
  - (12) Conduct any sporting event (i.e., a pre-arranged activity involving organized teams or clubs, spectators or the like);
  - (13) Bring onto MetroParks property a non-domestic animal or release or abandon any animal, domestic or wild;
  - (14) Possess, ignite or discharge any fireworks or have in his or her possession or detonate any explosives or explosive devices;
  - (15) Sell or offer for sale any intoxicating liquor or alcoholic beverage (see § 93.02); or consume, possess or display the presence of any alcoholic beverage (see § 93.03);
  - (16) Take surveys or collect signatures in a place other than an area designated as a public forum

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(which, for these purposes, shall include the parking and public areas adjacent to the Second Street Public Market, but not the market building itself);

(17) Ride any horse except on designated horse trails;

(18) Conduct a religious or political event (i.e., a pre-arranged activity, ceremony, speech, parade, rally or the like);

(19) Remove any property, or part thereof, which is owned, leased, managed or otherwise controlled by MetroParks, from a park (see § 131.13(A) of these Rules);

(20) Camp or establish or maintain any camp or other temporary lodging or overnight sleeping place within a park in other than a designated camping area.

(B) *Permits for activities involving more than 500 individuals.* No activity involving more than 500 individuals shall be held within 2,500 feet nor within 2 hours of any other activity involving more than 500 individuals.

(C) *Events sponsored by MetroParks.* No permit shall be required for an event or activity sponsored or co-sponsored by MetroParks. The Executive Director may nevertheless require co-sponsors to comply with those portions of the permit requirements that the Executive Director deems applicable.

(D) All park property is classified under the following system:

(1) Public forums:

(a) Special event facilities, such as Island MetroPark band shell and RiverScape MetroPark pavilion.

(b) Temporary festival areas.

(c) All land areas not designated as "limited use" or "not designated for public assembly."

(2) Limited use areas:

(a) Second Street Public Market.

(b) Farm facilities, fields, buildings, structures, improvements, riding center and other areas associated with the farms at Carriage Hill MetroPark and Possum Creek MetroPark.

(c) All visitor centers, education buildings and other public use buildings.

(d) Gardens at Cox Arboretum MetroPark, Wegerzyn Gardens MetroPark, RiverScape MetroPark, Deeds Point MetroPark and Aullwood Garden MetroPark.

(e) Children's play areas, including the Wegerzyn MetroPark Children's Garden, RiverScape MetroPark interactive fountain and adventure play areas.

(f) Shelters and reserveable picnic areas.

(g) All trails, including recreation, hiking, biking and horseback riding trails.

(h) Areas within 50 feet of waters' edge or on water.

(i) Maintenance, operational and administrative facilities.

(3) Areas of facilities not designated for public assembly:

(a) Areas under conservation stewardship, including but not limited to prairies, woods, meadows, and wetlands.

(b) Areas within 50 feet of public road right-of-way (with the exception of RiverScape, where the limitation is within 10 feet of public road right-of-way).

(E) The purpose of these designations is to assign activities for which permits are issued to appropriate public forums or, if applicable, limited use areas, in order to assure that

park facilities are used for the purposes for which they are designed and for the other purposes described in division (A) of this section. The Executive Director may from time to time modify these designations as to particular park properties and may issue maps and/or guidelines establishing the areas with specificity.

(Approved 3-13-2009)

### **§ 94.03 APPLICATION FOR PERMITS.**

Any person seeking the issuance of a permit shall apply for a permit by filing a written application for permit on a form prescribed by the Executive Director. The application shall be made at least 90 days prior to the event if the event's projected attendance is 500 people or more and 60 days prior to the event if the event's projected attendance is less than 500 people unless a lesser amount of time is specifically permitted by the Executive Director. Applications involving any of the activities listed in § 94.02(A) shall be filed at MetroParks administrative offices, 1375 East Siebenthaler Avenue, Dayton, Ohio 45414, or through such on-line application process as may be provided by MetroParks.

(A) *Indemnification and reimbursement agreement.* No application for permit shall be granted unless the applicant shall have executed an agreement with MetroParks, on a form to be prescribed by the Executive Director, in which the applicant shall promise and covenant to bear all costs of setting up, policing, producing, cleaning up and restoring the park upon conclusion of the event or activity; to reimburse MetroParks for any such costs incurred by MetroParks; and to indemnify MetroParks and hold MetroParks harmless from any liability to any person resulting from any damage or injury occurring in connection with the permitted event proximately caused by the action of the permittee, the sponsoring organization, its officers, employees or agents or any person under their control insofar as permitted by law.

(B) *Security deposit.* No application for permit shall be granted unless the applicant has paid, within the time prescribed by the Executive Director, the security deposit in an amount in accordance with the schedule of fees set by the Executive Director and approved by the Board. The amount of the security deposit set in the schedule of fees shall be equal to the estimated cost of policing, cleaning up, and restoring the park upon the conclusion of the use or activity. Within 72 hours after the conclusion of a permit activity, MetroParks shall inspect the premises and equipment used by the permittee.

(1) If it is determined that there has been no damage to MetroParks property or equipment beyond reasonable wear and tear and that any cost reimbursements or other amounts owed to MetroParks have been paid, the security deposit shall be refunded in full within 30 days of the conclusion of the permitted event.

(2) If it is determined by such inspection, that the permitted event proximately caused damage to MetroParks property in excess of normal wear and tear and which requires repairs in excess of routine maintenance or it is determined that the permittee will be charged with a violation of these Rules and Regulations, MetroParks shall retain the security deposit or any portion thereof necessary to pay for the cost of repair and any fines assessed against the permittee pursuant to R.C. § 1545.99 (§ 10.99 of these Rules). The Executive Director or his or her designee shall give written notice of the assessment of damages or fine and retention of the security deposit to the permittee by personal delivery or by deposit in the United States mail, with proper postage prepaid to the name and address set forth in the application for permit. Any

assessment of damages or fine in excess of the security deposit and any assessment of damages in excess of the security deposit, shall be paid to MetroParks within 10 days after notice of such assessment of damages or fine is sent. Retention of all or a portion of a security deposit shall be subject to the appeal procedures contained in § 94.05(A),

(C) *Fees for use of park facilities.* No application for permit shall be granted unless the applicant has paid, within the time prescribed by the Executive Director, a user fee and any other required fee in an amount in accordance with the schedule of fees (if any) set by the Executive Director and approved by the Board. No application for permit shall be granted unless all required fees are paid as specified in § 94.04(B).

(D) *Insurance.* Applicant shall procure and maintain at all times during its use of MetroParks property, insurance in such amounts and with such coverages as shall reasonably be required by MetroParks and shall name MetroParks (and, when applicable, the City of Dayton and/or the Miami Conservancy District) as an additional insured(s) thereunder. The amounts and type of insurance required shall be determined by the Executive Director, based upon the nature of the activity and the risk involved. Applicant shall provide MetroParks with a certificate from an insurer evidencing such coverage prior to applicant's use of MetroParks property, and within the time prescribed by the Executive Director. The certificate shall also provide that the insurer shall give the MetroParks reasonable advance notice of insurer's intent to cancel the insurance coverage provided.

(E) *Permits not transferable.* No permit or conditionally approved permit application may be transferred.

(Approved 3-13-2009)

#### **§ 94.04 PROCESSING OF APPLICATION FOR PERMITS.**

(A) *Order.* Applications for permits shall be processed in order of receipt, and the use of a particular park or part thereof shall be allocated in order of receipt of fully executed applications accompanied by the application fee.

(B) *Conditional approval.*

(1) Applications for permits for activities or events which require insurance, approval or permits from other governmental entities, or compliance with other terms or conditions, will be reviewed and, if the application otherwise conforms to all other requirements, a conditional approval will be issued. If, within the time prescribed by the Executive Director, any required fee or security deposit is not paid, or an insurance certificate evidencing the requisite insurance is not filed, or the approval or permit of other governmental entities has not been received, or the other terms and conditions have not been met, the conditional approval will automatically expire, the application for permit will be deemed denied and no written notice of denial will be required. For events or activities described in this chapter, § 94.02(A)(1), (3), (4), (5), (7), (8), (9), (11), (12), (14), (15), or (18), above, all terms and conditions for issuance of the permit, including securing insurance and payment of all fees and security deposit, must be completed at least 30 days prior to the event unless a different time period is prescribed by the Executive Director.

(2) No permit shall be issued unless all applicable fees and security deposit are paid within the times prescribed by the Executive Director. Failure to pay fees or security

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deposit within that time shall cause the application to be deemed denied, without further notice to the applicant.

(C) *Written denials.* If no written denial or conditional approval is issued within 21 days of the date on which a permit application is fully completed, executed and filed, the application shall be deemed to have been granted a conditional approval pursuant to division (B) of this section. However, MetroParks may extend the period of review for an additional 14 days by issuance of a written notice of extension. If, upon the expiration of the extended review period, no written denial has been issued, the application for permit shall be deemed to have been granted a conditional approval pursuant to division (B) of this section. The granting of conditional approval does not relieve the applicant from the obligation to comply with any requirements regarding fees, insurance, security deposits and the like, and to that end the applicant still must obtain the permit and comply with its requirements.

(D) *Notice of extended review or denial or issuance of permit.* Written notice of denial or notice of extension shall be served on the applicant by personal delivery, or by deposit in United States certified mail, with proper postage prepaid, to the name and address set forth on the application for permit.

(E) *Contents of notice; grounds for denial.*

(1) Notice of denial of an application for permit shall clearly set forth the grounds upon which the permit was denied and, where feasible, shall contain a proposal by MetroParks for measures by which the applicant may timely cure any defects in the application for permit or otherwise procure a permit. Where an application or permit has been denied because a fully executed prior application for the same time and place has been received, and a permit has been or will be granted to the prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular area, MetroParks shall propose an alternative place, if available for the same time, or an alternative time, if available for the same place.

(2) To the extent permitted by law, MetroParks may deny an application for permit if the applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant. MetroParks may also deny an application for permit on any of the following grounds:

(a) The application for permit (including any required attachments and submissions) is not fully completed and executed;

(b) The applicant has not tendered the required user fee, indemnification agreement, insurance certificate, or security deposit within the times prescribed by the Executive Director;

(c) The application for permit contains a material falsehood or misrepresentation;

(d) The applicant is legally incompetent to contract or to sue and be sued;

(e) The applicant or the person on whose behalf the application for permit was made has on prior occasions damaged MetroParks property and has not paid in full for such damage, or has other outstanding and unpaid debts to MetroParks;

(f) A fully executed prior application for permit for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing

uses or activities which do not reasonably permit multiple occupancy of the particular park or part hereof;

(g) The use or activity intended by the applicant would conflict with previously planned programs organized and conducted by MetroParks and previously scheduled for the same time and place;

(h) The proposed use or activity is prohibited by or inconsistent with the classifications and uses of the park or part thereof designated pursuant to § 94.02(D);

(i) The use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, or other users of the park, of MetroParks employees or of the public;

(j) The use or activity intended by the applicant is prohibited by law, by this Code and ordinances of MetroParks, or by the regulations of the Executive Director; or

(k) Due to excessive light, noise, odor, traffic or other impacts not confined to the MetroParks facility, the use or activity intended by the applicant would cause unreasonable disturbance or disruption to neighbors of the MetroParks facility.

(F) *Amendment or revision of applications.* Any amendment or revision of an application or permit shall, for purposes of determining the priority of the application for permit, relate back to the original filing thereof; but the time in which MetroParks shall grant or deny the application for permit and serve notice of such granting or denial shall be computed from the date of the amendment or revision.

(Approved 3-13-2009)

#### **§ 94.05 CERTAIN ROUTINE PERMITS.**

(A) *Types of routine permits.* MetroParks recognizes that certain activities for which permits are required relate to the reservation or use of facilities for the purposes for which they were designed. These include reserving reserveable shelters for picnics and similar uses, picnics for more than 100 but fewer than 250 persons and overnight camping at designated camping areas. Permits for the regular, routine purposes as outlined in this division (A) shall be handled in the manner set forth in division (B) of this section.

(B) *Procedures for routine permits.* For routine permits that are either described in division (A) of this section or are otherwise authorized by the Executive Director to be handled as routine permits, the following procedures shall apply:

(1) Any person seeking the issuance of a routine permit shall apply for the permit by filing a written application for permit at least 7 days prior to the event on a form prescribed by the Executive Director. Applications shall be filed at MetroParks administrative offices, 1375 East Siebenthaler Avenue, Dayton, Ohio 45414, or through such on-line application process as may be provided by MetroParks.

(2) Although applicants for a routine permit shall not be required to provide an indemnification agreement (as described in § 94.03(B)) or insurance (as described in § 94.03(E)), and generally (with some exceptions) are not subject to the payment of a user fee (as described in § 94.03(D)), the applicant nevertheless shall be obligated to reimburse MetroParks for any costs incurred by MetroParks, and to assume responsibility for personal injury or property damage, resulting from the negligence or misconduct of the permittee, the sponsoring

organization, its officers, employees or agents or any person under their control as permitted by law.

(3) The security deposit provisions of § 94.03(C) shall apply to routine permits relating to reserveable shelters and areas, camping sites and meeting rooms.

(4) Routine permits may be granted by the Executive Director or his or her designee. Any permit that requires a security deposit shall be conditioned upon receipt of the security deposit and shall not be effective unless the security deposit is received. Denial of a permit may be made on any of the grounds set forth in § 94.04(E). Denial shall be made within 3 business days after receipt of the application and shall otherwise be made in writing and in accordance with the procedures set forth in §§ 94.04(D) and 94.04(E). If time permits (prior to the scheduled event), the appeal procedures set forth in § 94.06 shall apply to routine permits. (Approved 3-13-2009)

### **§ 94.06 PROCEDURES FOR REVIEW; WAIVERS.**

(A) *Review by Director.*

(1) Any applicant who is denied a permit or denied a request for a waiver of user fee, security deposit, or certificate of insurance, or a permittee who has had all or a portion of its security deposit retained because it was assessed damages or a fine pursuant to this chapter may, within 7 days of the service of notice of such determination, file a written appeal from such determination with the Executive Director;

(2) The Executive Director shall have 7 days from the date on which the appeal was received in which to serve upon the applicant a notice that he or she has affirmed, modified or reversed the denial of the permit or the request for a waiver or the retention of security deposit;

(3) Such notice shall be deemed served upon the applicant or permittee when it is personally delivered or when it is sent by United States certified mail, with proper postage prepaid, to the name and address set forth on the application for permit;

(4) If such notice is not served upon the applicant or permittee within 7 days of the date upon which the appeal was filed, then the denial of the permit or the request for a waiver or retention of security deposit shall be deemed reversed.

(B) *Form of appeals.* Any appeals filed pursuant to this chapter shall state succinctly the grounds upon which it is asserted that the determination should be modified or reversed and shall be accompanied by copies of the application for permit, the written notice of the determination of MetroParks, and any other papers material to the determination.

(C) *Waiver of requirements.* Any requirements for a user fee, security deposits or certificate of insurance shall be waived by the Executive Director, if the activity is protected by the First Amendment of the United States Constitution and the requirement would be so financially burdensome that it would preclude the applicant from using MetroParks property for the proposed activity. The Executive Director also shall have the right, in his discretion, to allow a permit to be processed as a routine permit under § 94.05(B), regardless of whether the permit application falls into 1 of the categories described in § 94.05(A). Fees for equipment and services shall not be waived pursuant to this division, nor shall any waiver apply with respect to the obligation of a permittee to reimburse MetroParks for costs incurred as described in § 94.03(B). Application for a waiver of a user fee, security deposit, or certificate of insurance



shall be made on a form prescribed by the Executive Director and must include an affidavit by applicant and sufficient financial information about the applicant to enable the Executive Director to determine whether the requirements(s) would be so financially burdensome that is would preclude the applicant from using MetroParks property for the proposed activity. If the Executive Director determines that the applicant does not have sufficient funds to satisfy the user fee requirement prior to the proposed event, but that the applicant intends to raise sufficient funds at the event, the Executive Director shall require the applicant to pay such user fee out of the proceeds of the proposed event. If no written denial is issued within 14 days of the date on which the application for such waiver is fully completed, executed and filed with the Executive Director, the waiver request shall be deemed approved, contingent upon the applicant complying with all other permit requirements. Denials of request for such waivers shall be subject to the appeal procedures contained in division (A) of this section.  
(Approved 3-13-2009)

#### **§ 94.07 FINES.**

The violation by a permittee of the terms of his or her permit or the rules and regulations of MetroParks shall subject the permittee to fines pursuant to R.C. § 1545.99 (see § 10.99 of these Rules). Each day that a violation continues shall be deemed a separate offense. Such fines may be assessed against any security deposit held by MetroParks on behalf of the permittee, pursuant to § 94.03(C)(2), above. Any assessment of fines in excess of any security deposit shall be subject to the procedures contained in § 94.03(C)(2).  
(Approved 3-13-2009)

## **TITLE XI: BUSINESS REGULATIONS**

Chapter

### **110. GENERAL PROVISIONS**

## **CHAPTER 110: GENERAL PROVISIONS**

*Editor's note:*

*Section 110.01, Commercial Activities and § 110.02, Signs, Advertising were repealed in their entirety by Board of Park Commissioners amendment, passed March 13, 2009. For current provisions regarding permits, see Chapter 94 of these Rules.*

## **TITLE XIII: GENERAL OFFENSES**

Chapter

- 130. GENERAL PROVISIONS
- 131. OFFENSES AGAINST PROPERTY AND ENVIRONMENT
- 132. OFFENSES AGAINST PUBLIC PEACE
- 133. SEX OFFENSES
- 134. GAMBLING OFFENSES
- 135. OFFENSES AGAINST PERSONS
- 136. OFFENSES AGAINST JUSTICE AND ADMINISTRATION
- 137. WEAPONS CONTROL
- 138. DRUG OFFENSES

## CHAPTER 130: GENERAL PROVISIONS

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### Section

- 130.01 Definitions
- 130.02 Attempt
- 130.03 Complicity
  
- 130.99 Penalty

### § 130.01 DEFINITIONS.

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

**CONTRABAND.** Any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. **CONTRABAND** includes, but is not limited to, all of the following:

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

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

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

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

**LAW ENFORCEMENT OFFICER.** Any of the following:

- (1) A sheriff, deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under R.C. § 3735.31(D) or state highway patrol trooper.

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(2) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of such statutory duty and authority.

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

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

(5) A person lawfully called pursuant to R.C. § 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called.

(6) A person appointed by a Mayor pursuant to R.C. § 737.01 as a special patrolling officer during a riot or emergency, for the purposes and during the time when the person is appointed.

(7) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence.

(8) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor.

(9) A veterans' home police officer appointed under R.C. § 5907.02.

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

(11) A special police officer employed by a port authority under R.C. § 4582.04 or 4582.28.

(12) The House of Representatives Sergeant at Arms if the House of Representatives Sergeant at Arms has arrest authority pursuant to R.C. § 101.311(E)(1) and an Assistant House of Representatives Sergeant at Arms.

(13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in 14 C.F.R. pt. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the Transportation Security Administration of the United States Department of Transportation as provided in 49 C.F.R. pts. 1542 and 1544, as amended.

**NOT GUILTY BY REASON OF INSANITY.** A person is **NOT GUILTY BY REASON OF INSANITY** relative to a charge of an offense only if the person proves, in the manner specified in R.C. § 2901.05, that at the time of the commission of the offense, he or she did not know, as a result of a severe mental disease or defect, the wrongfulness of his or her acts.

### **OFFENSE OF VIOLENCE.**

(1) A violation of R.C. §§ 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, division (A)(1), (2) or (3) of R.C. § 2911.12, or of division (B)(1), (2), (3) or (4) of R.C. § 2919.22, or felonious sexual penetration in violation of former R.C. § 2907.12;

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

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or of the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (1), (2), or (3) of this definition.

### **PERSON.**

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

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

2. An unborn human who is viable.

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

(c) As used in division (1)(a)2. of this definition, **UNBORN HUMAN** means an individual organism of the species *Homo sapiens* from fertilization until live birth. **VIABLE** means the stage of development of a human fetus at which there is a realistic probability of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (1)(a) of this definition, in no case shall the portion of the definition of the term **PERSON** that is set forth in division (1)(a)2. of this definition be applied or construed in any section contained in Title XIII of this code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (2)(a) of this definition, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of R.C. §§ 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21 or 2903.22, or any substantially similar municipal ordinance, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence but that does violate R.C. §§ 2919.12, 2919.13(B), 2919.151, 2919.17 or 2919.18, or any substantially similar municipal ordinance, may be punished as a violation of such section, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with R.C. § 2919.12.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

1. Her delivery of a stillborn baby.

2. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying.

3. Her causing the death of her child who is born alive but who dies from 1 or more injuries that are sustained while the child is a viable, unborn human.

4. Her causing her child who is born alive to sustain 1 or more injuries while the child is a viable, unborn human.

5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other psychological illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

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

**PHYSICAL HARM TO PROPERTY.** Any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment.

**PHYSICAL HARM TO PROPERTY** does not include wear and tear occasioned by normal use.

**PRIVILEGE.** An immunity, license, or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office, or relationship, or growing out of necessity.

**PROPERTY.**

(1) Any property, real or personal, tangible or intangible, and any interest or license in that property. **PROPERTY** includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human-readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright or patent. **FINANCIAL INSTRUMENTS ASSOCIATED WITH COMPUTERS** include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

(2) As used in this definition, **TRADE SECRET** has the same meaning as in R.C. § 1333.61, and **TELECOMMUNICATIONS SERVICE** and **INFORMATION SERVICE** have the same meanings as in R.C. § 2913.01.

(3) As used in this definition and in the definition of **CONTRABAND** in this section, **CABLE TELEVISION SERVICE**, **COMPUTER**, **COMPUTER NETWORK**, **COMPUTER SOFTWARE**, **COMPUTER SYSTEM**, **DATA**, and **TELECOMMUNICATIONS DEVICE** have the same meanings as in R.C. § 2913.01.

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

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

(2) Having been convicted of 1 or more sexually oriented offenses, as defined in R.C. § 2950.01, and having been imprisoned pursuant to sentence for 1 or more of those offenses, he or she commits a subsequent sexually oriented offense;

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(3) Having been convicted of 1 or more theft offenses, as defined in R.C. § 2913.01, and having been imprisoned pursuant to sentence for 1 or more of those offenses, he or she commits a subsequent theft offense;

(4) Having been convicted of 1 or more felony drug abuse offenses, as defined in R.C. § 2925.01, and having been imprisoned pursuant to sentence for 1 or more of those offenses, he or she commits a subsequent felony drug abuse offense;

(5) Having been convicted of 2 or more felonies, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense;

(6) Having been convicted of 3 or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense.

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

**SCHOOL, SCHOOL BUILDING, and SCHOOL PREMISES.** Have the same meanings as in R.C. § 2925.01.

**SCHOOL ACTIVITY.** Any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under R.C. Chapter 3314; a governing board of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07.

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

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

**SERIOUS PHYSICAL HARM TO PERSONS.** Any of the following:

(1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(2) Any physical harm that carries a substantial risk of death;

(3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;

(5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.

**SERIOUS PHYSICAL HARM TO PROPERTY.** Any physical harm to property that does either of the following:

(1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort, or money to repair or replace;

(2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use or enjoyment for an extended period of time.

**SUBSTANTIAL RISK.** A strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist. (R.C. §§ 2901.01, 2935.36(E))

### § 130.02 ATTEMPT.

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

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

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

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

(E) *State law penalty.*

(1) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life is a felony of the first degree, to be prosecuted under appropriate state law. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other offense is an offense of the next lesser degree than the offense attempted. In the case of an attempt to commit an offense other than a violation of R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. In the case of an attempt to commit a violation of any provision of R.C. Chapter 3734, other than R.C. § 3734.18, that relates to hazardous wastes, an attempt is a felony to be prosecuted under appropriate state law. An attempt to commit a minor misdemeanor, or to engage in conspiracy, is not an offense under this section.

(2) In addition to any other sanctions imposed pursuant to division (E)(1) of this section for an attempt to commit aggravated murder or murder in violation of division (A) of this section, if the offender used a motor vehicle as the means to attempt to commit the offense, the court shall impose upon the offender a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as specified in R.C. § 4510.02(A)(2).

(3) If a person is convicted of or pleads guilty to attempted rape and also is convicted of or pleads guilty to a specification of the type described in R.C. § 2941.1418, 2941.1419, or 2941.1420, the offender shall be sentenced to a prison term or term of life imprisonment pursuant to R.C. § 2971.03.

(F) *Definitions.* As used in this section:

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

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

(R.C. § 2923.02)

*Statutory reference:*



*Conspiracy, see R.C. § 2923.01*

*Solid and hazardous wastes, see R.C. Chapter 3734*

### **§ 130.03 COMPLICITY.**

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

- (1) Solicit or procure another to commit the offense;
- (2) Aid or abet another in committing the offense;
- (3) Conspire with another to commit the offense in violation of R.C. §

2923.01;

- (4) Cause an innocent or irresponsible person to commit the offense.

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

(C) *Conviction of complicity under this section.* No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of R.C. § 2923.02 or a substantially similar municipal ordinance.

(D) *Jury charge.* If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense, or an offense, the court shall charge the jury in accordance with R.C. § 2923.03(D).

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

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

(R.C. § 2923.03)

***Statutory reference:***

*Conspiracy, see R.C. § 2923.01*

### **§ 130.99 PENALTY.**

Pursuant to R.C. § 1545.99, any person who violates any provision of this general offenses code where no specific penalty is otherwise provided, shall be fined not more than \$100 for a first offense; for each subsequent offense such person shall be fined not more than \$500.

(Rules and Regs. § 22)

***Statutory reference:***

*State law penalty, see R.C. § 1545.99*

## CHAPTER 131: OFFENSES AGAINST PROPERTY AND ENVIRONMENT

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Section

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### § 131.01 CRIMINAL DAMAGING OR ENDANGERING; VEHICULAR VANDALISM.

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

(a) Knowingly, by any means; or

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

(2) *State law penalty.* Whoever violates this division (A) is guilty of criminal damaging or endangering, a misdemeanor of the second degree. If violation of this division (A) creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. If the property involved in a violation of this division (A) is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person, criminal damaging or endangering is a felony to be prosecuted under appropriate state law. If the property involved in a violation of this division (A) is an

aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a substantial risk of physical harm to any person or if

the property involved in a violation of this division (A) is an occupied aircraft, criminal damaging or endangering is a felony to be prosecuted under appropriate state law.

(R.C. § 2909.06)

(B) (1) *Vehicular vandalism.* As used in this division (B):

**ALLEY, STREET, and VEHICLE.** Have the same meanings as in R.C. §

4511.01.

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

**VESSEL and WATERS IN THIS STATE.** Have the same meanings as in R.C. § 1547.01.

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

(a) Any vehicle on a highway;

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

(3) *State law penalty.* Whoever violates this division (B) is guilty of vehicular vandalism. Except as otherwise provided in this division (B)(3), vehicular vandalism is a misdemeanor of the first degree. If the violation of this division (B) creates a substantial risk of physical harm to any person or the violation of this division (B) causes serious physical harm to property, vehicular vandalism is a felony to be prosecuted under appropriate state law. If the violation of this division (B) causes physical harm to any person or serious physical harm to any person, vehicular vandalism is a felony to be prosecuted under appropriate state law.

(R.C. § 2909.09)

## § 131.02 CRIMINAL MISCHIEF.

(A) *Criminal mischief.* No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with the property of another;

(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;

(4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on

the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land;

(6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, knowingly do any of the following:

(a) In any manner or by any means, including but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;

(b) Introduce a computer contaminant into a computer, computer system, computer network, computer software, or computer program.

(B) *Definition.* As used in this section, ***SAFETY DEVICE*** means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

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

(1) Except as otherwise provided in this division, criminal mischief committed in violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is a misdemeanor of the first degree. If the property involved in the violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is a felony to be prosecuted under appropriate state law.

(2) Except as otherwise provided in this division, criminal mischief committed in violation of division (A)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section or the loss to the victim resulting from the violation is \$1,000 or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) is used or intended to be used in the operation of an aircraft and the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (A)(6) of this section is a felony to be prosecuted under appropriate state law.

(R.C. § 2909.07)

**§ 131.03 CRIMINAL TRESPASS; AGGRAVATED TRESPASS.**

- (A) *Generally.* No person, without privilege to do so, shall do any of the following:
- (1) Knowingly enter or remain on the land or premises of another;
  - (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;
  - (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
  - (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.
- (B) *Public agency; no defense.* It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.
- (C) *Authorization obtained by deception; no defense.* It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when the authorization was secured by deception.
- (D) *State law penalty.*
- (1) Whoever violates division (A) of this section is guilty of criminal trespass, a misdemeanor of the fourth degree.
  - (2) Notwithstanding R.C. § 2929.28, if the person, in committing the violation of this section, used an all-purpose vehicle, the court shall impose a fine of 2 times the usual amount imposed for the violation.
  - (3) If an offender previously has been convicted of or pleaded guilty to 2 or more violations of this section, R.C. § 2911.21 or a substantially equivalent municipal ordinance, and the offender, in committing each violation, used an all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration and license plate of that all-purpose vehicle for not less than 60 days. In such a case, R.C. § 4519.47 applies.
- (E) *Fine paid to State Recreational Vehicle Fund.* Notwithstanding any provision of the Ohio Revised Code, if the offender, in committing the violation of this section, used an all-purpose vehicle, the Clerk of the Court shall pay the fine imposed pursuant to this section to the State Recreational Vehicle Fund created by R.C. § 4519.11.
- (F) *Definitions.* As used in this section:
- (1) **ALL-PURPOSE VEHICLE** has the same meaning as in R.C. § 4519.01.
  - (2) **LAND** or **PREMISES** includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.  
(R.C. § 2911.21)
- (G) (1) *Aggravated trespass.* No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to him or her.

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

**§ 131.04 TAMPERING WITH COIN MACHINES.**

(A) *Generally.* No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with, or insert any part of an instrument into any coin machine.

(B) *State law penalty.* Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or of any theft offense as defined in R.C. § 2913.01, tampering with coin machines is a felony to be prosecuted under appropriate state law.  
(R.C. § 2911.32)

**§ 131.05 THEFT.**

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

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

(B) *State law penalty.* Whoever violates this section is guilty of theft. Except as otherwise provided in this division, a violation of this section is petty theft, a misdemeanor of the first degree. If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:

- (1) If the value of the property or services is \$500 or more;
- (2) If the property stolen is any of the property listed in R.C. § 2913.71;
- (3) If the victim of the offense is an elderly person or disabled adult;
- (4) If the property stolen is a firearm or dangerous ordnance;
- (5) If the property stolen is a motor vehicle;
- (6) If the property stolen is any dangerous drug, or if the offender previously has been convicted of a felony drug abuse offense;
- (7) If the property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog; or
- (8) If the property stolen is anhydrous ammonia.

(C) *Additional penalty.* In addition to the penalties described in division (B) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full

payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do 1 of the following:

(1) Unless division (C)(2) of this section applies, suspend for not more than 6 months the offenders driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;

(2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to division (C)(1) of this section, or any other substantially equivalent state or local law, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in R.C. § 4510.02(A)(7), provided that the suspension shall be at least 6 months.

(D) In addition to the penalties described in division (B) of this section, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to R.C. § 2929.18 or R.C. § 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of R.C. § 2913.72.

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

***Statutory reference:***

*Felony theft provisions, see R.C. § 2913.02(B)*

**§ 131.06 UNAUTHORIZED USE OF A VEHICLE.**

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

(B) *Use without consent.* No person shall knowingly use or operate an aircraft, motor vehicle, motorboat, or other motor-propelled vehicle without the consent of the owner or person authorized to give consent, and either remove it from this state, or keep possession of it for more than 48 hours.

(C) *Affirmative defenses.* The following are affirmative defenses to a charge under this section:

(1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that he or she was authorized to use or operate the property.

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

(D) *State law penalty.* Whoever violates this section is guilty of unauthorized use of a vehicle.



(1) Except as otherwise provided in this division (D)(1), a violation of division (A) of this section is a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of division (A) of this section is a felony to be prosecuted under appropriate state law.

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

(R.C. § 2913.03)

***Statutory reference:***

*Theft offense involving a motor vehicle, offender to pay towing and storage fees, see R.C. § 2913.82*

**§ 131.07 UNAUTHORIZED USE OF PROPERTY, INCLUDING TELECOMMUNICATION PROPERTY AND COMPUTERS; POSSESSION OF MUNICIPAL PROPERTY.**

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

(B) *Access without consent.* No person, in any manner and by any means, including but not limited to computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, tele-communications service, or information service or other person authorized to give consent.

(C) *Access to database.* No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to R.C. § 5503.10 without the consent of, or beyond the scope of the express or implied consent of, the chair of the Law Enforcement Automated Data System Steering Committee.

(D) *Affirmative defenses.* The affirmative defenses contained in R.C. § 2913.03(C) are affirmative defenses to a charge under this section.

(E) *State law penalty.* Whoever violates division (A) of this section is guilty of unauthorized use of property. Except as otherwise provided in this division, unauthorized use of property is a misdemeanor of the fourth degree.

(1) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is whichever of the following is applicable:

(a) Except as otherwise provided below, unauthorized use of property is a misdemeanor of the first degree.

(b) If the value of the property or services or the loss to the victim is \$500 or more, it is a felony to be prosecuted under appropriate state law.

(2) If the victim of the offense is an elderly person or disabled adult, unauthorized use of property is a felony to be prosecuted under appropriate state law.

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(F) *Unauthorized use; guilty.* Whoever violates division (B) of this section is guilty of unauthorized use of computer, cable, or telecommunication property, a felony to be prosecuted under appropriate state law.

(G) *Unauthorized use of database.* Whoever violates division (C) of this section is guilty of unauthorized use of the law enforcement automated database system, a felony to be prosecuted under appropriate state law.

(H) *Definitions.* As used in this section:

**CABLE OPERATOR** means any person or group of persons that does either of the following:

- (a) Provides cable service over a cable system and directly through 1 or more affiliates owns a significant interest in that cable system;
- (b) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

**CABLE SERVICE** means any of the following:

- (a) The 1-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;
- (b) Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in division (a) of this definition;
- (c) Any cable television service.

**CABLE SYSTEM** means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. **CABLE SYSTEM** does not include any of the following:

- (a) Any facility that serves only to retransmit the television signals of 1 or more television broadcast stations;
- (b) Any facility that serves subscribers without using any public right-of-way;
- (c) Any facility of a common carrier that, under 47 U.S.C. § 522(7)(c), is excluded from the term **CABLE SYSTEM** as defined in 47 U.S.C. § 522(7);
- (d) Any open video system that complies with 47 U.S.C. § 573;
- (e) Any facility of any electric utility used solely for operating its electric utility system.

(R.C. § 2913.04)

(I) *Possession of district property.*

(1) No person shall, without being authorized, have in his or her control or possession any equipment, tools, implements or other property belonging to Five Rivers MetroParks.

(R.C. § 5589.12)

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

(R.C. § 5589.99(B))

**§ 131.08 PASSING BAD CHECKS.**

(A) *Definitions.* As used in this section:

**CHECK.** Includes any form of debit from a demand deposit account, including but not limited to any of the following:

- (a) A check, bill of exchange, draft, order of withdrawal, or similar negotiable or non-negotiable instrument;
- (b) An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.

**ISSUE A CHECK.** Means causing any form of debit from a demand deposit account.

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

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

- (1) The drawer has no account with the drawee at the time of issue or the stated date, whichever is later.
- (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within 30 days after issue or the stated date, whichever is later, and the liability of the drawer, endorser, or any party who may be liable thereon is not discharged by payment or satisfaction within 10 days after receiving notice of dishonor.

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

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

(E) *Court aggregation.* In determining the value of the payment for purposes of division (F) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of division (B) of this section within a period of 180 consecutive days.

(F) *State law penalty.* Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this division, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of \$500 or more, or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of \$1,000 or more, passing bad checks is a felony to be prosecuted under appropriate state law.

(R.C. § 2913.11)

**§ 131.09 MISUSE OF CREDIT CARDS.**

- (A) *Generally.* No person shall do any of the following:
- (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
  - (2) Knowingly buy or sell a credit card from or to a person other than the issuer.
- (B) *No person, with purpose to defraud, shall do any of the following.*
- (1) Obtain control over a credit card as security for a debt;
  - (2) Obtain property or services by the use of a credit card, in 1 or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained, or is being used in violation of law;
  - (3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;
  - (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.
- (C) *Person not to receive, possess, control credit card.* No person, with purpose to violate this section, shall receive, possess, control, or dispose of a credit card.
- (D) *State law penalty.* Whoever violates this section is guilty of misuse of credit cards.
- (1) Except as otherwise provided in division (D)(3) of this section, a violation of division (A), (B)(1), or (C) of this section is a misdemeanor of the first degree.
  - (2) Except as otherwise provided in this division or division (D)(3) of this section, a violation of division (B)(2), (3), or (4) of this section is a misdemeanor of the first degree. If the cumulative retail value of the property and services involved in 1 or more violations of division (B)(2), (3), or (4) of this section which violations involve 1 or more credit card accounts and occur within a period of 90 consecutive days commencing on the date of the first violation, is \$500 or more, misuse of credit cards is a felony to be prosecuted under appropriate state law.
  - (3) If the victim of the offense is an elderly person or disabled adult, and if the offense involves a violation of division (B)(1) or (B)(2) of this section, misuse of credit cards is a felony to be prosecuted under appropriate state law.
- (R.C. § 2913.21)

**§ 131.10 RECEIVING STOLEN PROPERTY.**

- (A) *Generally.* No person shall receive, retain, or dispose of property of another knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.
- (B) *How property obtained; not a defense.* It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.
- (C) *State law penalty.* Whoever violates this section is guilty of receiving stolen property. Except as otherwise provided in this division, receiving stolen property is a

misdemeanor of the first degree. If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:

- (1) The value of the property involved is \$500 or more;
  - (2) The property involved is any of the property listed in R.C. § 2913.71;
  - (3) The property involved is a firearm or dangerous ordnance, as defined in R.C. § 2923.11;
  - (4) The property involved is a motor vehicle as defined in R.C. § 4501.01; or
  - (5) The property involved is any dangerous drug, as defined in R.C. § 4729.01.
- (R.C. § 2913.51)

### **§ 131.11 INJURING VINES, BUSHES, TREES, OR CROPS.**

(A) *Generally.* No person, without privilege to do so, shall recklessly cut down, destroy, girdle, or otherwise injure a vine, bush, shrub, sapling, tree, or crop standing or growing on the land of another or upon public land.

(B) *Treble damages.* In addition to the penalty provided in division (C) of this section, whoever violates this section is liable in treble damages for the injury caused.  
(R.C. § 901.51)

(C) *State law penalty.* Whoever violates this section is guilty of a misdemeanor of the fourth degree.  
(R.C. § 901.99(A))

### **§ 131.12 INJURY TO PROPERTY BY HUNTERS.**

(A) *Generally.* No person in the act of hunting, pursuing, taking, or killing a wild animal shall act in a negligent, careless, or reckless manner so as to injure property.  
(R.C. § 1533.171(A))

(B) *State law penalty.* Whoever violates this section is guilty of a misdemeanor of the first degree.  
(R.C. § 1533.99(C))

***Statutory reference:***

*Violation, license revocation, see R.C. § 1533.171(B) through (E)*

### **§ 131.13 PRESERVATION OF PROPERTY AND NATURAL FEATURES.**

(A) No person in a park shall remove any property, or part thereof, which is owned, leased, managed, or otherwise controlled by MetroParks, from a park without a permit from the Director.

(B) No person shall injure, deface, destroy, disturb, or remove any part of a park, including, but not limited to any building, sign, equipment, or other property located therein, any tree, flower, shrub, or other vegetation, or fruit or any seed thereof, or rock or other mineral.

(C) No person in a park shall climb or rappel any rock escarpment, tree, or other natural features.

(Rules and Regs. § 3) Penalty, see § 130.99

***Cross-reference:***

*Regulations for permits for use of MetroParks, see Chapter 94*

**§ 131.14 WASTE MATERIALS AND LITTER.**

(A) No person, without the specific written consent of the Director, shall bring into, leave behind, or dump any material of any kind in a park except the refuse, ashes, garbage, and other material of a picnic, camp, or other permitted activity, provided that such material shall be deposited in receptacles or pits provided for such purposes.

(B) No person shall, either within or outside of a park, place or permit to be placed in any river, brook, stream, ditch, or drain that flows into or through park lands, any hazardous, noxious or deleterious materials which may render park waters harmful or inimical to the public health, or to animal, vegetative, or aquatic life, or which may prevent, limit, or interfere with the use of such waters for domestic, industrial, or agricultural purposes, or which may lessen to an unreasonable degree the use and enjoyment of such waters for recreational or other park uses.

(C) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any park land, except into a roadside litter receptacle.

(Rules and Regs. § 4) Penalty, see § 130.99

**§ 131.15 (RESERVED)**

***Cross-reference:***

*Regulations for permits for use of MetroParks, see Chapter 94*

**§ 131.16 ALL-PURPOSE VEHICLES, SKATEBOARDS, ROLLER SKATES, METAL DETECTORS.**

No person in a park shall operate an all-purpose vehicle as defined in R.C. § 4519.01, hover craft, skateboard, or metal detector. No person shall operate roller skates or roller blades on the grounds of Cox Arboretum.

(Rules and Regs. § 18.1) (Amendment approved 3-13-2009) Penalty, see § 130.99

**§ 131.17 SNOWMOBILING, SLEDDING, SKIING AND ICE SKATING.**

No person in a park shall operate a snowmobile or engage in sledding, skiing or ice skating except in areas and at times designated by the Director.

(Rules and Regs. § 18.2) Penalty, see § 130.99

**§ 131.18 SWIMMING, BATHING, ENTERING PARK WATERS.**

No person shall swim, bathe, wade or enter into any park waters. This section, however, shall not preclude persons duly licensed from fishing or wading into or entering park waters for that purpose.

(Rules and Regs. § 18.3) Penalty, see § 130.99

**§ 131.19 MODEL TOYS.**

No person in or adjacent to a park shall operate any engine powered model or toy airplane, boat, car, siren or any other noise making device.

(Rules and Regs. § 18.4) Penalty, see § 130.99

**§ 131.20 AEROSOL PAINT CANS.**

No person in a park shall carry on or about his or her person a container capable of propelling paint by means of a gaseous charge.

(Rules and Regs. § 18.5) Penalty, see § 130.99

**§ 131.21 OPERATING MOTORIZED OR GASOLINE-POWERED VEHICLES ON TRAILS DESIGNATED FOR WALKING OR BIKING.**

No person shall operate a motor vehicle, motorcycle, motorized skateboard, motorized scooter, or any gasoline powered vehicle, on any trail designed solely for walking or bicycling.

(Rules and Regs. § 18.6) Penalty, see § 130.99

**CHAPTER 132: OFFENSES AGAINST PUBLIC PEACE**

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Section

- 132.01 Riot
- 132.02 Failure to disperse
- 132.03 Disorderly conduct
- 132.04 Disturbing peace and good order in a park
- 132.05 Disturbing a lawful meeting
- 132.06 Misconduct at an emergency
- 132.07 Inducing panic
- 132.08 Making false alarms
- 132.09 (Reserved)
- 132.10 Unlawful assemblage
- 132.11 Public intoxication
- 132.12 Authorization for meetings
- 132.13 Begging, peddling, soliciting



**§ 132.01 RIOT.**

(A) *Generally.* No person shall participate with 4 or more others in a course of disorderly conduct in violation of R.C. § 2917.11 or a substantially similar park district regulation:

(1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;

(2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede, or obstruct a function of government;

(3) With purpose to hinder, impede, or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at the institution.

(B) *Acting with unlawful force or violence.* No person shall participate with 4 or more others with purpose to do an act with unlawful force or violence, even though the act might otherwise be lawful.

(C) *State law penalty.* Whoever violates this section is guilty of riot, a misdemeanor of the first degree.  
(R.C. § 2917.03)

(D) *Required proof for offenses of riot and aggravated riot.* For the purposes of prosecuting violations of this section, the prosecution is not required to allege or prove that the offender expressly agreed with 4 or more others to commit any act that constitutes a violation of this section prior to or while committing those acts.  
(R.C. § 2917.031)

***Statutory reference:***

*Aggravated riot, felony provisions, see R.C. § 2917.02*

**§ 132.02 FAILURE TO DISPERSE.**

(A) *Generally.* Where 5 or more persons are participating in a course of disorderly conduct in violation of R.C. § 2917.11 or a substantially similar park district regulation, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance, or alarm, a law enforcement officer or other public official may order the participants and the other persons to disperse. No person shall knowingly fail to obey the order.

(B) *Peaceably assembled.* Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

(C) *State law penalty.*

(1) Whoever violates this section is guilty of failure to disperse.

(2) Except as otherwise provided in division (C)(3) of this section, failure to disperse is a minor misdemeanor.

(3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in division (A) of this section creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot, or emergency of any kind.  
(R.C. § 2917.04)

**§ 132.03 DISORDERLY CONDUCT.**

(A) *Generally.* No person shall recklessly cause inconvenience, annoyance, or alarm to another, by doing any of the following:

- (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
- (2) Making unreasonable noise or an offensively coarse utterance, gesture, or display, or communicating unwarranted and grossly abusive language to any person;
- (3) Insulting, taunting, or challenging another, under circumstances in which that conduct is likely to provoke a violent response;
- (4) Hindering or preventing the movement of persons on a public street, road, highway, or right-of-way, or to, from, within, or upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender;
- (5) Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.

(Rules and Regs. § 6.1)

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

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

(C) *Not a violation of division (B).* Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, water craft, aircraft, or other vehicle while under the influence of alcohol or any drug of abuse is not a violation of division (B) of this section.

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

(E) *State law penalty.* Whoever violates this section is guilty of disorderly conduct.

- (1) Except as otherwise provided in division (E)(2) of this section, disorderly conduct is a minor misdemeanor.
- (2) Disorderly conduct is a misdemeanor of the fourth degree if any of the following applies:
  - (a) The offender persists in disorderly conduct after reasonable warning or request to desist.
  - (b) The offense is committed in the vicinity of a school or in a school safety zone.
  - (c) The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind.

(d) The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility.

(F) *Definitions.* As used in this section:

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

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

**EMERGENCY FACILITY PERSON.** Is the singular of **EMERGENCY FACILITY PERSONNEL** as defined in R.C. § 2909.04.

**EMERGENCY MEDICAL SERVICES PERSON.** Is the singular of **EMERGENCY MEDICAL SERVICES PERSONNEL** as defined in R.C. § 2133.21. (R.C. § 2917.11)

### **§ 132.04 DISTURBING PEACE AND GOOD ORDER IN A PARK.**

No person in or adjacent to a park shall conduct himself or herself, by word or by act, in a riotous, disorderly, boisterous, threatening or other manner so as to disturb the peace and good order in a park.

Penalty, see § 10.99

**Cross-reference:**

*Regulations for permits for use of MetroParks, see Chapter 94*

### **§ 132.05 DISTURBING A LAWFUL MEETING.**

(A) *Generally.* No person, with purpose to prevent or disrupt a lawful meeting, procession, or gathering, shall do either of the following:

(1) Do any act which obstructs or interferes with the due conduct of the meeting, procession, or gathering.

(2) Make any utterance, gesture, or display which outrages the sensibilities of the group.

(B) *State law penalty.* Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree.

(R.C. § 2917.12)

### **§ 132.06 MISCONDUCT AT AN EMERGENCY.**

(A) *Generally.* No person shall knowingly do any of the following:

(1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;

(2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;

(3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.

(B) *Access to news media.* Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.

(C) *State law penalty.* Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this division, misconduct at an emergency is a misdemeanor of the fourth degree. If violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.

(D) *Definitions.* As used in this section:

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

***EMERGENCY FACILITY PERSON.*** Is the singular of ***EMERGENCY FACILITY PERSONNEL*** as defined in R.C. § 2909.04.

***EMERGENCY MEDICAL SERVICES PERSON.*** Is the singular of ***EMERGENCY MEDICAL SERVICES PERSONNEL*** as defined in R.C. § 2133.21. (R.C. § 2917.13)

### **§ 132.07 INDUCING PANIC.**

(A) *Generally.* No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

(1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false.

(2) Threatening to commit any offense of violence.

(3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(B) *Authorized fire or emergency drill.* Division (A)(1) of this section does not apply to any person conducting an authorized fire or emergency drill.

(C) *State law penalty.*

(1) Whoever violates this section is guilty of inducing panic.

(2) Except as otherwise provided in division (C)(3), inducing panic is a misdemeanor of the first degree.

(3) If a violation of this section results in physical harm to any person, inducing panic is a felony to be prosecuted under appropriate state law. If a violation of this section results in economic harm of \$500 or more, inducing panic is a felony to be prosecuted under appropriate state law. If the public place involved in a violation of division (A)(1) is a school and if the violation results in economic harm, inducing panic is a felony to be prosecuted under appropriate state law. If a violation of this section pertains to a purported, threatened or actual use of a weapon of mass destruction, inducing panic is a felony to be prosecuted under appropriate state law.

(D) *Defense and prosecution.*

(1) *Non possession of weapon/ability to use not a defense.* It is not a defense to a charge under this section that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass

destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.

(2) *Prosecution.* Any act that is a violation of this section and any other section of the Ohio Revised Code or this Code of Rules and Regulations may be prosecuted under this section, the other section, or both sections.

(E) *Definitions.* As used in this section:

**BIOLOGICAL AGENT** has the same meaning as in R.C. § 2917.33.

**ECONOMIC HARM** means any of the following:

(a) All direct, incidental and consequential pecuniary harm suffered by a victim as a result of the criminal conduct. **ECONOMIC HARM** as described in this division includes but is not limited to all of the following:

1. All wages, salaries or other compensation lost as a result of the criminal conduct;
2. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
3. The overhead costs incurred from the time that a business is shut down as a result of the criminal conduct;
4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(2) All costs incurred by the state or any political subdivision as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or R.C. § 2917.32, or any substantially similar municipal ordinance, including but not limited to all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.

**EMERGENCY MEDICAL SERVICES PERSONNEL** has the same meaning as in R.C. § 2133.21.

**INSTITUTION OF HIGHER EDUCATION** means any of the following:

(a) A state university or college as defined in R.C. § 3345.12(A)(1), community college, state community college, university branch, or technical college;

(b) A private, nonprofit college, university or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio Board of Regents pursuant to R.C. Chapter 1713;

(c) A post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools pursuant to R.C. Chapter 3332.

**SCHOOL** means any school operated by a board of education or any school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a violation of this section is committed.

**WEAPON OF MASS DESTRUCTION** means any of the following:

(a) Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or other precursors;

(b) Any weapon involving a disease organism or biological agent;

(c) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;

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(d) Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of destructive device pursuant to 18 U.S.C. § 921(a)(4) and regulations issued under that section:

1. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than 4 ounces, missile having an explosive or incendiary charge of more than  $\frac{1}{4}$  ounce, mine, or similar device;

2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (4)(a) of this definition and from which an item or device described in that division may be readily assembled. (R.C. § 2917.31)

### § 132.08 MAKING FALSE ALARMS.

(A) *Generally.* No person shall do any of the following:

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm.

(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property.

(3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that the offense did not occur.

(B) *Person conducting authorized fire or emergency drill.* This section does not apply to any person conducting an authorized fire or emergency drill.

(C) *State law penalty.* Whoever violates this section is guilty of making false alarms. Except as otherwise provided in this division, making false alarms is a misdemeanor of the first degree. If a violation of this section results in economic harm of \$500 or more, making false alarms is a felony to be prosecuted under appropriate state law. If a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony to be prosecuted under appropriate state law.

(D) *Defense and prosecution.*

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

(2) *Prosecution* Any act that is a violation of this section and any other section of the Ohio Revised Code or this Code of Rules and Regulations may be prosecuted under this section, the other section, or both sections.

(E) *Definition.* As used in this section, **ECONOMIC HARM** and **WEAPON OF MASS DESTRUCTION** have the same meaning as in R.C. § 2917.31. (R.C. § 2917.32)

### § 132.09 (RESERVED)

**§ 132.10 UNLAWFUL ASSEMBLAGE.**

No persons or groups of persons shall assemble in or adjacent to a park for any unlawful purpose or in riotous assemblage or with intent to annoy, harass, or inflict property damage or bodily injury upon another person or persons or inflict damage to a park.  
(Rules and Regs. § 6.6) Penalty, see § 130.99

**§ 132.11 PUBLIC INTOXICATION.**

No person in a park shall be intoxicated or be under the influence of any intoxicating liquor, alcoholic beverage, controlled substance as defined by R.C. § 3719.41, or harmful intoxicant.  
(Rules and Regs. § 6.11) Penalty, see § 130.99

***Cross-reference:***

*Alcoholic beverages, see Chapter 93*

**§ 132.12 AUTHORIZATION FOR MEETINGS.**

No individual or organization shall conduct, sponsor or promote any public meeting, speech, parade, concert, theater, athletic event, or other public activity in a park without a written permit from the Director.  
(Rules and Regs. § 6.15) Penalty, see § 130.99

**§ 132.13 BEGGING, PEDDLING, SOLICITING.**

No person in a park shall beg, peddle or solicit for money, a privilege or service.  
(Rules and Regs. § 6.16) Penalty, see § 130.99

**CHAPTER 133: SEX OFFENSES**

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Section

- 133.01 Definitions
- 133.02 Soliciting; loitering to engage in
- 133.03 Nudity; indecent exposure
- 133.04 Unlawful sexual conduct with a minor
- 133.05 Sexual imposition
- 133.06 Voyeurism
- 133.07 Procuring
- 133.08 Prostitution
- 133.09 Disseminating matter harmful to juveniles
- 133.10 Displaying matter harmful to juveniles
- 133.11 Deception to obtain matter harmful to juveniles



**§ 133.01 DEFINITIONS.**

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

**HARMFUL TO JUVENILES.** Any material or performance is **HARMFUL TO JUVENILES** if it is offensive to prevailing standards in the adult community with respect to what is suitable for juveniles, and if any of the following apply:

(1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.

(2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.

(3) The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.

**JUVENILE.** Any unmarried person under the age of 18.

**MATERIAL.** Any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, video cassette, laser disc, phonograph record, cassette tape, compact disc, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape, or similar data storage device.

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

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

**MINOR.** A person under the age of 18.

**NUDITY.** The showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

**OBSCENE.** When considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to that group, any material or performance is **OBSCENE** if any of the following apply:

(1) Its dominant appeal is to prurient interest.

(2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite.

(3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality.

(4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose.

(5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is

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

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

**PROSTITUTE.** A male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

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

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

**SEXUAL CONDUCT.** Vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

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

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

**SPOUSE.** A person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:

(1) When the parties have entered into a written separation agreement pursuant to R.C. § 3103.06.

(2) When an action is pending between the parties for annulment, divorce, dissolution of marriage, or legal separation.

(3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.

(R.C. § 2907.01)

### **§ 133.02 SOLICITING; LOITERING TO ENGAGE IN.**

(A) *Generally.* No person shall solicit another to engage with the other person in sexual activity for hire.

(B) *State law penalty.*

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

(2) If a person is convicted of or pleads guilty to a violation of division (A) of this section or an attempt to commit a violation of division (A) of this section and if the person, in committing or attempting to commit the violation, was in, was on, or used a motor vehicle, the court, in addition to or independent of all other penalties imposed for the violation, shall impose upon the offender a class six suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(6).

(R.C. § 2907.24)

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

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

(D) *Definitions.* As used in division (C) of this section:

**PUBLIC PLACE** means any of the following:

- (a) A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot or transportation facility.
- (b) A doorway or entrance way to a building that fronts on a place described in division (a) of this definition.
- (c) A place not described in division (a) or (b) of this definition that is open to the public.

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

(E) *State law penalty; division (C).* Whoever violates division (C) of this section is guilty of loitering to engage in solicitation, a misdemeanor of the third degree. (R.C. § 2907.241)

(F) *Solicitation not authorized in park.* No person in a park shall solicit or attempt to solicit another to engage in an act of sexual perversion or solicit or request another to commit, perform or engage in any lewd, lascivious, obscene or indecent act or behavior. (Rules and Regs. § 6.8) Penalty, see § 130.99

**Statutory reference:**

*Offenders with knowledge that they test HIV positive, felony, see R.C. §§ 2907.24(B) and 2907.241(B)*

*Testing offenders for venereal disease and AIDS, see R.C. § 2907.27*

**§ 133.03 NUDITY; INDECENT EXPOSURE.**

(A) *Generally.* No person in a park shall appear in a state of nudity, or make any indecent exposure of his or her person. (Rules and Regs. § 6.9)

(B) *Reckless conduct.*

(1) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others who are in the person's physical proximity and who are not members of the person's household:

- (a) Expose the persons's private parts.
- (b) Engage in sexual conduct or masturbation.
- (c) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

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(2) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is a minor, who is not the spouse of the offender, and who resides in the person's household:

(a) Engage in masturbation.  
(b) Engage in sexual conduct.  
(c) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

(d) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

(3) (a) Whoever violates this section is guilty of public indecency and shall be punished as provided in divisions (B)(3)(b), (B)(3)(c), (B)(3)(d), and (B)(3)(e) of this section.

(b) Except as otherwise provided in this division (B)(3)(b), a violation of division (B)(1)(a) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to 1 violation of this section or a substantially equivalent state law or municipal ordinance, a violation of division (B)(1)(a) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to 2 violations of this section or a substantially equivalent state law municipal ordinance, a violation of division (B)(1)(a) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to 3 or more violations of this section or a substantially equivalent state law or municipal ordinance, a violation of division (B)(1)(a) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony to be prosecuted under appropriate state law.

(c) Except as otherwise provided in this division (B)(3)(c), a violation of division (B)(1)(b) or (B)(1)(c) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to 1 violation of this section or a substantially equivalent state law or municipal ordinance, a violation of division (B)(1)(b) or (B)(1)(c) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to 2 or more violations of this section or a substantially equivalent state law municipal ordinance, a violation of division (B)(1)(b) or (B)(1)(c) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony to be prosecuted under appropriate state law.

(d) Except as otherwise provided in this division (B)(3)(d), a violation of division (B)(2)(a), (B)(2)(b), or (B)(2)(c) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to 1 violation of this section or a substantially equivalent state law or municipal ordinance, a violation of division (B)(2)(a), (B)(2)(b), or (B)(2)(c) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to 2 or more violations of this section or a substantially equivalent state law municipal ordinance, a violation of division (B)(2)(a), (B)(2)(b), or (B)(2)(c) of this section is a felony to be prosecuted under appropriate state law.

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(e) Except as otherwise provided in this division (B)(3)(e), a violation of division (B)(2)(d) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to any violation of this section or a substantially equivalent state law municipal ordinance, a violation of division (B)(2)(d) of this section is a felony to be prosecuted under appropriate state law.  
(R.C. § 2907.09)

(C) *Breast-feeding in places of public accommodation.* A mother is entitled to breast-feed her baby in any location of a place of public accommodation, as defined in R.C. § 4112.01, wherein the mother otherwise is permitted.  
(R.C. § 3781.55)

### **§ 133.04 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.**

(A) *Generally.* No person who is 18 years of age or older shall engage in sexual conduct with another who is not the spouse of the offender, when the offender knows the other person is 13 years of age or older but less than 16 years of age, or the offender is reckless in that regard.

(B) *State law penalty.* Whoever violates this section is guilty of unlawful sexual conduct with a minor.

(1) Except as otherwise provided in division (B)(2), unlawful sexual conduct with a minor is a felony to be prosecuted under appropriate state law.

(2) Except as otherwise provided in division (B)(3) of this section, if the offender is less than 4 years older than the other person, unlawful sexual conduct with a minor is a misdemeanor of the first degree.

(3) If the offender previously has been convicted of or pleaded guilty to a violation of R.C. §§ 2907.02, 2907.03 or 2907.04, or any substantially similar park district regulation, or a violation of former R.C. § 2907.12, or any substantially similar park district regulation, unlawful sexual conduct with a minor is a felony to be prosecuted under appropriate state law.

(R.C. § 2907.04)

### **§ 133.05 SEXUAL IMPOSITION.**

(A) *Generally.* No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause 2 or more other persons to have sexual contact when any of the following applies:

(1) The offender knows that the sexual contact is offensive to the other person, or 1 of the other persons, or is reckless in that regard.

(2) The offender knows that the other person's, or 1 of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.

(3) The offender knows that the other person, or 1 of the other persons, submits because of being unaware of the sexual contact.

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(4) The other person, or 1 of the other persons, is 13 years of age or older but less than 16 years of age, whether or not the offender knows the age of the person, and the offender is at least 18 years of age and 4 or more years older than the other person.

(5) The offender is a mental health professional, the other person or 1 of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

(B) *No conviction solely upon testimony unsupported by other evidence.* No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(C) *State law penalty.* Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender has been convicted previously of a violation of this section, R.C. §§ 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, former R.C. § 2907.12, or a substantially similar state law or park district regulation, a violation of this section is a misdemeanor of the first degree.

(R.C. § 2907.06)

### ***Statutory reference:***

*Gross sexual imposition, felony, see R.C. § 2907.05*

*Notice to licensing board or agency upon indictment, conviction or guilty plea of mental health professional, see R.C. §§ 2907.17 and 2907.18*

## **§ 133.06 VOYEURISM.**

(A) *Trespass to spy to eavesdrop.* No person, for the purpose of sexually arousing or gratifying himself or herself, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(B) *Trespass for photographing another in a state of nudity.* No person, for the purpose of sexually arousing or gratifying himself or herself, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity.

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

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

(E) *State law penalty.* Whoever violates this section is guilty of voyeurism.

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

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

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

(4) A violation of division (C) of this section is a felony to be prosecuted under appropriate state law.  
(R.C. § 2907.08)

### § 133.07 PROCURING.

(A) *Generally.* No person, knowingly and for gain, shall do either of the following:

(1) Entice or solicit another to patronize a prostitute or brothel;

(2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.

(B) *Premises not to be used for engaging in sexual activity for hire.* No person, having authority or responsibility over the use of premises, shall knowingly permit the premises to be used for the purpose of engaging in sexual activity for hire.

(C) *State law penalty.* Whoever violates this section is guilty of procuring, a misdemeanor of the first degree.  
(R.C. § 2907.23)

### § 133.08 PROSTITUTION.

(A) *Generally.* No person shall engage in sexual activity for hire.

(B) *State law penalty.* Whoever violates this section is guilty of prostitution, a misdemeanor of the third degree.  
(R.C. § 2907.25)

#### ***Statutory reference:***

*Offenders with knowledge that they test HIV positive, felony, see R.C. § 2907.25(B)*

*Testing offenders for venereal disease and AIDS, see R.C. § 2907.27*

### § 133.09 DISSEMINATING MATTER HARMFUL TO JUVENILES.

(A) *Generally.* No person, with knowledge of its character or content, shall recklessly do any of following:

(1) Sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile any material or performance that is obscene or harmful to juveniles;

(2) Offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile any material or performance that is obscene or harmful to juveniles;

(3) Allow any juvenile to review or peruse any material or view any live performance that is harmful to juveniles.

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

(1) The defendant is the parent, guardian, or spouse of the juvenile involved.



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(2) The juvenile involved, at the time of the conduct in question, was accompanied by his or her parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile.

(3) The juvenile exhibited to the defendant or his or her agent or employee a draft card, driver's license, birth record, marriage license, or other official or apparently official document purporting to show that the juvenile was 18 years of age or over or married, and the person to whom the document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of 18 and unmarried.

(C) *Defenses.*

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

(2) *Age not a defense.* Except as provided in division (B)(3) of this section, mistake of age is not a defense to a charge under this section.

(D) *Remote transmission.*

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

(2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:

(a) The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile.

(b) The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.

(E) *State law penalty.* Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles except as otherwise provided in this division, a violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, violation of this section is a felony to be prosecuted under appropriate state law.

(R.C. § 2907.31)

(F) *Presumptions, notice and defense.*

(1) An owner or manager, or agent or employee of an owner or manager, of a bookstore, newsstand, theater, or other commercial establishment engaged in selling material or exhibiting performances, who, in the course of business does any of the acts prohibited by this section is presumed to have knowledge of the character of the material or performance involved

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if the owner, manager, or agent or employee of the owner or manager has actual notice of the nature of such material or performance, whether or not the owner, manager, or agent or employee of the owner or manager has precise knowledge of its contents.

(2) Without limitation on the manner in which such notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the municipality. Such notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles, and bear the date of such notice.

(3) This § 133.09 does not apply to a motion picture operator or projectionist acting within the scope of employment as an employee of the owner or manager of the theater or other place for the showing of motion pictures to the general public, and having no managerial responsibility or financial interest in the operator's or projectionist's place of employment, other than wages.

(4) (a) The provisions of §§ 133.09, 133.10 and 133.11(A) do not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection.

(b) Division (E)(4)(a) of this section does not apply to a person who conspires with an entity actively involved in the creation or knowing distribution of material in violation of §§ 133.09, 133.10, or 133.11 or who knowingly advertises the availability of material of that nature.

(c) Division (E)(4)(a) of this section does not apply to a person who provides access or connection to an electronic method of remotely transferring information that is engaged in the violation of § 133.09, 133.10, or 133.11 and that contain content that person has selected and introduced into the electronic method of remotely transferring information or content over which that person exercises editorial control.

(5) An employer is not guilty of a violation of §§ 133.09, 133.10, or 133.11 based on the actions of an employee or agent of the employer unless the employee's or agent's conduct is within the scope of the employee's or agent's employment or agency, and the employer does either of the following:

(a) With knowledge of the employee's or agent's conduct, the employer authorizes or ratifies the conduct.

(b) The employer recklessly disregards the employee's or agent's conduct.

(6) It is an affirmative defense to a charge under §§ 133.09 or 133.10 as the section applies to an image transmitted through the internet or other electronic method of remotely transmitting information that the person charged with violating the section has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by juveniles to material that is harmful to juveniles, including any method that is feasible under available technology.

(R.C. § 2907.35)

### **§ 133.10 DISPLAYING MATTER HARMFUL TO JUVENILES.**

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

(B) *Use of blinder rack; not a violation.* It is not a violation of division (A) of this section if the material in question is displayed by placing it behind blinder racks or similar devices that cover at least the lower 2/3 of the material, if the material in question is wrapped or placed behind the counter, or if the material in question otherwise is covered or located so that the portion that is harmful to juveniles is not open to the view of juveniles.

(C) *State law penalty.* Whoever violates this section is guilty of displaying matter harmful to juveniles, a misdemeanor of the first degree. Each day during which the offender is in violation of this section constitutes a separate offense.

(R.C. § 2907.311)

***Cross-reference:***

*Presumptions, notice and defense, see § 133.09(F)*

**§ 133.11 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.**

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

(1) Falsely represent that he or she is the parent, guardian, or spouse of the juvenile.

(2) Furnish the juvenile with any identification or document purporting to show that the juvenile is 18 years of age or over or married.

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

(1) Falsely represent that he or she is 18 years of age or over or married.

(2) Exhibit any identification or document purporting to show that he or she is 18 years of age or over or married.

(C) *State law penalty.* Whoever violates this section is guilty of deception to obtain matter harmful to juveniles, a misdemeanor of the second degree. A juvenile who violates division (B) of this section shall be adjudged an unruly child, with the disposition of the case as may be appropriate under R.C. Chapter 2151.

(R.C. § 2907.33)

***Cross-reference:***

*Presumptions, notice and defense, see § 133.09(F)*

***Statutory reference:***

*Juvenile Court, see R.C. Chapter 2151*

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**CHAPTER 134: GAMBLING OFFENSES**

Section

134.01 Definitions

- 134.02 Public gaming
- 134.03 Cheating

**§ 134.01 DEFINITIONS.**

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

**AMATEUR ATHLETIC ORGANIZATION.** Any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the Amateur Sports Act of 1978, 90 Stat. 3045, 36 U.S.C. § 373.

**BET.** The hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.

**BINGO.** 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 25 spaces arranged in 5 horizontal and 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 75 objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to 1 of the 75 possible combinations of a letter and a number that can appear on the bingo cards or sheets;

(d) The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers, as described in division (1)(c) of this definition, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by the participant.

(2) Instant bingo, punch boards, and raffles.

**BINGO GAME OPERATOR.** Any person, except security personnel, who performs work or labor at the site of bingo including but not limited to collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.

**BINGO SESSION.** A period that includes both of the following:

(1) Not to exceed 5 continuous hours for the conduct of 1 or more games described in division (1) of the definition of “bingo” in this section, instant bingo, and seal cards;

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(2) A period for the conduct of instant bingo and seal cards for not more than 2 hours before and not more than 2 hours after the period described in division (1) of this definition.

**BINGO SUPPLIES.** Bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are **BINGO SUPPLIES** are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter or R.C. Chapter 2915. For purposes of this chapter, **BINGO SUPPLIES** are not to be considered equipment used to conduct a bingo game.

**BOOKMAKING.** The business of receiving or paying off bets.

**CHARITABLE BINGO GAME.** Any bingo game described in divisions (1) or (2) of the definition of “bingo” in this section that is conducted by a charitable organization that has obtained a license pursuant to R.C. § 2915.08 and the proceeds of which are used for a charitable purpose.

**CHARITABLE INSTANT BINGO ORGANIZATION.** An organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and is a charitable organization as defined in this section. A **CHARITABLE INSTANT BINGO ORGANIZATION** does not include a charitable organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and that is created by a veteran’s organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran’s organization, a fraternal organization, or a sporting organization pursuant to R.C. § 2915.13, or any substantially equivalent municipal ordinance.

**CHARITABLE ORGANIZATION.** Except as other-wise provided in this chapter, any tax exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, youth athletic, amateur athletic or youth athletic park organization. An organization is tax exempt if the organization has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), (c)(4), (c)(8), (c)(10) or (c)(19), or if the organization is a sporting organization that is exempt from federal income taxation under IRC 501(a) and is described in IRC 501(c)(7). To qualify as a charitable organization, an organization, except a volunteer rescue service or volunteer firefighter's organization, shall have been in continuous existence as such in this state for a period of 2 years immediately preceding either the making of an application for a bingo license under R.C. § 2915.08 or the conducting of any game of chance as provided in R.C. § 2915.02(D) or a substantially equivalent municipal ordinance. 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 does not have to have been in continuous existence as such in this state for a period of 2 years immediately preceding either the making of an application for a bingo license under R.C. § 2915.08 or the conducting of any game of chance as provided in R.C. § 2915.02(D) or a substantially equivalent municipal ordinance.

**CHARITABLE PURPOSE.** Means that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

(1) Any organization that is described in IRC 509(a)(1), 509(a)(2), or 509(a)(3) and is either a governmental unit or an organization that is tax exempt under IRC 501(a) and described in IRC 501(c)(3);

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(2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least 75% of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in R.C. § 5739.02(B)(12), is used for awarding scholarships to or for attendance at an institution mentioned in that division of the Revised Code, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;

(3) A fraternal organization that has been in continuous existence in this state for 15 years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, if contributions for such use would qualify as a deductible charitable contribution under IRC 170;

(4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in the definition of "volunteer firefighter's organization" in this section.

**COMMUNITY ACTION AGENCY.** Has the same meaning as in R.C. § 122.66.

**CONDUCT.** To back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance.

**DEAL OF INSTANT BINGO TICKETS.** A single game of instant bingo tickets all with the same serial number.

**DISTRIBUTOR.** Any person who purchases or obtains bingo supplies and who does either of the following:

(1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state;

(2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this state.

**EDUCATIONAL ORGANIZATION.** Any organization within this state that is not organized for profit, the primary purpose of which is to educate and develop the capabilities of individuals through instruction, and that operates or contributes to the support of a school, academy, college, or university.

**ELECTRONIC BINGO AID.**

(1) **ELECTRONIC BINGO AID** means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:

(a) It provides a means for a participant to input numbers and letters announced by a bingo caller.

(b) It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.

(c) It identifies a winning bingo pattern.

(2) **ELECTRONIC BINGO AID** does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.

**EXPENSES.** The reasonable amount of gross profit actually expended for all of the following:

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- (1) The purchase or lease of bingo supplies;
- (2) The annual license fee required under R.C. § 2915.08;
- (3) Bank fees and service charges for a bingo session or game account described in R.C. § 2915.10;
- (4) Audits and accounting services;
- (5) Safes;
- (6) Cash registers;
- (7) Hiring security personnel;
- (8) Advertising bingo;
- (9) Renting premises in which to conduct a bingo session;
- (10) Tables and chairs;
- (11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
- (12) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under R.C. § 2915.08(B)(1).

**FRATERNAL ORGANIZATION.** Any society, order, state headquarters, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, and that exists exclusively for the common business or sodality of its members, and that has been in continuous existence in this state for a period of 5 years.

**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 R.C. Chapter 2915.

**GAMBLING OFFENSE.** Any of the following:

- (1) A violation of R.C. §§ 2915.02, 2915.03, 2915.04, 2915.05, 2915.06, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.10, or 2915.11;
- (2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any section listed in division (1) of this definition or a violation of R.C. § 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 to commit, attempt to commit, or complicity in committing any offense under division (1), (2), or (3) of this definition.

**GAME FLARE.** The board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information for the game:

- (1) The name of the game;
- (2) The manufacturer's name or distinctive logo;
- (3) The form number;



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- (4) The ticket count;
- (5) The prize structure, including the number of winning instant bingo tickets by denomination and the respective winning symbol or number combinations for the winning instant bingo tickets;
- (6) The cost per play;
- (7) The serial number of the game.

**GAME OF CHANCE.** Poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

**GAME OF CHANCE CONDUCTED FOR PROFIT.** Any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

**GROSS ANNUAL REVENUES.** The annual gross receipts derived from the conduct of bingo described in division (1) of the definition of “bingo” in this section plus the annual net profit derived from the conduct of bingo described in division (2) of the definition of “bingo” in this section.

**GROSS PROFIT.** Means gross receipts minus the amount actually expended for the payment of prize awards.

**GROSS RECEIPTS.** All money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. **GROSS RECEIPTS** does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:

- (1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least 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.

**INSTANT BINGO.** A form of bingo that uses 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. **INSTANT BINGO** includes seal cards. **INSTANT BINGO** does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as 1 of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

**INSTANT BINGO TICKET DISPENSER.** A mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:

- (1) It is activated upon the insertion of United States currency.
- (2) It performs no gaming functions.
- (3) It does not contain a video display monitor or generate noise.
- (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.
- (5) It does not simulate or display rolling or spinning reels.

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(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.

**IRC or INTERNAL REVENUE CODE.** The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. §§ 1 *et seq.*, as now or hereafter amended.

**MANUFACTURER.** Any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.

**MERCHANDISE PRIZE.** Any item of value, but shall not include any of the following:

- (1) Cash, gift cards, or any equivalent thereof;
- (2) Plays on games of chance, state lottery tickets, bingo, or instant bingo;
- (3) Firearms, tobacco, or alcoholic beverages; or
- (4) A redeemable voucher that is redeemable for any of the items listed in division (1), (2), or (3) of this definition.

**NET PROFIT.** Means gross profit minus expenses.

**NET PROFIT FROM THE PROCEEDS OF THE SALE OF INSTANT BINGO.**

Means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies.

**NONPROFIT MEDICAL ORGANIZATION.** Means either of the following:

(1) Any organization that has been incorporated as a nonprofit corporation for at least 5 years and that has continuously operated and will be operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide hospital, medical, research, or therapeutic services for the public;

(2) Any organization that is described and qualified under IRC 501(c)(3), that has been incorporated as a nonprofit corporation for at least 5 years, and that has continuously operated and will be operated primarily to provide, or to contribute to the support of organizations or institutions organized or operated primarily to provide hospital, medical, research, or therapeutic services for the public.

**PARTICIPANT.** Any person who plays bingo.

**PERSON.** Has the same meaning as in R.C. § 1.59 and includes any firm or any other legal entity, however organized.

**POOL NOT CONDUCTED FOR PROFIT.** A scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

**PUNCH BOARD.** A board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

**RAFFLE.** A form of bingo in which the 1 or more prizes are won by 1 or more persons who have purchased a raffle ticket. The 1 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.

**REDEEMABLE VOUCHER.** Any ticket, token, coupon, receipt, or other noncash representation of value.

**RELIGIOUS ORGANIZATION.** Any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.

**REVOKE.** To void permanently all rights and privileges of the holder of a license issued under R.C. §§ 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.

**SCHEME OF CHANCE.** A slot machine, lottery, 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.

**SEAL CARD.** A form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains 1 or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.

**SECURITY PERSONNEL.** Any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course pursuant to R.C. §§ 109.71 to 109.79 and who is hired to provide security for the premises on which bingo is conducted.

**SENIOR CITIZEN'S ORGANIZATION.** Any private organization, not organized for profit, that is organized and operated exclusively to provide recreational or social services for persons who are 55 years of age or older and that is described and qualified under IRC 501(c)(3).

**SERVICE ORGANIZATION.** Means either of the following:

(1) Any organization, not organized for profit, that is organized and operated exclusively to provide or to contribute to the support of organizations or institutions organized and operated exclusively to provide medical and therapeutic services for persons who are disabled, born with birth defects, or have any other mental or physical disabilities or those organized and operated exclusively to protect or to contribute to the support of organizations or institutions organized and operated exclusively to protect animals from inhumane treatment or to provide immediate shelter to victims of domestic violence;

(2) 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) and that is an organization, not organized for profit, that is organized and operated primarily to provide, or to contribute to the support of organizations or institutions organized and operated primarily to provide, medical and therapeutic services for persons who are disabled, born with birth defects, or have any other mental or physical disability.

**SKILL-BASED AMUSEMENT MACHINE.**

(1) 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:

(a) The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed \$10;

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- (b) Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than \$10;
  - (c) Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than \$10 times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
  - (d) Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.
- (2) A device shall not be considered a skill- based amusement machine and shall be considered a slot machine if it pays cash or 1 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 players score;
  - (c) The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game;
  - (d) The success of any player is or may be determined by a chance event that cannot be altered by player actions;
  - (e) The ability of any player to succeed at the game is determined by game features not visible or known to the player;
  - (f) The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
- (3) All of the following apply to any machine that is operated as described in division (1) of this definition:
- (a) As used in this section, **GAME** and **PLAY** mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition, or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.
  - (b) Advance play for a single game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play.
  - (c) To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.
  - (4) For purposes of division (1) of this definition, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill- based amusement machine.

### ***SLOT MACHINE.***

- (1) Means either of the following:
  - (a) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;

(b) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct or dispense bingo or a scheme or game of chance.

(2) **SLOT MACHINE** does not include a skill-based amusement machine.

**SPORTING ORGANIZATION.** A hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the Ohio League of Sportsmen, and that has been in continuous existence in this state for a period of 3 years.

**SUSPEND.** To interrupt temporarily all rights and privileges of the holder of a license issued under R.C. §§ 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.

**VETERAN'S ORGANIZATION.** Any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit has been in continuous existence in this state for at least 2 years and incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this definition, **NATIONAL VETERAN'S ASSOCIATION** means any veteran's association that has been in continuous existence as such for a period of at least 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.

**VOLUNTEER FIREFIGHTER'S ORGANIZATION.** Any organization of volunteer firefighters, as defined in R.C. § 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.

**VOLUNTEER RESCUE SERVICE ORGANIZATION.** Any organization of volunteers organized to function as an emergency medical service organization as defined in R.C. § 4765.01.

**YOUTH ATHLETIC ORGANIZATION.** Any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 21 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

**YOUTH ATHLETIC PARK ORGANIZATION.** Any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates, and maintains playing fields that satisfy both of the following:

(a) The playing fields are used at least 100 days per year for athletic activities by 1 or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 18 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(b) The playing fields are not used for any profit-making activity at any time during the year.

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(2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in division (1) of this definition.

(R.C. § 2915.01)

### § 134.02 PUBLIC GAMING.

(A) *Generally.* 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) *Premises not to be used in violation of division (A).* No person, being the owner or lessee, or having custody, control, or supervision of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit those premises to be used or occupied in violation of division (A) of this section.

(C) *Gambling expressly permitted by law.* Divisions (A) and (B) of this section do not prohibit conduct in connection with gambling expressly permitted by law.

(D) *Not to solicit for games for money in park.* No person in a park shall solicit or procure participants for, engage in, or promote any game which is played for money or other thing of value.

(Rules and Regs. § 6.3)

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

(F) *Nuisance.* Premises used or occupied in violation of division (B) of this section constitute a nuisance subject to abatement under R.C. Chapter 3767.

(R.C. § 2915.04)

### § 134.03 CHEATING.

(A) *Corrupting outcome prohibited.* 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) *Knowingly corrupting outcome.* No person shall knowingly do any of the following:

(1) Offer, give, solicit, or accept anything of value to corrupt the outcome of an athletic or sporting event.

(2) Engage in conduct designed to corrupt the outcome of an athletic or sporting event.

(C) *State law penalty.*

(1) Whoever violates division (A) of this section is guilty of cheating.

Except as otherwise provided in this division, cheating is a misdemeanor of the first degree. If the potential gain from the cheating is \$500 or more or if the offender previously has been convicted of any gambling offense or of any theft offense as defined in R.C. § 2913.01, cheating is a felony to be prosecuted under appropriate state law.

(2) Whoever violates division (B) of this section is guilty of corrupting sports.

Corrupting sports is a felony to be prosecuted under appropriate state law.

(R.C. § 2915.05)

## CHAPTER 135: OFFENSES AGAINST PERSONS

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Section

135.01	Assault; negligent assault
135.02	Injury to persons by hunters
135.03	Menacing; aggravated menacing; menacing by stalking
135.04	Unlawful restraint
135.05	Criminal child enticement
135.06	Coercion
135.07	Contributing to unruliness or delinquency of a child
135.08	Telecommunications harassment
135.09	Adulteration of food
135.10	Hazing prohibited

### § 135.01 ASSAULT; NEGLIGENT ASSAULT.

(A) (1) *Assault.*

(a) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.

(b) No person shall recklessly cause serious physical harm to another or to another's unborn.

(2) *State law penalty.* Whoever violates division (A)(1)(a) or (A)(1)(b) of this section is guilty of assault. Except as provided in R.C. § 2903.13(C), assault is a misdemeanor of the first degree.

(R.C. § 2903.13)

(B) (1) *Negligent assault.* No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in R.C. § 2923.11, cause physical harm to another or to another's unborn.

(2) *State law penalty.* Whoever violates division (B)(1) of this section is guilty of negligent assault, a misdemeanor of the third degree.

(R.C. § 2903.14)

***Statutory reference:***

*Aggravated and felonious assault, see R.C. §§ 2903.11 and 2903.12*

*Aggravated vehicular assault, felony, see R.C. § 2903.08*



**§ 135.02 INJURY TO PERSONS BY HUNTERS.**

(A) *Injury to person.* No person in the act of hunting, pursuing, taking, or killing a wild animal shall act in a negligent, careless, or reckless manner so as to injure persons.

(R.C. § 1533.171(A))

(B) *State law penalty.* Whoever violates this section shall be guilty of a misdemeanor of the first degree.

(R.C. § 1533.99(C))

***Cross-reference:***

*Hunting in parks, see § 90.02*

*Hunting near parks, see § 137.02*

***Statutory Reference:***

*Violation, license revocation, see R.C. § 1533.171(B) through (E)*

**§ 135.03 MENACING; AGGRAVATED MENACING; MENACING BY STALKING.**

(A) (1) *Menacing.* No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family.

(2) *State law penalty.* Whoever violates division (A)(1) of this section is guilty of menacing. Except as otherwise provided in this division (A)(2), menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, menacing is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, a felony to be prosecuted under appropriate state law.

(R.C. § 2903.22)

(B) (1) *Aggravated menacing.* No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, such other person's unborn, or a member of such other person's immediate family.

(2) *State law penalty.* Whoever violates division (B)(1) of this section is guilty of aggravated menacing. Except as otherwise provided in this division (B)(2), aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony to be prosecuted under appropriate state law or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, a felony to be prosecuted under appropriate state law.

(R.C. § 2903.21)

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(C) *Menacing by stalking.*

(1) (a) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person.

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

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

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

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

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

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

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

3. In committing the offense under division (C)(1)(a), (C)(1)(b) or (C)(1)(c) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under division (C)(1)(b) or (C)(1)(c) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.

4. The victim of the offense is a minor.

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

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

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

8. In committing the offense under division (C)(1)(a), (C)(1)(b) or (C)(1)(c) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any

personal property located on that premises, or as a result of an offense committed under division (C)(1)(b) of this section or an offense committed under division (C)(1)(c) of this section based on a violation of division (C)(1)(b) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.

9. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious harm, or other evidence of then-present dangerousness.

10. The victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties.

11. The offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties.

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

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

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

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

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

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

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

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

**MENTAL DISTRESS.** Means any of the following:

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

2. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.

**PATTERN OF CONDUCT.** Means 2 or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages or receipt of information or data through the use of an electronic method of remotely transferring information, including but not limited to a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct."

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

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

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

**TELECOMMUNICATIONS DEVICE.** Has the same meaning as in R.C.

§ 2913.01.

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

(5) The prosecution does not need to prove in a prosecution under division (C) of this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in division (2) of the definition for "mental distress" in this section.

(6) (a) Division (C) of this section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is or will be sent in violation of division (C) of this section.

(b) Division (C)(6)(a) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is or will be sent in violation of division (C) of this section except as otherwise provided by law.

(c) Division (C)(6)(a) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of division (C) of this section or who knowingly advertises the availability of material of that nature.

(R.C. § 2903.211)

#### **§ 135.04 UNLAWFUL RESTRAINT.**

(A) No person, without privilege to do so, shall knowingly restrain another of the other person's liberty.

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

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

(D) As used in this section, **SEXUAL MOTIVATION** has the same meaning as in R.C. § 2971.01.  
(R.C. § 2905.03)

**§ 135.05 CRIMINAL CHILD ENTICEMENT.**

(A) *Generally.* No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice, or lure any child under 14 years of age to accompany the person in any manner, including entering into any vehicle or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:

(1) The actor does not have the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity.

(2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of, any board of education, or the actor is any such person, but at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.

(B) *Motivation.* No person, with a sexual motivation, shall violate division (A) of this section.

(C) *Activity in response to bona fide emergency situation; affirmative defense.* It is an affirmative defense to a charge under division (A) of this section that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety, or welfare of the child.

(D) *State law penalty.* Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, a substantially equivalent state law or municipal ordinance, R.C. § 2907.02 or 2907.03 or former R.C. § 2907.12, or R.C. § 2905.01 or 2907.05 when the victim of that prior offense was under 17 years of age at the time of the offense, criminal child enticement is a felony to be prosecuted under appropriate state law.

(E) *Definitions.* As used in this section:

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

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

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

(R.C. § 2905.05)

**§ 135.06 COERCION.**

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

(1) Threaten to commit any offense.

(2) Utter or threaten any slander against any person.

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(3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt, or ridicule, or to damage his or her personal or business reputes, or to impair his or her credit.

(4) Institute or threaten criminal proceedings against any person.

(5) Take or withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

(B) *Prosecutor of court not prohibited from the following.* Divisions (A)(4) and (5) of this section shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interests of justice:

(1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to R.C. § 2945.44.

(2) In return for a plea of guilty to 1 or more offenses charged or to 1 or more other or lesser offenses, or in return for the testimony of the accused in a case to which he or she is not a party, offering or agreeing to dismiss, or dismissing 1 or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence.

(3) Imposing probation on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of his or her offense.

(C) *Actor's conduct reasonable response to circumstances; affirmative defense.* It is an affirmative defense to a charge under division (A)(3), (4), or (5) of this section that the actor's conduct was a reasonable response to the circumstances which occasioned it, and that his or her purpose was limited to:

(1) Compelling another to refrain from misconduct or to desist from further misconduct.

(2) Preventing or redressing a wrong or injustice.

(3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified.

(4) Compelling another to take action which the actor reasonably believed the other person to be under a duty to take.

(D) *State law penalty.* Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.

(E) *Definition.* As used in this section, **THREAT** includes a direct threat and a threat by innuendo.

(R.C. § 2905.12)

**§ 135.07 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.**

(A) *Generally.* No person, including a parent, guardian, or other custodian of a child, shall do any of the following:

(1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child, as defined in R.C. § 2151.022, or a delinquent child, as defined in R.C. § 2152.02;

(2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child, as defined in R.C. § 2151.022, or a delinquent child, as defined in R.C. § 2152.02.

(3) If the person is the parent, guardian, or custodian of a child who has the duties under R.C. Chapters 2152 and 2950 to register, to register a new residence address, and to periodically verify a residence address and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in R.C. § 2919.121, fail to ensure that the child complies with those duties under R.C. Chapters 2152 and 2950.

(B) *State law penalty.* Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of a violation of this section is a separate offense.

(R.C. § 2919.24)

### **§ 135.08 TELECOMMUNICATIONS HARASSMENT.**

(A) *Harassment and penalty.*

(1) *Generally.* No person shall, while communicating with any other person over a telephone, threaten to do bodily harm or use or address to such other person any words or language of a lewd, lascivious, or indecent character, nature, or connotation for the sole purpose of annoying such other person; nor shall any person telephone any other person repeatedly or cause any person to be telephoned repeatedly for the sole purpose of harassing or molesting such other person or his or her family. Any use, communication, or act prohibited by this division (A)(1) may be deemed to have occurred or to have been committed at either the place at which the telephone call was made or was received.

(R.C. § 4931.31)

(2) *State law penalty.* Whoever violates division (A)(1) of this section is guilty of a misdemeanor of the third degree.

(R.C. § 4931.99(B))

(B) *Caller's failure to identify self; suggestion to engage in sexual activity and other violations prohibited.* No person shall knowingly make or cause to be made a telecommunication, or knowingly permit a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

(1) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass or abuse any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient.

(2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made.

(3) During the telecommunication, violates R.C. § 2903.21 or a substantially similar municipal ordinance.

(4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction



or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged.

(5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any persons at those premises.

(C) *Abusing, threatening, or harassing another by telecommunication prohibited.* No person shall make or cause to be made a telecommunication or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.

(D) *State law penalty.*

(1) Whoever violates divisions (B) or (C) of this section is guilty of telecommunications harassment.

(2) A violation of division (B)(1), (2), (3) or (5) or (C) of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, which shall be prosecuted under appropriate state law.

(3) Except as otherwise provided in this division (D)(3), a violation of division (B)(4) of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, to be prosecuted under appropriate state law. If a violation of division (B)(4) of this section results in economic harm of \$500 or more, telecommunications harassment is a felony to be prosecuted under appropriate state law.

(E) *No cause of action against provider of telecommunication service.* No cause of action may be assessed in any court of this municipality against any provider of a telecommunications service or information service, or against any officer, employee, or agent of a telecommunications service or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service or information service, or an officer, employee, or agent of a telecommunications service or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employees, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.

(F) *Definitions.* As used in divisions (B) through (E) of this section:

**CALLER.** Means the person described in division (B) of this section who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.

**ECONOMIC HARM.** Means all direct, incidental and consequential pecuniary harm suffered by a victim as a result of the criminal conduct. The term includes but is not limited to all of the following:

(a) All wages, salaries or other compensation lost as a result of the criminal conduct;

(b) The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

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(c) The overhead costs incurred from the time that a business is shut down as a result of the criminal conduct;

(d) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

**SEXUAL ACTIVITY.** Has the same meaning as in R.C. § 2907.01.

**TELECOMMUNICATION** and **TELECOMMUNICATIONS DEVICE.** Have the same meanings as in R.C. § 2913.01.

(G) *Telecommunication to debtor.* Nothing in this section prohibits a person from making a telecommunication to a debtor that is in compliance with the Fair Debt Collection Practices Act, being 15 U.S.C. § 1692, as amended, or the Telephone Consumer Protection Act, being 47 U.S.C. § 227, as amended.

(R.C. § 2917.21)

**§ 135.09 ADULTERATION OF FOOD.**

(A) *Adulterated food.* No person shall do either of the following, knowing or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:

(1) Place a pin, razor blade, glass, laxative, drug of abuse, or other harmful or hazardous object or substance in any food or confection.

(2) Furnish to any person any food or confection which has been adulterated in violation of division (A)(1) of this section.

(R.C. § 3716.11)

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

(R.C. § 3716.99(C))

**Statutory reference:**

*Adulteration of food generally, see R.C. § 3715.59*

**§ 135.10 HAZING PROHIBITED.**

(A) *Definition.* As used in this section, **HAZING** means doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person.

(B) *Hazing.*

(1) No person shall recklessly participate in the hazing of another.

(2) No administrator, employee, or faculty member of any primary, secondary, or post-secondary school or of any other educational institution, public or private, shall recklessly permit the hazing of any person.

(C) *State law penalty.* Whoever violates this section is guilty of hazing, a misdemeanor of the fourth degree.

(R.C. § 2903.31)

**Statutory reference:**

*Civil liability for hazing, see R.C. § 2307.44*

## CHAPTER 136: OFFENSES AGAINST JUSTICE AND ADMINISTRATION

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Section

136.01	Falsification
136.02	Failure to aid a law enforcement officer
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136.04	Obstructing official business
136.05	Obstructing justice
136.06	Resisting arrest
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136.08	Impersonating a peace officer
136.09	Assaulting police dog or horse, or assistance dog
136.10	Misuse of 9-1-1 system

### § 136.01 FALSIFICATION.

(A) *False statement.* No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

- (1) The statement is made in any official proceeding.
- (2) The statement is made with purpose to incriminate another.
- (3) The statement is made with purpose to mislead a public official in performing his or her official function.
- (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio Works First; prevention, retention and contingency benefits and services; disability financial assistance; retirement benefits; economic development assistance as defined in R.C. § 9.66; or other benefits administered by a governmental agency or paid out of a public treasury.
- (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.
- (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
- (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.
- (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to his or her detriment.
- (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.
- (10) The statement is knowingly made to a probate court in connection with any action, proceeding, or other matter within its jurisdiction, either orally or in a written

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document, including but not limited to an application, petition, complaint, or other pleading, or an inventory, account, or report.

(11) The statement is made on an account, form, record, stamp, label or other writing that is required by law.

(12) The statement is made in connection with the purchase of a firearm, as defined in R.C. § 2923.11, and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the Secretary of State, a county recorder, or the clerk of a court of record.

(14) The statement is made with purpose to obtain an Ohio's best Rx program enrollment card under R.C. § 173.773 or payment under R.C. § 173.801.

(15) The statement is made in an application filed with a county sheriff pursuant to R.C. § 2923.125 in order to obtain or renew a license to carry a concealed handgun or is made in an affidavit submitted to a county sheriff to obtain a temporary emergency license to carry a concealed handgun under R.C. § 2923.1213.

(16) The statement is required under R.C. § 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(B) *Furnishing altered identification in purchase of firearm.* No person, in connection with the purchase of a firearm as defined in R.C. § 2923.11, shall knowingly furnish to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(C) *Fictitious or altered documents.* No person, in an attempt to obtain a license to carry a concealed handgun under R.C. § 2923.125, shall knowingly present to a sheriff a fictitious or altered document that purports to be certification of the person's competence in handling a handgun as described in R.C. § 2923.125(B)(3).

(D) *Oath administered or taken in irregular manner; no defense.* It is no defense to a charge under division (A)(6) of this section that the oath or affirmation was administered or taken in an irregular manner.

(E) *Prosecution; false statement.* If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.

(F) *State law penalty.*

(1) Whoever violates division (A)(1), (A)(2), (A)(3), (A)(4), (A)(5), (A)(6), (A)(7), (A)(8), (A)(10), (A)(11), (A)(13), (A)(14) or (A)(16) of this section is guilty of falsification, a misdemeanor of the first degree.

(2) Whoever violates division (A)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is \$500 or more, falsification in a theft offense is a felony to be prosecuted under appropriate state law.

(3) Whoever violates division (A)(12) or (B) of this section is guilty of falsification to purchase a firearm, a felony to be prosecuted under appropriate state law.

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(4) Whoever violates division (A)(15) or (C) of this section is guilty of falsification to obtain a concealed handgun license, a felony to be prosecuted under appropriate state law.

(R.C. § 2921.13)

(G) *Failure to maintain proof of financial liability.*

(1) No person who has knowingly failed to maintain proof of financial responsibility in accordance with R.C. § 4509.101 shall produce any document with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with R.C. § 4509.101(D)(2).

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

(R.C. § 4509.102)

### **§ 136.02 FAILURE TO AID A LAW ENFORCEMENT OFFICER.**

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

(B) *State law penalty.* Whoever violates this section is guilty of failure to aid a law enforcement officer, a minor misdemeanor.

(R.C. § 2921.23)

### **§ 136.03 FAILURE TO COMPLY WITH LAWFUL ORDERS.**

No person shall fail or refuse to comply with any reasonable order relating to the regulation, direction or control of traffic, or to any other order lawfully given by any peace officer acting under the authority of the Board of Park Commissioners, or willfully resist, obstruct or abuse any peace officer or any other official in the execution of his or her office. (Rules and Regs. § 21) Penalty, see § 130.99

***Statutory reference:***

*Failure to comply, see R.C. §§ 1541.18, 2921.331*

### **§ 136.04 OBSTRUCTING OFFICIAL BUSINESS.**

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

(B) *State law penalty.* Whoever violates this section is guilty of obstructing official business. Except as otherwise provided in this division, obstructing official business is a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm

to any person, obstructing official business is a felony to be prosecuted under appropriate state law.

(R.C. § 2921.31)

**§ 136.05 OBSTRUCTING JUSTICE.**

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

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

(B) *Violation of division (A).* A person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of division (A) of this section regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed shall be used under division (C) of this section in determining the penalty for violation of division (A) of this section, regardless of whether the person or child aided ultimately is apprehended for, is charge with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed.

(C) *State law penalty.* Whoever violates this section is guilty of obstructing justice.

(1) If the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be a misdemeanor if committed by an adult, obstructing justice is a misdemeanor of the same degree as the crime committed by the person aided or a misdemeanor of the same degree that the act committed by the child aided would be if committed by an adult.

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

(D) *Definitions.* As used in this section:

**ACT OF TERRORISM** has the same meaning as in R.C. § 2909.21.

**ADULT** and **CHILD** have the same meaning as in R.C. § 2151.011.

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

(R.C. § 2921.32)

### **§ 136.06 RESISTING ARREST.**

(A) *Generally.* No person, recklessly or by force, shall resist or interfere with a lawful arrest of himself, herself or another.

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

(C) *Interference with lawful arrest of another person.* No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person if either of the following applies:

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

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

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

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

(R.C. § 2921.33)

**Statutory reference:**

*Unlawful taking of deadly weapon from a law enforcement officer, felony offense, see R.C. § 2911.01*

### **§ 136.07 PERSONATING AN OFFICER.**

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

(B) *State law penalty.* Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree.

(R.C. § 2913.44)

### **§ 136.08 IMPERSONATING A PEACE OFFICER.**



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(A) *Definitions.* As used in this section:

**FEDERAL LAW ENFORCEMENT OFFICER.** Means an employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.

**IMPERSONATE.** Means to act the part of, assume the identity of, wear the uniform or any part of the uniform of, or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

**INVESTIGATOR OF THE BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION.** Has the same meaning as in R.C. § 2903.11.

**PEACE OFFICER.** Means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation, or township constable, who is employed by a political subdivision of this state, a member of a police force employed by a metropolitan housing authority under R.C. § 3735.31(D), a member of a police force employed by a regional transit authority under R.C. § 306.35(Y), a state university law enforcement officer appointed under R.C. § 3345.04, a veterans' home police officer appointed under R.C. § 5907.02, a special police officer employed by a port authority under R.C. § 4582.04 or 4582.28, or a state highway patrol trooper and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws, ordinances, or rules of the state or any of its political subdivisions.

**PRIVATE POLICE OFFICER.** Means any security guard, special police officer, private detective, or other person who is privately employed in a police capacity.

(B) *Impersonation of peace officer or private police officer.* No person shall impersonate a peace officer, private police officer, investigator of the Bureau of Criminal Identification and Investigation, or federal law enforcement officer.

(C) *Arrest, detain, etc. another by person impersonating peace officer or private police officer.* No person, by impersonating a peace officer, private police officer, investigator of the Bureau of Criminal Identification and Investigation, or federal law enforcement officer, shall arrest or detain any person, search any person, or search the property of any person.

(D) *Impersonation of peace officer, private police officer, officer, agent or employee of municipality of state.* No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the municipality or the state, or investigator of the Bureau of Criminal Identification and Investigation.

(E) *Felony committed during impersonation.* No person shall commit a felony while impersonating a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the municipality or of the state, or investigator of the Bureau of Criminal Identification and Investigation.

(F) *Impersonation for lawful purpose, affirmative defense.* It is an affirmative defense to a charge under division (B) of this section that the impersonation of the peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the municipality or of the state, or investigator of the Bureau of Criminal Identification and Investigation was for a lawful purpose.

(G) *State law penalty.* Whoever violates division (B) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (C) or (D) of this section is guilty

of a misdemeanor of the first degree. If the purpose of a violation of division (D) of this section is to commit or facilitate the commission of a felony, a violation of division (D) is a felony to be prosecuted under appropriate state law. Whoever violates division (E) of this section is guilty of a felony to be prosecuted under appropriate state law.

(R.C. § 2921.51)

**§ 136.09 ASSAULTING POLICE DOG OR HORSE, OR ASSISTANCE DOG.**

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

(1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.

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

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

(1) Taunt, torment, or strike a police dog or horse;

(2) Throw an object or substance at a police dog or horse;

(3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:

(a) Inhibits or restricts the law enforcement officer's control of the police dog or horse;

(b) Deprives the law enforcement officer of control of the police dog or horse;

(c) Releases the police dog or horse from its area of control;

(d) Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;

(e) Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer;

(4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse;

(5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.

(C) *Assistance dog.* No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:

(1) The dog is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted.

(2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is an assistance dog.

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- (D) *Prohibited actions.* No person shall recklessly do any of the following:
- (1) Taunt, torment, or strike an assistance dog;
  - (2) Throw an object or substance at an assistance dog;
  - (3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a blind, deaf or hearing impaired, or mobility impaired person who is being assisted or served by an assistance dog, in a manner that does any of the following:
    - (a) Inhibits or restricts the assisted or served person's control of the dog;
    - (b) Deprives the assisted or served person of control of the dog;
    - (c) Releases the dog from its area of control;
    - (d) Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;
    - (e) Inhibits or restricts the ability of the dog to assist the assisted or served person;
  - (4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;
  - (5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person or that the person knows is an assistance dog.

(E) *State law penalty.*

- (1) Whoever violates division (A) of this section is guilty of assaulting a police dog or horse. Except as otherwise provided in this division, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in physical harm to the police dog or horse other than death or serious physical harm, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation results in serious physical harm to the police dog or horse or results in its death, assaulting a police dog or horse is a felony to be prosecuted under appropriate state law.
- (2) Whoever violates division (B) of this section is guilty of harassing a police dog or horse. Except as otherwise provided this division, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree. If the violation results in serious physical harm to the police dog or horse or results in its death, harassing a police dog or horse is a felony to be prosecuted under appropriate state law.
- (3) Whoever violates division (C) of this section is guilty of assaulting an assistance dog. Except as otherwise provided in this division, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in physical harm to the assistance dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation results in serious physical harm to the assistance dog or results in its death, assaulting an assistance dog is a felony to be prosecuted under appropriate state law.
- (4) Whoever violates division (D) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this division, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in physical harm to the assistance dog but does not result in the death or in serious physical harm to it, harassing an assistance dog is a

misdemeanor of the first degree. If the violation results in serious physical harm to the assistance dog or results in its death, harassing an assistance dog is a felony to be prosecuted under appropriate state law.

(5) In addition to any other sanctions or penalty imposed for the offense under this section, R.C. Chapter 2929 or any other provision of the Ohio Revised Code or this code, whoever violates division (A), (B), (C), or (D) of this section is responsible for the payment of all of the following:

(a) Any veterinary bill or bill for medication incurred as a result of the violation by the Police Department regarding a violation of division (A) or (B) of this section or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog regarding a violation of division (C) or (D) of this section;

(b) The cost of any damaged equipment that results from the violation;

(c) If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog;

(d) If the violation resulted in the death of the police dog or horse or the assistance dog that was the subject of the violation or resulted in serious physical harm to that dog or horse to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.

(F) *Licensed veterinarian.* This section does not apply to a licensed veterinarian whose conduct is in accordance with R.C. Chapter 4741.

(G) *Knowledge of police dog or horse or assistance dog.* This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or an assistance dog.

(H) *Definitions.* As used in this section:

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

**BLIND.** Has the same meaning as in R.C. § 955.011.

**MOBILITY IMPAIRED PERSON.** Has the same meaning as in R.C. § 955.011.

**PHYSICAL HARM.** Means any injury, illness, or other psychological impairment, regardless of its gravity or duration.

**POLICE DOG OR HORSE.** Means a dog or horse that has been trained and may be used to assist law enforcement officers in the performance of their official duties.

**SERIOUS PHYSICAL HARM.** Means any of the following:

(a) Any physical harm that carries a substantial risk of death.

(b) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming.

(c) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(R.C. § 2921.321)

**§ 136.10 MISUSE OF 9-1-1 SYSTEM.**

(A) *Definition.* As used in this section, **9-1-1 SYSTEM** means a system through which individuals can request emergency service using the telephone number 9-1-1.

(R.C. § 4931.40(A))

(B) *Use of system when no emergency.* No person shall knowingly use the telephone number of the 9-1-1 system to report an emergency if the person knows that no emergency exists.

(R.C. § 4931.49(D))

(C) *State law penalty.* Whoever violates this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 4931.99(A))

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**CHAPTER 137: WEAPONS CONTROL**

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Section

- 137.01 Possessing or carrying weapons in parks
- 137.02 Pointing and discharging firearms and other weapons
- 137.03 Using weapons while intoxicated
- 137.04 Possessing criminal tools

**§ 137.01 POSSESSING OR CARRYING WEAPONS IN PARKS.**

(A) No person in a park, except peace officers, shall have in his or her possession any switchblade, hunting knife, dagger or other bladed instrument, metal knuckles, slingshot, or other dangerous weapon.

(B) No person, except peace officers and those authorized to carry concealed weapons under R.C. § 2923.12, shall carry on or about his or her person, knives, bows and arrows, crossbows, air or gas guns, missiles, slingshots or other missile-throwing devices, except that bows and arrows may be carried in areas designated by the Director for their use.

(C) Bows and arrows, knives, air or gas guns, missiles, slingshots or other missile-throwing devices or any snares or traps brought into a park may be confiscated by peace officers.

(Rules and Regs. §§ 6.7, 9) Penalty, see § 130.99

**§ 137.02 POINTING AND DISCHARGING FIREARMS AND OTHER WEAPONS.**

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

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

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

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

(B) (1) *Exception for divisions (A)(1) and (A)(2).* Division (A)(1) of this section does not apply to a person who while on the person's own land, discharges a firearm.

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

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

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

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

(R.C. § 2923.162)

(D) *Hunting; penalty.*

(1) No person shall hunt, shoot, or kill game within ½ mile of a township park unless the Board of Township Park Commissioners has granted permission to kill game not desired within the limits prohibited by this division.

(R.C. § 3773.06)

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

(R.C. § 3773.99(A))

(E) *Discharge of firearm, air or gas gun.* No person shall discharge in or into a park any firearm or air or gas gun.

(Rules and Regs. § 9.1)

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

(G) *State law penalty; divisions (E) and (F).* Whoever violates division (E) or (F) of this section is guilty of a misdemeanor of the fourth degree.

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

of structures or used within the confines of a person's own property, provided such use is under adult supervision and is approved by the municipality.

**Statutory reference:**

*Improperly discharging firearm at or into habitation or school safety zone, felony offense, see R.C. § 2923.161*

**§ 137.03 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.

(R.C. § 2923.15)

**§ 137.04 POSSESSING CRIMINAL TOOLS.**

(A) No person shall possess or have under his or her control any substance, device, instrument, or article, with purpose to use it criminally.

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

(1) Possession or control of any dangerous ordnance, or the materials or parts for making a dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials or parts are intended for a legitimate use.

(2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use.

(3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.

(C) Whoever violates this section is guilty of possessing criminal tools. Except as otherwise provided in this division, possessing criminal tools is a misdemeanor of the first degree. If the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony to be prosecuted under appropriate state law.

(R.C. § 2923.24)

**CHAPTER 138: DRUG OFFENSES**

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Section

- 138.01 Definitions
- 138.02 Possession, sale or use of drugs in parks
- 138.03 Trafficking in controlled substances; gift of marihuana
- 138.04 Drug abuse
- 138.05 Possessing drug abuse instruments
- 138.06 Permitting drug abuse



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- 138.07 Abusing harmful intoxicants
- 138.08 Nitrous oxide; improper dispensing or distribution; possession in a motor vehicle
- 138.09 Counterfeit controlled substances
- 138.10 Use, possession or sale of drug paraphernalia

### § 138.01 DEFINITIONS.

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

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

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

**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 marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in division (2) or (5) of this definition, whichever of the following is applicable:

(a) An amount equal to or exceeding 10 grams or 25 unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I opiate or opium derivative;

(b) An amount equal to or exceeding 10 grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;

(c) An amount equal to or exceeding 30 grams or 10 unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;

(d) An amount equal to or exceeding 20 grams or 5 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 5 grams or 10 unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;

(f) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 301 *et seq.*, as amended) and the federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;

(g) An amount equal to or exceeding 3 grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its

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salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 301 *et seq.*, as amended) and the federal drug abuse control laws;

(2) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;

(3) An amount equal to or exceeding 20 grams or 5 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;

(4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule V substance.

(5) An amount equal to or exceeding 200 solid dosage units, 16 grams, or 16 milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III anabolic steroid.

**CERTIFIED GRIEVANCE COMMITTEE.** A duly constituted and organized committee of the Ohio State Bar Association or of 1 or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.

**COCAINE.** Any of the following:

(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.

(2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.

(3) A salt, compound, derivative, or preparation of a substance identified in division (1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.

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

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

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

**COUNTERFEIT CONTROLLED SUBSTANCE.** Any of the following:

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(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.

**CRACK COCAINE.** A compound, mixture, preparation, or substance that is or contains any amount of cocaine that is analytically identified as the base form of cocaine or that is in a form that resembles rocks or pebbles generally intended for individual use.

**CULTIVATE.** Includes planting, watering, fertilizing or tilling.

**DANGEROUS DRUG.** Any of the following:

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

(a) Under the Federal Food, Drug, and Cosmetic Act, is required to bear a label containing the legend “Caution: Federal law prohibits dispensing without a prescription” or “Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian” or any similar restrictive statement, or may be dispensed only upon a prescription.

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

(2) Any drug that contains a Schedule V controlled substance and that is exempt from R.C. Chapter 3719 or to which that chapter does not apply.

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

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

**DISCIPLINARY COUNSEL.** The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.

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

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

**DRUG.** Any of the following:

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

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

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

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

**DRUG ABUSE OFFENSE.** Any of the following:

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

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

(3) An offense under an existing or former law of a municipality, state or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element.

(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under division (1), (2), or (3) of this definition.

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

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

**FEDERAL DRUG ABUSE CONTROL LAWS.** The Comprehensive Drug Abuse Prevention and Control Act of 1970, being 21 U.S.C. §§ 801 *et seq.*, as amended.

**FELONY DRUG ABUSE OFFENSE.** Any drug abuse offense that would constitute a felony under the laws of this state, any other state, or the United States.

**HARMFUL INTOXICANT.** Does not include beer or intoxicating liquor, but means any of the following:

(1) Any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes but is not limited to any of the following:

(a) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent.

(b) Any aerosol propellant.

(c) Any fluorocarbon refrigerant.

(d) Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1,4 Butanediol.

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

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

**JUVENILE.** A person under 18 years of age.

**LABORATORY.** A laboratory approved by the State Board of Pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and clinical purposes and for purposes of instruction.

**LAWFUL PRESCRIPTION.** A prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.

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

- (1) A dentist licensed under R.C. Chapter 4715.
- (2) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under R.C. § 4723.48.
- (3) An optometrist licensed under R.C. Chapter 4725 to practice optometry under a therapeutic pharmaceutical agent's certificate.
- (4) A physician authorized under R.C. Chapter 4731 to practice medicine and surgery, osteopathic medicine and surgery, or podiatry.
- (5) A physician assistant who holds a certificate to prescribe issued under R.C. Chapter 4730.
- (6) A veterinarian licensed under R.C. Chapter 4741.

**L.S.D.** Lysergic acid diethylamide.

**MAJOR DRUG OFFENDER.** Has the same meaning as in R.C. § 2929.01.

**MANDATORY PRISON TERM.** Has the same meaning as in R.C. § 2929.01.

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

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

**MARIHUANA.** All parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. **MARIHUANA** does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination. **MARIHUANA** does not include **HASHISH**.

**METHAMPHETAMINE.** Methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine.

**MINOR DRUG POSSESSION OFFENSE.** Either of the following:

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

**OFFICIAL WRITTEN ORDER.** An order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the

United States making provision for the order, if the order forms are authorized and required by federal law.

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

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

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

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

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

**PRESUMPTION FOR A PRISON TERM or PRESUMPTION THAT A PRISON TERM SHALL BE IMPOSED.** A presumption as described in R.C. § 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under R.C. § 2929.11.

**PROFESSIONAL LICENSE.** Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in R.C. § 2925.01(W)(1) to (36) and that qualifies a person as a professionally licensed person.

**PROFESSIONALLY LICENSED PERSON.** Any of the following:

- (1) A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under R.C. Chapter 3719;
- (2) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;
- (3) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under R.C. Chapter 4703;
- (4) A person who is registered as a landscape architect under R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
- (5) A person licensed under R.C. Chapter 4707;
- (6) A person who has been issued a certificate of registration as a registered barber under R.C. Chapter 4709;
- (7) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of R.C. Chapter 4710;
- (8) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, managing cosmetologist's license, managing hair designer's license, managing manicurist's license, managing esthetician's license, managing natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under R.C. Chapter 4713;

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- (9) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under R.C. Chapter 4715;
- (10) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under R.C. Chapter 4717;
- (11) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under R.C. Chapter 4723;
- (12) A person who has been licensed to practice optometry or to engage in optical dispensing under R.C. Chapter 4725;
- (13) A person licensed to act as a pawnbroker under R.C. Chapter 4727;
- (14) A person licensed to act as a precious metals dealer under R.C. Chapter 4728;
- (15) A person licensed as a pharmacist, a pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under R.C. Chapter 4729;
- (16) A person who is authorized to practice as a physician assistant under R.C. Chapter 4730;
- (17) A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine, or podiatry under R.C. Chapter 4731;
- (18) A person licensed as a psychologist or school psychologist under R.C. Chapter 4732;
- (19) A person registered to practice the profession of engineering or surveying under R.C. Chapter 4733;
- (20) A person who has been issued a license to practice chiropractic under R.C. Chapter 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under R.C. Chapter 4735;
- (22) A person registered as a registered sanitarian under R.C. Chapter 4736;
- (23) A person licensed to operate or maintain a junkyard under R.C. Chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under R.C. Chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under R.C. Chapter 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under R.C. Chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under R.C. Chapter 4747;
- (28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under R.C. Chapter 4749;
- (29) A person licensed and registered to practice as a nursing home administrator under R.C. Chapter 4751;



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- (30) A person licensed to practice as a speech-language pathologist or audiologist under R.C. Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under R.C. Chapter 4755;
- (32) A person who is licensed as a professional clinical counselor or professional counselor, licensed as a social worker or independent social worker, or registered as a social work assistant under R.C. Chapter 4757;
- (33) A person issued a license to practice dietetics under R.C. Chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under R.C. Chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under R.C. Chapter 4763;
- (36) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.

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

**SALE.** Includes delivery, barter, exchange, transfer, or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.

**SAMPLE DRUG.** A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at 1 time, had been placed in a container plainly marked as a sample by a manufacturer.

**SCHEDULE I, II, III, IV OR V.** Controlled substance Schedules I, II, III, IV, and V established pursuant to R.C. § 3719.41, as amended pursuant to R.C. §§ 3719.43 or 3719.44.

**SCHOOL.** Any school operated by a board of education, any community school established under R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

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

**SCHOOL PREMISES.** Either of the following:

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

(2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07 and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

**STANDARD PHARMACEUTICAL REFERENCE MANUAL.** The current edition, with cumulative changes if any, of any of the following reference works:

- (1) The *National Formulary*.
- (2) The *United States Pharmacopeia*, prepared by the authority of the United States Pharmacopeia Convention, Inc.
- (3) Other standard references that are approved by the State Board of Pharmacy.

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

**UNIT DOSE.** An amount or unit or a compound, mixture, or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

**WHOLESALER.** A person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes **WHOLESALE DISTRIBUTOR OF DANGEROUS DRUGS**, which means a person engaged in the sale of dangerous drugs at wholesale and includes any agent or employee of that person authorized by that person to engage in the sale of dangerous drugs at wholesale.

(R.C. §§ 2925.01, 3719.01, 3719.011, 4729.01)

## **§ 138.02 POSSESSION, SALE OR USE OF DRUGS IN PARKS.**

No person in a park shall possess, sell, use or offer for sale any type of narcotic drug, opiate, hallucinogen, controlled substance, marihuana, or harmful intoxicant as defined in Chapters 2925 and 3719 of the Ohio Revised Code, or any equipment for administering any such drugs or substances, except as otherwise provided in Ohio Revised Code § 2925.11 and Ohio Revised Code § 2925.12.

(Rules and Regs. § 6.12) Penalty, see § 130.99

## **§ 138.03 TRAFFICKING IN CONTROLLED SUBSTANCES; GIFT OF MARIHUANA.**

- (A) *Generally.* No person shall knowingly do any of the following:
- (1) Sell or offer to sell a controlled substance;
  - (2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, when the offender knows or has reasonable cause to believe that the controlled substance is intended for sale or resale by the offender or another person.
- (B) *Exceptions.* This section does not apply to any of the following:
- (1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.
  - (2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration.

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(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the Federal Food, Drug and Cosmetic Act (21 U.S.C. §§ 301 *et seq.*, as amended), and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.

(C) *State law penalty.* Whoever violates division (A) of this section is guilty of the following:

(1) Except as otherwise provided in divisions (C)(2) and (C)(3) of this section, trafficking in controlled substances is a felony to be prosecuted under appropriate state law.

(2) Except as otherwise provided in division (C)(3) of this section, if the offense involves a gift of 20 grams or less of marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense.

(3) If the offense involves a gift of 20 grams or less of marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(D) *Requirements in addition to prison term.* In addition to any prison term authorized or required by division (C) of this section and R.C. §§ 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or R.C. §§ 2929.11 through 2929.18, the court that sentences a person who is convicted of or pleads guilty to a violation of division (A) of this section shall do all of the following that are applicable regarding the offender:

(1) The court shall suspend for not less than 6 months nor more than 5 years the driver's or commercial driver's license or permit of any person who is convicted of or has pleaded guilty to a violation of this section.

(2) If the offender is a professionally licensed person, the court immediately shall comply with R.C. § 2925.38.

(E) *Fines.*

(1) Notwithstanding any contrary provision of R.C. § 3719.21 and except as provided in R.C. § 2925.03 (H), the Clerk of the Court shall pay any mandatory fine imposed pursuant to this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to R.C. § 2929.18(A) or (B)(5) to the county, township, municipality, park district, as created pursuant to R.C. §§ 511.18 or 1545.04, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the Clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (E)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (E)(2) of this section.

(2) (a) Prior to receiving any fine moneys under division (E)(1) of this section or R.C. § 2925.42(B), a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that

provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. All financial records of the receipts of those fine moneys, the general type of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under R.C. § 149.43. Additionally, a written internal control policy adopted under this division is such a public record, and the agency that adopted it shall comply with it.

(b) Each law enforcement agency that receives in any calendar year any fine moneys under division (E)(1) of this section or R.C. § 2925.42(B) shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (E)(2)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the Attorney General. Each report received by the Attorney General is a public record open for inspection under R.C. § 149.43.

(3) As used in division (E) of this section:

**LAW ENFORCEMENT AGENCIES.** Includes, but is not limited to, the State Board of Pharmacy and the office of a prosecutor.

**PROSECUTOR.** Has the same meaning as in R.C. § 2935.01.

(F) As used in this section, **DRUG** includes any substance that is represented to be a drug.

(R.C. § 2925.03)

**Statutory reference:**

*Felony drug trafficking offenses, see R.C. § 2925.03(C)*

**§ 138.04 DRUG ABUSE.**

(A) *Controlled substance.* No person shall knowingly obtain, possess, or use a controlled substance.

(B) *Exceptions.* This section does not apply to any of the following:

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration.

(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the Federal Food, Drug, and Cosmetic Act, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.

(4) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

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(C) *State law penalty.* Whoever violates division (A) of this section is guilty of 1 of the following:

(1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule I or II of R.C. § 3719.41, with the exception of marihuana, or is cocaine, L.S.D., heroin, or a compound, mixture or preparation containing such drug, drug abuse is a felony to be prosecuted under appropriate state law.

(2) If the drug involved is a compound, mixture, preparation, or substance included in Schedule III, IV, or V of R.C. § 3719.41, whoever violates division (A) of this section is guilty of possession of drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in the following division, possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, it is a felony to be prosecuted under appropriate state law.

(b) If the amount of the drug involved equals or exceeds the bulk amount, possession of drugs is a felony to be prosecuted under appropriate state law.

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

(a) Except as otherwise provided in the following divisions, possession of marihuana is a minor misdemeanor.

(b) If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.

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

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

(a) Except as otherwise provided in the following divisions, possession of hashish is a minor misdemeanor.

(b) If the amount of the drug involved equals or exceeds 5 grams but is less than 10 grams of hashish in a solid form or equals or exceeds 1 gram but is less than 2 grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(c) If the amount of the drug involved equals or exceeds 10 grams of hashish in a solid form or equals or exceeds 2 grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony to be prosecuted under appropriate state law.

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

(E) *Prison term.* In addition to any prison term or jail term authorized or required by division (C) of this section and R.C. §§ 2929.13, 2929.14, 2929.22, 2929.24, and 2929.25, or any substantially similar municipal ordinance, and in addition to any other sanction that is imposed

for the offense under this section, R.C. §§ 2929.11 through 2929.18, or R.C. §§ 2929.21 to 2929.28, or any substantially similar municipal ordinance, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section shall do the following if applicable regarding the offender:

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

(2) The court shall suspend for not less than 6 months nor more than 5 years the offender's driver's or commercial driver's license or permit.

(3) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

(R.C. § 2925.11)

***Statutory reference:***

*Felony drug possession offenses, see R.C. § 2925.11(C)*

**§ 138.05 POSSESSING DRUG ABUSE INSTRUMENTS.**

(A) *Generally.* 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) *Exceptions.* This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.

(C) *State law penalty.* 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) *Suspension of driver's license.* In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than 6 months nor more than 5 years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.  
(R.C. § 2925.12)

**§ 138.06 PERMITTING DRUG ABUSE.**

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

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

(C) *State law penalty.* Whoever violates this section is guilty of permitting drug abuse.

(1) Except as provided in division (C)(2) of this section, permitting drug abuse is a misdemeanor of the first degree.

(2) Permitting drug abuse is a felony to be prosecuted under appropriate state law if the felony drug abuse offense in question is a violation of R.C. §§ 2925.02 or 2925.03.

(D) *Requirements in addition to prison term.* In addition to any prison term authorized or required by division (C) of this section and R.C. §§ 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or R.C. §§ 2929.11 through 2929.18, the court that sentences a person who is convicted of or pleads guilty to a violation of division (A) of this section shall do all of the following that are applicable regarding the offender:

(1) The court shall suspend for not less than 6 months nor more than 5 years the offender's driver's or commercial driver's license or permit.

(2) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

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

(F) *Nuisance.* Any premises or real estate that is permitted to be used in violation of division (B) of this section constitutes a nuisance subject to abatement pursuant to R.C. Chapter 3767.

(R.C. § 2925.13)

### **§ 138.07 ABUSING HARMFUL INTOXICANTS.**

(A) *Generally.* 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) *State law penalty.* Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony to be prosecuted under appropriate state law.

(C) *Suspension of driver's license.* In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than 6 months nor more than 5 years the offender's driver's or commercial driver's license or permit. If the offender



is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.  
(R.C. § 2925.31)

**§ 138.08 NITROUS OXIDE; IMPROPER DISPENSING OR DISTRIBUTION;  
POSSESSION IN A MOTOR VEHICLE.**

(A) *Generally.*

(1) *Improper dispensing or distribution.* No person who dispenses or distributes nitrous oxide in cartridges shall fail to comply with either of the following:

(a) The record-keeping requirements established under division (A)(3) of this section.

(b) The labeling and transaction identification requirements established under division (A)(4) of this section.

(2) *State law penalty.* Whoever violates division (A)(1)(a) or (A)(1)(b) of this section is guilty of improperly dispensing or distributing nitrous oxide, a misdemeanor of the fourth degree.

(3) *Dispensing, distributing nitrous oxide; recording transactions.* Beginning July 1, 2001, a person who dispenses or distributes nitrous oxide shall record each transaction involving the dispensing or distribution of the nitrous oxide on a separate card. The person shall require the purchaser to sign the card and provide a complete residence address. The person dispensing or distributing the nitrous oxide shall sign and date the card. The person shall retain the card recording a transaction for 1 year from the date of the transaction. The person shall maintain the cards at the person's business address and make them available during normal business hours for inspection and copying by officers or employees of the State Board of Pharmacy or of other law enforcement agencies that are authorized to investigate violations of this code, R.C. Chapters 2925, 3719, or 4729, or federal drug abuse control laws. The cards used to record each transaction shall inform the purchaser of the following:

(a) That nitrous oxide cartridges are to be used only for purposes of preparing food;

(b) That inhalation of nitrous oxide can have dangerous health effects; and

(c) That it is a violation of state law to distribute or dispense cartridges of nitrous oxide to any person under age 21, punishable as a felony of the fifth degree.

(4) *Warning.*

(a) Each cartridge of nitrous oxide dispensed or distributed in this municipality shall bear the following printed warning: "Nitrous oxide cartridges are to be used only for purposes of preparing food. Nitrous oxide cartridges may not be sold to persons under age 21. Do not inhale contents. Misuse can be dangerous to your health."

(b) Each time a person dispenses or distributes 1 or more cartridges of nitrous oxide, the person shall mark the packaging containing the cartridges with a label or other device that identifies the person who dispensed or distributed the nitrous oxide and the person's business address.

(R.C. § 2925.32(B)(4), (D)(2), (F), (G))

(B) *Possession in a motor vehicle.*

(1) As used in this section, **MOTOR VEHICLE**, **STREET**, and **HIGHWAY** have the same meaning as in R.C. § 4511.01.

(2) Unless authorized by this code or by state law, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:

(a) 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.

(b) 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.

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

(R.C. § 2925.33)

**Statutory reference:**

*Trafficking in harmful intoxicants, see R.C. § 2925.32*

**§ 138.09 COUNTERFEIT CONTROLLED SUBSTANCES.**

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

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

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

(R.C. § 2925.37(A), (G), (M))

**Statutory reference:**

*Trafficking and other felony counterfeit controlled substance offenses, see R.C. § 2925.37(H) through (K)*

**§ 138.10 USE, POSSESSION, OR SALE OF DRUG PARAPHERNALIA.**

(A) *Definition.* 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. **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 designed by the offender for use, in any of the following manners:

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

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

- (1) Any statement by the owner or by anyone in control of the equipment, product, or material, concerning its use.
- (2) The proximity in time or space of the equipment, product, or material, or of the act relating to the equipment, product, or material, to a violation of any provision of this chapter or R.C. Chapter 2925.
- (3) The proximity of the equipment, product, or material to any controlled substance.
- (4) The existence of any residue of a controlled substance on the equipment, product, or material.
- (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product, or material, to deliver it to any person whom he or she knows intends to use the equipment, product, or material to facilitate a violation of any provision of this chapter or R.C. Chapter 2925. A finding that the owner or anyone in control of the

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equipment, product, or material is not guilty of a violation of any other provision of this chapter or R.C. Chapter 2925 does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.

(6) Any oral or written instruction provided with the equipment, product, or material concerning its use.

(7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use.

(8) National or local advertising concerning the use of the equipment, product, or material.

(9) The manner and circumstances in which the equipment, product, or material is displayed for sale.

(10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product, or material to the total sales of the business enterprise.

(11) The existence and scope of legitimate uses of the equipment, product, or material in the community.

(12) Expert testimony concerning the use of the equipment, product, or material.

(C) *Use, possession, sale of drug paraphernalia.*

(1) No person shall knowingly use, or possess with purpose to use, drug paraphernalia.

(2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if he or she knows or reasonably should know that the equipment, product, or material will be used as drug paraphernalia.

(3) No person shall place an advertisement in any newspaper, magazine, handbill, or other publication that is published and printed and circulates primarily within this state, if he or she knows that the purpose of the advertisement is to promote the illegal sale in this municipality or in this state of the equipment, product, or material that the offender intended or designed for use as drug paraphernalia.

(D) *Exception.* This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by R.C. § 3719.172.

(E) *Forfeiture of drug paraphernalia and disposal.* Notwithstanding R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold, or manufactured in violation of this section shall be seized, after a conviction for that violation, shall be forfeited, and upon forfeiture shall be disposed of pursuant to R.C. § 2981.12(B).

(F) *State law penalty.*

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

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

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

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(4) Whoever violates division (C)(3) of this section is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

(G) *Suspension of driver’s license.* In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than 6 months nor more than 5 years the offender’s driver’s or commercial driver’s license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.  
(R.C. § 2925.14)

**TITLE XV: LAND USAGE**

(This title is reserved for rules and regulations dealing with zoning, subdivisions, etc).

**PARALLEL REFERENCES**

History References to Ohio Revised Code  
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**HISTORY REFERENCES TO OHIO REVISED CODE**

<i>R.C. Section</i>	Code Section
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1545.28	Chapter 30, Appendix
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## REFERENCES TO BOARD AMENDMENTS

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