

# COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2019-57

By Nick Haschka Sponsored By Mayor Cyril M. Kleem  
AN ORDINANCE

## REVISING THE CODIFIED ORDINANCES OF THE CITY OF BEREA BY ADOPTING CURRENT REPLACEMENT PAGES, AND DECLARING AN EMERGENCY.

**WHEREAS**, certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and

**WHEREAS**, various ordinances of a general and permanent nature have been adopted by Council which should be included in the Codified Ordinances; and

**WHEREAS**, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is presently before Council.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Berea, County of Cuyahoga, State of Ohio:

**SECTION 1.** That the Ordinances of the City of Berea, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the 2018 Replacement Pages to the Codified Ordinances are hereby approved and adopted.

**SECTION 2.** That the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law:

### Traffic Code

701.04	Bicycle, Motorized Bicycle, Moped, Electric Bicycle.	(Amended)
701.20	Motor Vehicle.	(Amended)
701.251	Predicate Motor Vehicle Offense.	(Amended)
701.361	Shared-Use Path.	(Amended)
701.51	Vehicle.	(Amended)
701.55	Waste Collection Vehicle.	(Added)
703.06	Freeway Use Restricted.	(Amended)
703.991	Committing an Offense While Distracted Penalty.	(Added)
713.01	Obedience to Traffic Control Devices.	(Amended)
713.09	Driver's Duties Upon Approaching Ambiguous Traffic Signal.	(Amended)
731.01	Driving Upon Right Side of Roadway; Exceptions.	(Amended)
731.02	Passing to Right When Proceeding in Opposite Directions.	(Amended)
731.03	Overtaking, Passing to Left; Driver's Duties.	(Amended)
731.04	Overtaking and Passing Upon Right.	(Amended)
731.05	Overtaking, Passing to Left of Center.	(Amended)
731.06	Additional Restrictions on Driving upon Left Side of Roadway.	(Amended)
731.07	Hazardous or No Passing Zones.	(Amended)
731.08	Driving in Marked Lanes or Continuous Lines of Traffic.	(Amended)
731.09	Following Too Closely.	(Amended)
731.10	Turning at Intersections.	(Amended)
731.12	"U" Turns Restricted.	(Amended)
731.13	Starting and Backing Vehicles.	(Amended)
731.14	Signals Before Changing Course, Turning or Stopping.	(Amended)
731.15	Hand and Arm Signals.	(Amended)
731.16	Right of Way at Intersections.	(Amended)
731.17	Right of Way When Turning Left.	(Amended)
731.18	Operation of Vehicle at Yield Signs.	(Amended)
731.19	Operation of Vehicle at Stop Signs.	(Amended)
731.20	Emergency or Public Safety Vehicles at Stop Signals or Signs.	(Amended)
731.22	Driving onto Roadway From Place Other Than Roadway: Duty to Yield.	(Amended)

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City of Berea, Ohio

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By Haschka Sponsored By Mayor Klemm

731.23	Driving Onto Roadway From Place Other Than Roadway: Stopping at Sidewalk.	(Amended)
731.24	Right of Way of Funeral Procession.	(Amended)
731.26	Driving Upon Street Posted as Closed for Repair.	(Amended)
731.27	Following and Parking Near Emergency or Safety Vehicles.	(Amended)
731.28	Driving Over Fire Hose.	(Amended)
731.29	Driving Through Safety Zone.	(Amended)
731.30	One-Way Streets and Rotary Traffic Islands.	(Amended)
731.31	Driving Upon Divided Roadways.	(Amended)
731.33	Obstructing Intersection, Crosswalk or Grade Crossing.	(Amended)
731.37	Driving Upon Sidewalks, Street Lawns or Curbs.	(Amended)
731.40	Stopping at Grade Crossing.	(Amended)
733.03	Maximum Speed Limits.	(Amended)
733.031	Approaching a Public Safety Vehicle.	(Amended)
733.04	Stopping Vehicle.	(Amended)
733.05	Speed Limitations Over Bridges.	(Amended)
737.16	Number of Lights.	(Amended)
771.01	Right of Way in Crosswalk.	(Amended)
771.02	Right of Way of Blind Person.	(Amended)
771.07	Right of Way on Sidewalk.	(Amended)
773.01	Code Application to Bicycles.	(Amended)
773.02	Riding Upon Seats.	(Amended)
773.05	Signal Device on Bicycle.	(Amended)
773.06	Lights and Reflector on Bicycle.	(Amended)
773.07	Riding Bicycle on Right Side of Roadway.	(Amended)
773.08	Reckless Operation.	(Amended)
773.09	Parking of Bicycle.	(Amended)
773.11	Paths Exclusively for Bicycles.	(Amended)
773.12	Electric Bicycles.	(Added)

## General Offenses Code

909.03	Disorderly Conduct.	(Amended)
913.01	Drug Abuse Control Definitions.	(Amended)
913.03	Drug Abuse; Controlled Substance Use.	(Amended)
913.05	Permitting Drug Abuse.	(Amended)
929.07	Open Container Prohibited.	(Amended)
933.04	Sexual Imposition.	(Amended)
933.07	Public Indecency.	(Amended)
933.16	Dissemination of Private Sexual Images.	(Added)
945.10	Misuse of Credit Cards.	(Amended)
949.01	Weapons Definitions.	(Amended)
949.04	Improperly Handling a Firearm in a Motor Vehicle.	(Amended)
949.06	Unlawful Transactions in Weapons.	(Amended)

**SECTION 3.** That the complete text of the sections listed above are set forth in full in the current replacement pages to the Codified Ordinances which are hereby attached to this Ordinance as Exhibit "A". Notice of adoption of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

**SECTION 4.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

# COUNCIL CHAMBER

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By Haschka Sponsored By Mayor Kleem

SECTION 5. That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department, and for the further reason that there exists an imperative necessity for the earliest publication and distribution of current replacement pages to the officials and residents of the City, so as to facilitate administration and daily operation, and to avoid practical and legal entanglements. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: June 17, 2019

ATTEST: [Signature]  
Clerk of Council

APPROVED: June 18, 2019  
[Signature]  
Mayor

Approved as to Form:

[Signature]  
Director of Law

INSTRUCTIONS FOR INSERTING  
2019 REPLACEMENT PAGES  
FOR THE  
CODIFIED ORDINANCES OF BEREA

All new replacement pages bear the footnote "2019 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

Discard Old Pages

Insert New Pages

PRELIMINARY UNIT

Cover and Certification Page	Cover and Certification Page
3, 4	3, 4
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Discard Old Pages

Insert New Pages

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**CODIFIED  
ORDINANCES  
OF THE  
CITY OF  
BEREA  
OHIO**

Complete to April 1, 2019

CERTIFICATION

We, Cyril M. Kleem, Mayor, and Alycia Esson, Council Clerk, of Berea, Ohio, pursuant to Ohio Revised Code 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of Berea, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of Berea, Ohio, 1992, as amended to April 1, 2019.

/s/ Cyril M. Kleem  
Mayor

/s/ Alycia Esson  
Council Clerk

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

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## CITY OF BEREHA, OHIO

## ROSTER OF OFFICIALS

(2019)

ADMINISTRATION

Mayor	Cyril M. Kleem
Director of Law and Public Safety	Barbara Jones
Director of Public Service and Building	Paul Anzalone
Director of Finance	Andrea Morris
Director of Planning, Engineering and Development	Matthew Madzy
City Engineer	Antonio Armagno
Police Chief	Joe Grecol
Fire Chief	Mark Kaufhold
Director of Recreation	Marty Compton

COUNCIL

President	Mary K. Brown
At-Large	Bill DeVito
At-Large	Gene Zacharyasz
Ward 1	Margarette S. Key
Ward 2	Nick Haschka
Ward 3	Jim Maxwell
Ward 4	Cheryl A. Banaszak
Ward 5	Rick Skoczen
Clerk	Alycia Esson

BEREA MUNICIPAL COURT

Judge	Mark A. Comstock
Clerk of Court	Raymond J. Wohl



The publisher expresses its appreciation  
to

ALYCIA ESSON  
Clerk of Council

and to all other City officials  
who gave time and counsel in the  
1992 recodification of the Berea City Ordinances  
and the preparation of current  
replacement pages.

## GENERAL INDEX

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

- (a) The Comparative Section Table, which indicates in the Codified Ordinances the disposition of the ordinances or resolutions integrated therein.
- (b) The Table of Contents preceding each component code, and the sectional analysis preceding each chapter.
- (c) The cross references to related material following the chapter analysis.

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2015-74	11-16-15	191.01 to 191.26, 191.99
2016-20	3-7-16	183.07
2016-21	3-7-16	175.10
2016-28	3-21-16	311.02
2016-34	4-4-16	321.03
2016-95	12-19-16	111.01
2016-98	12-19-16	175.10, 181.10
2018-15	3-20-17	181.07
2018-13	3-5-18	191.02, 191.04, 191.05, 191.07, 191.18, 191.27 to 191.42
2018-17	4-2-18	1311.01 to 1311.08, 1312.01 to 1312.09
2018-25	5-7-18	127.06
2018-26	5-7-18	175.10
2018-27	5-7-18	327.18, 327.22; Repeals 327.23, 327.24
2018-30	5-21-18	127.02
2018-31	5-21-18	931.01
2018-32	5-21-18	1329.06, 1329.09, 1329.11, 1329.12, 1329.13, 1329.15
2018-33	5-21-18	1331.01 to 1331.07, 1331.99
2018-47	7-23-18	1333.01 to 1333.20, 1333.99
2019-6	2-4-19	1311.01 to 1311.12
2019-7	2-4-19	1313.01
2019-23	3-18-19	183.07
2019-28	4-1-19	196.01 to 196.15, 196.99
2019-29	4-1-19	Repeals Ch. 1360

**CODIFIED ORDINANCES OF BEREA**  
**PART ONE - ADMINISTRATIVE CODE**

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**TITLE ONE - General Provisions**

- Chap. 101. Codified Ordinances.
- Chap. 103. Official Standards.
- Chap. 105. Wards and Boundaries.
- Chap. 109. Rules of Notice for Municipal Bodies.

**TITLE THREE - Legislative**

- Chap. 111. Council.
- Chap. 113. Ordinances and Resolutions.

**TITLE FIVE - Administrative**

- Chap. 121. Mayor.
- Chap. 123. Department of Law.
- Chap. 125. Department of Finance.
- Chap. 127. Department of Public Safety.
- Chap. 129. Department of Public Service.
- Chap. 130. Department of Recreation and  
Community Services.
- Chap. 131. Department of Community Development.
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**TITLE SEVEN - Judicial**

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- Chap. 191. Income Tax.
- Chap. 193. Admissions Tax.
- Chap. 194. Motor Vehicle License Tax.
- Chap. 195. Land Reutilization.
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**TITLE ELEVEN - Code of Ethics**

- Chap. 197. Standards of Conduct.
- Chap. 198. Procedures.



**CHAPTER 127**  
**Department of Public Safety**

<b>127.01</b>	<b>Personnel: Division of Police.</b>	<b>127.04</b>	<b>Residency requirements.</b>
<b>127.02</b>	<b>Personnel: Division of Fire.</b>	<b>127.05</b>	<b>Auxiliary Police Unit.</b>
<b>127.021</b>	<b>Auxiliary Firefighters.</b>	<b>127.06</b>	<b>Auxiliary Exterior Code Enforcement Unit.</b>
<b>127.03</b>	<b>School guards.</b>		

**CROSS REFERENCES**

Director's rights in Council - see CHTR. Sec. III, Item 8  
 Department established - see CHTR. Sec. V  
 Composition - see CHTR. Sec. VII, Item 1  
 Director's duties - see CHTR. Sec. VII, Item 2  
 Director as Board of Control member - see CHTR. Sec. X, Item 4

**127.01 PERSONNEL: DIVISION OF POLICE.**

The Director of Public Safety, acting under the administrative authority of the Mayor of the City, is authorized to employ certain qualified persons in the Division of Police according to the following schedule, to wit:

- (a) One Chief, who shall be the principal administrative officer of the Division; and
- (b) Such number of patrol officers, detectives, sergeants and lieutenants as may be requested by the Mayor and funded by Council, whose duties shall be assigned by the Chief, and whose basic tour of duty shall be eighty hours per biweekly period as assigned by the Chief or the Chief's designee.  
 (Ord. 93-64. Passed 5-17-93.)

**127.02 PERSONNEL: DIVISION OF FIRE.**

The Director of Public Safety, acting under the administrative authority of the Mayor of the City, is authorized to employ certain qualified persons in the Division of Fire according to the following schedule, to wit:

- (a) One Chief, who shall be the principal administrative officer of the Division; and
- (b) One Assistant Chief
- (c) Three captains, whose basic tour of duty shall be a fifty-one and seven-tenths (51.7) hour work week, assigned by the Chief; and
- (d) Three lieutenants, whose basic tour of duty shall be a fifty-one and seven-tenths (51.7) hour work week, as assigned by the Chief.  
 (Ord. 2018-30. Passed 5-21-18.)

**127.021 AUXILIARY FIREFIGHTERS.**

The position of Auxiliary Firefighter shall be a part-time position in the Division of Fire. The Director of Public Safety is authorized to employ and train such number of Auxiliary Firefighters as in his judgment shall be required for assistance to the Division of Fire in emergencies, in order to adequately safeguard the community. All Auxiliary Firefighters shall be under the supervision of the Director of Public Safety and the Chief of the Division of Fire. Auxiliary Firefighters shall not be in the classified service of the Division of Fire.  
(Ord. 1977-22. Passed 3-21-77.)

**127.03 SCHOOL GUARDS.**

The Director of Public Safety is authorized to employ school guards, in such number as may be authorized, to be on duty normally from 8:30 a.m. to 9:15 a.m., from 11:30 a.m. to 2:00 p.m., and from 3:30 p.m. to 4:15 p.m., Monday through Friday, at crossings designated by the Director, and substitute school guards as required.  
(Ord. 1979-180. Passed 11-19-79.)

**127.04 RESIDENCY REQUIREMENTS.**

(a) A person employed in any position of the Police Division of the Department of Public Safety set forth in Section 127.01 and person employed in any position of the Fire Division of the Department of Public Safety set forth in Section 127.02 shall establish residency within a radius of seven miles from the headquarters of the Division of the Department of Public Safety in which the person is employed within six months after his permanent appointment, and shall maintain residency within such radius so long as he is employed in any position set forth in Section 127.01 or Section 127.02.

(b) A person employed in the Police Division or the Fire Division of the Department of Public Safety on or before November 1, 1976 shall be exempt from the requirements of Section 127.04(a) so long as he remains in the position and class title in which he is an incumbent on November 1, 1976.

(c) A person employed in the Police Division or the Fire Division of the Department of Public Safety on or before November 1, 1976 who receives a promotion to a rank above the position in which he is an incumbent on November 1, 1976 shall establish residency within a radius of seven miles from the headquarters of the Division of the Department of Public Safety in which the person is employed within one year after the date of the promotional appointment, and shall maintain residency within such radius so long as he is employed in any position set forth in Section 127.01 or Section 127.02.  
(Ord. 1976-97. Passed 10-4-76.)

**127.05 AUXILIARY POLICE UNIT.**

(a) Appointment of Members. There is created within the Department of Public Safety an auxiliary police unit. The members of which shall be appointed by the Director of Public Safety.

(b) Term of Service. Auxiliary police officers shall serve so long as the Director of Public Safety may direct, or until a resignation submitted by such members shall be accepted by the Director of Public Safety.

(c) Qualification of Members. The members of the auxiliary police unit shall not be under the age of twenty-one years at the time of their appointment, and shall meet such other requirements as provided by the rules and regulations prescribed in accordance with subsection (e) hereof.

(d) Control of Unit. The Chief of Police shall be the commanding officer of the auxiliary police unit and shall have control of the assignment, training, stationing, and the direction of work of such unit. The auxiliary police unit will have all police powers, but shall perform only such police duties as assigned by the Chief of Police and shall act only when in the prescribed uniform or portion of uniform. The Chief of Police shall prescribe the time and place such uniform or portion thereof shall be worn. Such auxiliary members shall obey the chain of command of the Police Department and shall take orders from all regular appointed members thereof.

(e) Rules and Regulations. The Director of Public Safety shall prescribe the rules and regulations for the organization, administration, conduct and control of the auxiliary police unit.

(f) Uniform. The Director of Public Safety is authorized to prescribe, by the rules and regulations, the type of uniform or part thereof which shall be worn by members of the auxiliary police unit.

(g) Nonliability. This section is declared by Council as an exercise by the City of its police powers for the protection of public peace, health, property, safety and general welfare, and the City, agent, representative of the City, an officer appointed under the provisions of this section, any individual, firm, partnership, corporation, the receiver, trustees or any other agent thereof, who in good faith, executes any executive order, rule or regulation promulgated pursuant to the provisions of this section shall not be liable for injury or damage sustained to person or property as the direct or proximate result of such action.  
(Ord. 1977-147. Passed 12-5-77.)

**127.06 AUXILIARY EXTERIOR CODE ENFORCEMENT UNIT.**

(a) Appointment of Members. There is created within the Department of Public Safety an Auxiliary Exterior Code Enforcement Unit, whose sole duties shall be related to the enforcement of exterior property maintenance codes, and whose members shall be appointed by the Director of Public Safety.

(b) Term of Service. Auxiliary Exterior Code Enforcement Officers shall serve so long as the Director of Public Safety may direct, or until a resignation submitted by such members shall be accepted by the Director of Public Safety.

(c) Qualification of Members. The members of the Auxiliary Exterior Code Enforcement Unit shall meet such other requirements as provided by the rules and regulations prescribed in accordance with subsection (f) hereof.

(d) Control of Unit. The Director of Public Safety shall direct the activities of the Auxiliary Exterior Code Enforcement Unit and shall have control of the assignment, training, stationing, and the direction of work of such unit. The Auxiliary Exterior Code Enforcement Unit shall perform only such duties as assigned by the Director of Public Safety and shall act only when in the prescribed uniform or portion of uniform. The Director of Public Safety shall prescribe the time and place such uniform or portion thereof shall be worn.

(e) Scope of Authority. Auxiliary Exterior Code Enforcement Officers are limited to enforcement of any Ordinance establishing requirements for the exterior property maintenance of properties, structures and land within the City. Auxiliary Exterior Code Enforcement Officers shall not be considered law enforcement officers or peace officers, as defined in the Ohio Revised Code, and shall not have arrest authority.

(f) Rules and Regulations. The Director of Public Safety shall prescribe the rules and regulations for the organization, administration, conduct and control of the Auxiliary Exterior Code Enforcement Unit.

(g) Uniform. The Director of Public Safety is authorized to prescribe, by the rules and regulations, the type of uniform or part thereof which shall be worn by members of the Auxiliary Exterior Code Enforcement Unit.

(h) Nonliability. This Section is declared by Council as an exercise by the City of its police powers for the protection of public peace, health, property, safety and general welfare, and the City, agent, representative of the City, an officer appointed under the provisions of this section, any individual, firm, partnership, corporation, the receiver, trustees or any other agent thereof who, in good faith, executes any executive order, rule or regulation promulgated pursuant to the provisions of this Section shall not be liable for injury or damage sustained to person or property as the direct or proximate result of such action.  
(Ord. 2018-25. Passed 5-7-18.)

# **TITLE NINE - Finance**

- Chap. 191. Income Tax.
- Chap. 193. Admissions Tax.
- Chap. 194. Motor Vehicle License Tax.
- Chap. 195. Land Reutilization.
- Chap. 196. Excise Tax - Lodging.

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## **CHAPTER 191 Income Tax**

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| 191.01 Authority to levy tax; purpose of tax.                                 | 191.24 Savings clause.   |
| 191.02 Definitions.   | 191.25 Collection of tax after termination of ordinance.                         |
| 191.03 Imposition of tax.   | 191.26 Adoption of RITA rules and regulations.                                   |
| 191.04 Collection at source.  | 191.27 Filing net profit taxes; election to be subject to provisions of chapter. |
| 191.05 Annual return; filing.   | 191.28 Definitions.  |
| 191.06 Credit for tax paid to other municipalities.                           | 191.29 Applicability; taxable situs; apportionment.                              |
| 191.07 Estimated taxes.   | 191.30 Information provided to Tax Administrator; confidentiality.               |
| 191.08 Rounding of amounts.   | 191.31 Filing of annual return; remittance; disposition of funds.                |
| 191.09 Requests for refunds.  | 191.32 Electronic filing.  |
| 191.10 Second municipality imposing tax after time period allowed for refund. | 191.33 Consolidated returns.   |
| 191.11 Amended returns.   | 191.34 Failure to pay tax.   |
| 191.12 Limitations.   | 191.35 Declaration of estimated taxes.   |
| 191.13 Audits.  | 191.36 Additional penalties.   |
| 191.14 Service of assessment.   | 191.37 Assessments against taxpayer.   |
| 191.15 Administration of claims.  | 191.38 Refund applications.  |
| 191.16 Tax information confidential.  | 191.39 Amended returns.  |
| 191.17 Fraud.   | 191.40 Examination of records and other documents and persons.                   |
| 191.18 Interest and penalties.  | 191.41 Credits.  |
| 191.19 Authority of Tax Administrator; verification of information.           | 191.42 Reckless violations; penalties.   |
| 191.20 Request for opinion of the Tax Administrator.                          | 191.99 Violations; penalties.  |
| 191.21 Board of Tax Review.   |  |
| 191.22 Authority to create rules and regulations.                             |  |
| 191.23 Rental and leased property.  |  |

## **CROSS REFERENCES**

- Taxation - see CHTR. Sec. XI
- Municipal deductions - see Ohio R.C. 9.42
- Municipal income tax - see Ohio R.C. Ch. 718

**191.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.**

(A) To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements, the City of Berea hereby levies an annual municipal income tax on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided.

(B) The annual tax is levied at a rate of 2% (two percent). The tax is levied at a uniform rate on all persons residing in or earning or receiving income in the City of Berea. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 191.03 and other sections as they may apply. For professional athletes whose income tax is subject to the agreement between the City of Berea and the City of Cleveland the terms of the agreement shall apply. Wages, salaries or other payments to professional athletes or other employees arising from their employment by a professional athletic organization are subject to the tax as provided herein irrespective of whether or not they are still employed by the team at the time of the making and receiving of the payment.

(C) The tax on income and the withholding tax established by this Chapter 191 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This chapter is effective for tax years beginning on and after January 1, 2016. Municipal tax years beginning on or before December 31, 2015, are subject to the income tax ordinance and amendments thereto, and rules and regulations and amendments thereto, as the existed before January 1, 2016. (Ord. 2015-74. Passed 11-16-15.)

**191.02 DEFINITIONS.**

(A) Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the ORC, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the ORC and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the ORC.

(B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(C) As used in this chapter:

(1) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under (C)(24)(e) of this division, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(a) Deduct intangible income to the extent included in federal taxable income.

The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(b) Add an amount equal to five percent (5%) of intangible income deducted under division (C)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;

**CHAPTER 195**  
**Excise Tax - Lodging**

<b>196.01</b>	<b>Definitions.</b>	<b>196.09</b>	<b>Four-year limitations for assessments; exceptions.</b>
<b>196.02</b>	<b>Authority to levy tax; purposes of tax.</b>	<b>196.10</b>	<b>Tax to be paid by transient guest; false evidence of tax-exempt status prohibited.</b>
<b>196.03</b>	<b>Imposition of tax and rate.</b>	<b>196.11</b>	<b>Operator to correct tax; rebate prohibited.</b>
<b>196.04</b>	<b>Transient guest to pay tax; proof of exemption.</b>	<b>196.12</b>	<b>Return must be filed; procedure in a failure to file.</b>
<b>196.05</b>	<b>Refund of illegal or erroneous payments.</b>	<b>196.13</b>	<b>Personal liability of corporate officers or employees.</b>
<b>196.06</b>	<b>Records; inspection; destruction.</b>	<b>196.14</b>	<b>Intent.</b>
<b>196.07</b>	<b>Returns required; procedure; forfeit for failure to file; appeal.</b>	<b>196.15</b>	<b>Separability.</b>
<b>196.08</b>	<b>Penalties and interest.</b>	<b>196.99</b>	<b>Penalty.</b>

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**196.01 DEFINITIONS.**

As used in this chapter:

- (a) "Hotel" has the same meaning as that stated in Section 5739.01(M) of the Ohio Revised Code and Zoning Code of the City of Berea, except a "hotel" includes establishments in which fewer than five (5) rooms are used for the accommodation of transient guests. The term "hotel" also includes a "bed and breakfast" and "boarding house" as defined in the Zoning Code of the City of Berea.
- (b) "Motel" is included within the meaning of "hotel" as set forth in (a) above.
- (c) "Transient guest" means a person occupying a room or rooms for sleeping accommodations for less than sixty consecutive days.
- (d) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the State and its political subdivisions, and combinations of individuals of any form.
- (e) "Director of Finance" or "Finance Director" means the individual holding the office of Finance Director of the City of Berea or her designee.

- (f) "Operator" means the person who is the proprietor of a hotel, bed and breakfast or boarding house, whether in the capacity of owner, lessee, licensee, mortgagee in possession, or any other capacity. Where the operator performs its functions through a managing agent of any type or character, other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as the principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered compliance by both.  
(Ord. 2019-28. Passed 4-1-19.)

#### **196.02 AUTHORITY TO LEVY TAX; PURPOSES OF TAX.**

The excise tax on lodging transactions established by this Chapter is authorized by Section 5739(8)(A) of the Ohio Revised Code. This excise tax is in addition to any tax levied pursuant to Sections 5739.02, 5739.09, or any other section of the Ohio Revised Code to the greatest extent permitted by law.

The purpose of the tax is to provide revenue with which to meet the needs of the City, for the use of the General Fund of the City or for any other lawful purpose.  
(Ord. 2019-28. Passed 4-1-19.)

#### **196.03 IMPOSITION OF TAX AND RATE.**

(a) Commencing June 1, 2019 an excise tax is hereby levied on each transaction by which lodging by a hotel is or is to be furnished to transient guests, pursuant to Section 5937.08(A) of the Ohio Revised Code.

(b) The tax is three percent (3%) of the amount paid or to be paid by the transient guest for the lodging. The tax applies and is collectible at the time the lodging is furnished, regardless of the time when the amount for lodging is paid.

(c) The tax does not apply to lodging furnished to the United States government, State or any of its political subdivisions.

(d) The tax is not a part of the rent and shall be separately stated as such on every rent invoice, bill, statement or other written charge therefore.

(e) The tax does not apply to optional services which may include: room service, porter or bellboy service, valet services, pay-for-view movies; wake-up calls and charges for telephone services, or other miscellaneous charges not related to the provision of accommodation and which are stated separately from the charge for lodging.

(f) For the proper administration of this Chapter and to prevent evasion of the tax, it is presumed that all lodging furnished by hotels, motels and motor inns in the City to transient guests is subject to the tax until the contrary is established.  
(Ord. 2019-28. Passed 4-1-19.)

#### **196.04 TRANSIENT GUEST TO PAY TAX; PROOF OF EXEMPTION.**

(a) The tax imposed by this Chapter shall be paid by the transient guest to the operator, and each operator shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.



(b) If the transaction is claimed to be exempt, the transient guest must furnish to the operator, and the operator must obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certificate is obtained, it shall be presumed that the tax applies. (Ord. 2019-28. Passed 4-1-19.)

#### **196.05 REFUND OF ILLEGAL OR ERRONEOUS PAYMENTS.**

(a) The Finance Director shall refund to operators the amount of taxes paid illegally or erroneously or paid on any illegal or erroneous assessment where the operator has not reimbursed himself from the transient guest. When such illegal or erroneous payment or assessment was not paid to the operator but was paid by the transient guest directly to the Director of Finance or agent, the refund shall be paid to the transient guest.

(b) Applications shall be filed with the Director of Finance on a form furnished by the Director, within four (4) years from the last date of the occupancy that is alleged to be in error. Upon filing of the application, the Finance Director shall determine the amount of refund due and certify the amount. The Finance Director shall draw a warrant for such certified amount to the person claiming such refund, and she shall make such payments from the General Fund. (Ord. 2019-28. Passed 4-1-19.)

#### **196.06 RECORDS; INSPECTION; DESTRUCTION.**

Each operator shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under this Chapter, and shall keep all invoices and other pertinent documents. If the operator furnishes lodging not subject to the tax, the operator's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction, if exempted for any other reason. Such records and other documents shall be opened during business hours to the inspection of the Director of Finance and shall be preserved for a period of four years, unless the Director of Finance, in writing, consents to their destruction within that period, or by any order requiring that they be kept for a longer period of time. (Ord. 2019-28. Passed 4-1-19.)

#### **196.07 RETURNS REQUIRED; PROCEDURE; FORFEIT FOR FAILURE TO FILE; APPEAL.**

(a) Each operator shall, on or before the twenty-first (21) day of each calendar month, make and file a return for the preceding month, on forms prescribed by the Director of Finance, showing the receipts from furnishing lodging, the amount of tax due from the operator to the City for the period covered by the return and such other information as the Director of Finance deems necessary for the proper administration of this Chapter. The Finance Director may extend the time for making and filing returns for good cause shown. Returns shall be filed by delivering or mailing them to the Director of Finance, together with the payment for the full amount shown to be due.

(b) Each Bed and Breakfast or boarding house operator shall, on or before the last day of each quarter (March 31, June 30, September 30, December 31,) make and file a return for the preceding quarter, on forms prescribed by the Director of Finance, showing the receipts from furnishing lodging, the amount of tax due from the operator to the City for the period of time covered by the return, and such other information as the Director of Finance deems necessary for the proper administration of this Chapter. The Director of Finance may extend the time for making and filing returns for good cause shown. Returns shall be filed by delivering or mailing them to the Director of Finance, together with payment for the full amount shown to be due.

(c) The Director of Finance may authorize operators whose tax liability is not such as to merit monthly returns, as determined by the Director upon the basis of administrative costs to the City, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

(d) The Director of Finance shall stamp or otherwise mark on each return the date it is received and shall also show thereon, by stamp or otherwise, the amount of payment received with the return.

(e) Appeal. Any operator aggrieved by any decision of the Director of Finance with respect to the amount of the tax, interest, and penalties, if any, may appeal to the Board of Tax Review, in accordance with the procedures set forth in Section 191.21 of the Codified Ordinances of the City of Berea. (Ord. 2019-28. Passed 4-1-19.)

#### **196.08 PENALTIES AND INTEREST.**

(a) Original Delinquency. Any operator failing to remit any tax imposed by this Chapter within the time required shall pay a penalty equal to ten percent (10%) of the amount of the tax, in addition to the tax itself.

(b) Continued Delinquency. Any operator failing to remit any delinquent remittances on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay an additional delinquency penalty equal to ten percent (10%) of the amount of the tax and previous penalty in addition to the tax and the ten percent (10%) penalty first imposed.

(c) Fraud. If the Director of Finance determines that the nonpayment of any remittance due under this Chapter is due to fraud, a penalty equal to twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in (a) and (b) above.

(d) No penalty provided under this section shall be imposed during the pendency of any hearing or appeal.

(e) In cases where returns were filed in good faith, and an assessment has been paid within the time prescribed by this Chapter or where otherwise allowed within the Director of Finances' discretion, then the Director may abate any charge of penalty or interest or both. (Ord. 2019-28. Passed 4-1-19.)

#### **196.09 FOUR-YEAR LIMITATION FOR ASSESSMENTS; EXCEPTIONS.**

No assessment shall be made or issued against an operator or transient guest for any tax imposed by or pursuant to this Chapter more than four years after the return date for the period in which the lodging was furnished or more than four years after the return for such period is filed, whichever is later. This section does not bar an assessment:

- (a) When the Finance Director has substantial evidence of amounts of taxes collected by an operator from the lodging of transient guests, which were not returned to the City; or
  - (b) When an assessed operator failed to file a return as required.
- (Ord. 2019-28. Passed 4-1-19.)

**196.10 TAX TO BE PAID BY TRANSIENT GUEST; FALSE EVIDENCE OF TAX-EXEMPT STATUS PROHIBITED.**

No transient guest shall refuse to pay the full and exact tax as required by this Chapter. No transient guest shall present false evidence to the operator indicating that the lodging, as furnished, is not subject to the tax.  
(Ord. 2019-28. Passed 4-1-19.)

**196.11 OPERATOR TO CORRECT TAX; REBATE PROHIBITED.**

No operator shall fail to collect the full and exact tax as required by this Chapter. No operator shall refund, remit or rebate to a transient guest, either directly or indirectly, any of the tax levied pursuant to this Chapter, or make in any form of advertising, verbal or otherwise, any statements which might imply that he is absorbing the tax, or paying the tax for the transient guest by an adjustment of prices, or furnishing lodging at a price including the tax, or rebating the tax in any other manner. (Ord. 2019-28. Passed 4-1-19.)

**196.12 RETURN MUST BE FILED; PROCEDURE IN A FAILURE TO FILE.**

(a) No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by this Chapter, or file or cause to be filed any incomplete, false or fraudulent return, report or statement, or aid or abet another in the filing of any false or fraudulent return, report or statement.

(b) If any operator required to file monthly returns under this Chapter fails, in two consecutive months or in three or more months within a twelve-month period, to file such returns when due or to pay the tax thereon, or if any operator authorized by the Director of Finance to file returns at less frequent intervals fails on two or more occasions within a twenty-four month period, to file such returns when due or to pay the tax due thereon, the Director of Finance may require such operator to furnish security in an amount equal to the average tax liability of the operator for a period of one year, as determined by the Finance Director from a review of returns or other information pertaining to such operator, which amount shall in no event be less than one hundred dollars (\$100.00). The security may be in the form of an advance tax payment to be applied to pay the tax due on subsequent returns, or a corporate surety bond satisfactory to the Director of Finance, conditioned upon payment of the tax due within the returns from the operator. The security must be filed within ten (10) days following the operator's receipt of the notice from the Director of Finance of its requirements.

A corporate surety bond filed under this section shall be returned to the operator if, for a period of twelve consecutive months following the date the bond was filed, the operator has filed all returns and remitted payment therewith within the time prescribed by this chapter.  
(Ord. 2019-28. Passed 4-1-19.)

**196.13 PERSONAL LIABILITY OF CORPORATE OFFICERS OR EMPLOYEES.**

If any operator required to file returns and to remit tax due to the City under the provisions of this Chapter fails for any reason to make such filing or payment, any of its officers or employees having control or supervision of or charged with the responsibility of filing returns and making payments shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit tax due. The sum due for such liability may be collected by assessment.  
(Ord. 2019-28. Passed 4-1-19.)

**196.14 INTENT.**

It is the intent of this Chapter to levy an excise tax of three percent (3%) on transactions by which lodging by a hotel, motel or motor inn is or is to be furnished to transient guests as referred to and authorized by Ohio R.C. 5739.08(A)). Accordingly, this Chapter shall be construed to effectuate that purpose and so as to be consistent with any requirement of law compliance with which is a prerequisite to the validity of the tax intended to be levied hereby. (Ord. 2019-28. Passed 4-1-19.)

**196.15 SEPARABILITY.**

If any sentence, clause, section or part of this Chapter or any tax imposed as specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter. (Ord. 2019-28. Passed 4-1-19.)

**196.99 PENALTY.**

Whoever violates any of the provisions of this Chapter shall upon conviction be not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). (Ord. 2019-28. Passed 4-1-19.)

## CHAPTER 327 Trees and Weeds

327.01	Definitions.	327.15	Public tree care.
327.02	Control of trees.	327.16	Tree pruning; public property.
327.03	Creation of a Shade Tree Commission.	327.17	Removal of stumps.
327.04	Operation of City Shade Tree Commission.	327.18	Tree pruning; private property.
327.05	Shade Tree Commission duties.	327.19	Permits required.
327.06	Street tree species to be planted; and certain trees prohibited.	327.20	Arborists license and bond.
327.07	Tree spacing; utilities.	327.21	Interference with Director or Assistants.
327.08	Tree distance from curb and sidewalk.	327.22	Trees, grass, weeds and other conditions as a nuisance; abatement.
327.09	Tree distance from street corners and fire hydrants.	327.23	Removal of trees, weeds, grasses by City. (Repealed)
327.10	Placing deleterious substances near trees.	327.24	Assessment of costs by City. (Repealed)
327.11	Stone or concrete near tree trunk prohibited.	327.25	Diseased tree inspection; removal; notice; assessment.
327.12	Care of trees during building operation.	327.26	Diagnosis by State or Federal authority.
327.13	Moving of trees; deposit or bond.	327.99	Penalty.
327.14	Tree topping.		

### CROSS REFERENCES

Power to regulate trees or shrubs - see Ohio R.C. 715.20  
 Injury or destruction of trees - see GEN.OFF. 941.06  
 Assessments for tree planting or maintenance - see Ohio R.C.  
     727.011  
 Noxious weeds - see Ohio R.C. 731.51, 971.33; OAC Ch. 901:5-31

### 327.01 DEFINITIONS.

Certain words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them as follows:

- (a) "Street trees" means trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.
- (b) "Park trees" means trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

- (c) "Arboriculture" or "tree preservation" means and includes the treating, spraying, pruning, maintaining and any other care or work intended for the strengthening of trees and the removal and prevention of tree pests, blights and diseases of any and all kinds.
- (d) "Public place" means any public street, public highway, public park or any property owned or held by the City within the boundaries of the City.  
(Ord. 1981-16. Passed 3-2-81.)

### **327.02 CONTROL OF TREES.**

The Director of Public Service is given full jurisdiction, authority, control and supervision over all trees which now or which may hereafter exist upon any public place in the City, and over all trees which exist upon any private property in the City when, in his opinion, such trees constitute a menace to public property, public safety or public welfare of the City. He shall also have full jurisdiction, authority and control in connection with the issuing of permits hereinafter provided for. In the exercise of any or all of the powers herein granted, the Director shall have the authority to delegate all or such part of his powers and duties with respect to supervision and control of trees to his subordinates and assistants.  
(Ord. 1981-16. Passed 3-2-81.)

### **327.03 CREATION OF A SHADE TREE COMMISSION.**

There is hereby created and established a Shade Tree Commission for the City. The members of the Commission shall serve without compensation and the Commission shall be comprised of the following individuals:

- (a) City members - The Director of Public Service, the City Engineer, the Chairman of the Public Service Committee of Council and one Council member elected by a majority of the members elected to Council; and
- (b) Public members - Three residents of the City to be appointed by the Mayor with the approval of Council who shall serve upon the Commission for a term of three years, except that the term of two of the members appointed to the Commission when it is first formed shall be for one and two years respectively. Should a vacancy occur during the term of any public member, a successor shall be appointed for the unexpired portion of the term by the Mayor.  
(Ord. 1981-16. Passed 3-2-81.)

### **327.04 OPERATION OF CITY SHADE TREE COMMISSION.**

The Commission shall designate its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.  
(Ord. 1981-16. Passed 3-2-81.)

in the vicinity of such operation to stand without a good and sufficient guard or protection as shall prevent injury, damage or defacement to such tree arising out of, in connection with or by reason of such operation. Quality of guard or protection shall be determined by the Director of Public Service.

(Ord. 1981-16. Passed 3-2-81.)

### **327.13 MOVING OF TREES: DEPOSIT OR BOND.**

All moving of trees upon any public place made necessary by the moving of a building or structure, or any other private enterprise, shall be done upon the supervision and with the written permission of the Director of Public Service and at the expense of the applicant or person seeking the removal of such tree. Such applicant, as one of the conditions to obtaining such permission, shall deposit with the City such sum in cash as the Director may determine and specify to cover all of the cost of moving and replacing such tree, if the conditions of such permission require the replacement thereof. However, in lieu of such cash deposit, the Director may, in his discretion, accept a good and sufficient bond in like amount conditioned upon the payment of all the cost of such moving and replacing.

(Ord. 1981-16. Passed 3-2-81.)

### **327.14 TREE TOPPING.**

No person or firm shall top any tree planted on public property. Topping is defined as a severe cutting of tree limbs larger than three inches in diameter within the tree's crown so as to remove the normal branch canopy, and cause disfigurement of the tree.

Trees severely damaged by storms or other causes, or trees under utility wires or other obstructions where pruning practices are impractical may be exempted from the requirements of this section if authorized by the City Shade Tree Commission and Director of Public Service.

(Ord. 1981-16. Passed 3-2-81.)

### **327.15 PUBLIC TREE CARE.**

The Director of Public Service shall have the right to plant, maintain and remove trees and shrubs existing on any public places so as to ensure the public safety, or to preserve the function or beauty of such public place.

The Director of Public Service is also given the continuing right to remove any tree or part thereof which is in any unsafe condition, or which by reason of its location, or nature, is injurious or detrimental to other public improvements or infected with any fungus, insect or other pest or disease which otherwise cannot be controlled.

(Ord. 1981-16. Passed 3-2-81.)

**327.16 TREE PRUNING: PUBLIC PROPERTY.**

The Director of Public Service shall keep all trees standing upon any public place trimmed so that the branches of such trees projecting over any public sidewalk, private driveway, or into any public street beyond the curbline shall not conflict with the public safety and welfare and shall not come within seven feet of the ground over any sidewalk.

(Ord. 1981-16. Passed 3-2-81.)

**327.17 REMOVAL OF STUMPS.**

All stumps of street and park trees shall be removed below the surface of the ground within a reasonable period of time.

(Ord. 1981-16. Passed 3-2-81.)

**327.18 TREE PRUNING; PRIVATE PROPERTY.**

The owner of every lot or parcel of land within the City upon which a tree, plant or shrubbery stands shall conform to the regulations herein provided.

- (a) The owner shall trim or cause to be trimmed the tree, plant or shrubbery so that a minimum clear height of nine (9) feet between the lowest branches of the same and the street and sidewalk is maintained.
- (b) The owner shall trim or remove, as the case may require, every dead, decayed or broken tree, plant or shrubbery, or part thereof, that is likely to fall on any public or private property, including the property upon which it is situated.
- (c) The owner shall cut down and remove any tree, plant or shrubbery, or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection, or to abate any nuisance necessary to protect life, limb or property of persons, drivers of any vehicles or pedestrians using the street or sidewalk.

(Ord. 2018-27. Passed 5-7-18.)

**327.19 PERMITS REQUIRED.**

No person shall plant, remove, destroy, cut, prune, fertilize, treat, break, chisel, injure or spray any tree existing on any public place, or authorize or procure any person to do so, or remove or tamper with any device placed for the protection of any such tree, or attach any rope, wire, chain, sign or other device whatsoever, either to such tree or to any device placed for the protection of such tree, or authorize or cause the same to be done, unless he has first obtained written permission from the Director of Public Service.

The Director of Public Service shall have the authority to deny a permit to any person who proposes to plant any tree or shrub in accordance with Section 327.06.

(Ord. 1981-16. Passed 3-2-81.)



**327.20 ARBORISTS LICENSE AND BOND.**

No person, firm or corporation shall engage in the business or occupation of pruning, treating or removing trees without first applying for and obtaining an arborists license from the Director of Public Service. The license shall be twenty-five dollars (\$25.00) annually in advance. No license or fee shall be required of any public utility company or City employee doing such work under the direction of the Director of Public Service. Before any license may be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of one hundred thousand dollars (\$100,000) for bodily injury and three hundred thousand dollars (\$300,000) for property damage indemnifying the City or any person injured or damaged by the activities herein described.  
(Ord. 1981-16. Passed 3-2-81.)

**327.21 INTERFERENCE WITH DIRECTOR OR ASSISTANTS.**

No person shall interfere with the Director of Public Service or his subordinates or assistants while engaged in or about the carrying out the provisions of this chapter or the doing of any of the work ordered by the Director to be done.  
(Ord. 1981-16. Passed 3-2-81.)

**327.22 TREES, GRASS, WEEDS AND OTHER CONDITIONS AS A NUISANCE;  
ABATEMENT.**

(a) Trees. The following acts, things and conditions done or existing within this City are declared to constitute nuisances:

- (1) Any tree upon any street or public place or so near thereto as to permit the roots of the tree to penetrate through or under the surface thereof.
- (2) Any tree, plant or shrub, wherever located within the City, infected with any parasite, insect, fungus or pest, which may be communicated to any other tree, plant or shrub.
- (3) Any tree, plant or shrub, or part thereof, which has fallen or is in such condition that if it falls, is likely to cause harm to persons or property, including the property upon which it is situated.
- (4) Any tree, plant or shrub whose branches or trunk obstructs or impedes traffic on any street or public place. Branches overhanging any public sidewalk, pavement, street or roadway within (9) feet of the public sidewalk, pavement, street or roadway, or within thereof, shall be deemed prima-facie to obstruct or impede traffic thereon.

(b) Grass, Weeds and Other Conditions.

- (1) The existence, upon any lot or parcel of land within the City, of grass, weeds, or other combustible material likely to catch fire and spread such fire to other property, or of weeds which are spreading or maturing seeds, or about to do so, or of ragweed, goldenrod, poison ivy or poison oak, or of any other condition existing upon any lot or parcel that is likely to become airborne, or to harbor vermin or insects, or to cause deterioration to any structure, rot, decay, or create noxious odor or condition, or is likely to enter into the storm drain or to create an environmental hazard or health concern, or to spread or reach beyond outside of any given parcel, or as otherwise set forth below is declared a nuisance.
- (2) On any lot or parcel within the City, not meeting the requirements of subsection (2) below, grass or weeds growing to a height of six inches or more shall be prima facie deemed to be likely to catch fire and spread such fire to other property.

- (3) On any undeveloped parcel of land one acre or greater in the CC, GI, and BR-CD Zoning Districts, grass and weeds growing in excess of six inches or more within the first thirty feet of land that is adjacent to any public right of way shall be prima facie deemed to be likely to catch fire and spread such fire to other property.

(c) Whenever in the opinion of the Director of Public Service any of the nuisances defined in this section exist, the Director shall cause its abatement, which may include trimming or removal of any tree, plant, shrubbery, grass, weeds, vines or other materials constituting said nuisance, and cause the cost of the abatement to be charged and collected, in the manner provided in Chapter 931 of the Codified Ordinances.

(d) No person who is the owner, occupant or who has charge, care or control of any lot or parcel of land within the City shall permit a nuisance as herein defined to exist or continue thereon. (Ord. 2018-27. Passed 5-7-18.)

**327.23 REMOVAL OF TREES, WEEDS, GRASSES BY CITY. (REPEALED)**  
(EDITOR'S NOTE: Former Section 327.23 was repealed by Ordinance 2018-27.)

**327.24 ASSESSMENT OF COSTS BY CITY. (REPEALED)**  
(EDITOR'S NOTE: Former Section 327.24 was repealed by Ordinance 2018-27.)

**327.25 DISEASED TREE INSPECTION; REMOVAL; NOTICE; ASSESSMENT.**  
The Director of Public Service is authorized to inspect any tree within this City reported or supposed to be infected with the Dutch elm disease or the virus disease Phloem Necrosis, commonly known as elm blight, and to employ any person qualified to diagnose such diseases, such as the City Forester of Cleveland, or any other person employed in a similar capacity by the state or federal governments, or to determine the existence thereof to assist him in the inspection, at a cost of not to exceed fifteen dollars (\$15.00) in any case.

If upon such inspection the Director of Public Service determines that the tree is infected with either of the diseases, he shall, if the tree is in any public street, ground or place within this City, immediately remove and dispose of the same in a manner as to prevent as fully as possible the spread of the disease. If the tree is located on private property, the Director of Public Service shall immediately serve upon the owner of such property a written notice that the tree is so infected and that the same must be removed and disposed of under the supervision of the Director of Public Service within five days of the service of the notice. If the owner cannot be found, a copy of the notice shall be posted upon the infected tree. If the tree is not so removed and disposed of within five days after the service or posting of the notice, the Director of Public Service shall cause the tree to be so removed and disposed of. The cost of the removal and disposal shall be reported to the owner of the property, if he can be found, and also to Council, and if the cost is not paid within thirty days of the report, Council may assess the same as in other cases of the abatement of nuisances.  
(Ord. 1977-68. Passed 6-7-77.)

## CODIFIED ORDINANCES OF BEREA

### PART SEVEN - TRAFFIC CODE

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#### TITLE ONE - Administration

Chap. 701. Definitions.

Chap. 703. Enforcement, Impounding and Penalty.

Chap. 705. Traffic Rules and Regulations.

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#### CHAPTER 701 Definitions

701.01	Meaning of words and phrases.	701.26	Private road or driveway.
701.02	Agricultural tractor.	701.27	Public safety vehicle.
701.03	Alley.	701.28	Railroad.
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701.10	Driver or operator.	701.35	School bus.
701.11	Emergency vehicle.	701.36	Semitrailer.
701.12	Explosives.	701.361	Shared-use path.
701.13	Expressway.	701.37	Sidewalk.
701.14	Flammable liquid.	701.38	State route.
701.15	Freeway.	701.39	Stop (when required).
701.16	Gross weight.	701.40	Stopping or standing.
701.161	Highway maintenance vehicle.	701.41	Stop intersection.
701.162	Highway traffic signal.	701.42	Street or highway; arterial street.
701.17	Intersection.	701.43	Through street or highway.
701.18	Laned street or highway.	701.44	Thruway.
701.181	Median.	701.45	Traffic.
701.19	Motorcycle.	701.46	Traffic control devices.
701.20	Motor vehicle.	701.47	Traffic control signal.
701.201	Operate.	701.48	Trailer.
701.21	Park or parking.	701.49	Truck.
701.22	Pedestrian.	701.50	Urban district.
701.23	Person.	701.51	Vehicle.
701.24	Pole trailer.	701.52	Wheelchair, motorized.
701.25	Police officer.	701.53	Commercial vehicle.
701.251	Predicate motor vehicle or traffic offense.	701.54	Skateboards.
		701.55	Waste collection vehicle.

### CROSS REFERENCES

See sectional histories for similar State law  
Funeral procession defined - see TRAF. 731.24  
Street racing defined - see TRAF. 733.07  
Studded tire defined - see TRAF. 739.11  
Blind person defined - see TRAF. 771.02  
Snowmobile, off-highway motorcycle and all purpose vehicle  
defined - see TRAF. 775.01  
School zones defined - see TRAF. 733.03(b)

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### 701.01 MEANING OF WORDS AND PHRASES.

Any words or phrases used in this Traffic Code, and not specifically defined herein, shall have the same meaning as those words or phrases have in the Ohio Revised Code if those words or phrases are specifically defined in the Ohio Revised Code. Any words or phrases used in this Traffic Code, and not specifically defined herein or in the Ohio Revised Code, shall have the same meaning as those words or phrases have in the Ohio Manual of Uniform Traffic Control Devices if those words or phrases are specifically defined therein.

The following words and phrases when used in this Traffic Code, except as otherwise provided or unless the context otherwise requires, shall have the meanings respectively ascribed to them in this chapter. (Ord. 1979-87. Passed 5-9-79.)

### 701.02 AGRICULTURAL TRACTOR.

"Agricultural tractor" means every self-propelling 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. (ORC 4511.01(J))

### 701.03 ALLEY.

"Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic, and includes any street or highway that has been declared an "alley" by Council. (ORC 4511.01(XX))

### 701.031 BEACON; HYBRID BEACON.

(a) "Beacon" means a highway traffic signal with one or more signal sections that operate in a flashing mode. (ORC 4511.01(KKK))

(b) "Hybrid beacon" means a type of beacon that is intentionally placed in a dark mode between periods of operation where no indications are displayed and, when in operation, displays both steady and flashing traffic control signal indications. (ORC 4511.01(LL))

### 701.04 BICYCLE; MOTORIZED BICYCLE; MOPED; ELECTRIC BICYCLE.

(a) "Bicycle" means every device, other than a device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which a person may ride, and that has two or more wheels, any of which is more than fourteen inches in diameter. (ORC 4511.01(G))

(b) "Motorized bicycle" or "moped" means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that may be pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces not more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

"Motorized bicycle" or "moped" does not include an electric bicycle. (ORC 4511.01(H))

(c) "Electric bicycle" means a "class 1 electric bicycle", a "class 2 electric bicycle", or a "class 3 electric bicycle" as defined in this section. (ORC 4511.01(RRR))

- (1) "Class 1 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(SSS))
- (2) "Class 2 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that may provide assistance regardless of whether the rider is pedaling and is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(TTT))
- (3) "Class 3 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty-eight miles per hour. (ORC 4511.01(UUU))

#### **701.05 BUS.**

"Bus" means every motor vehicle designed for carrying more than nine passengers and used for the transportation of persons other than in a ridesharing arrangement as defined in Ohio R.C. 4511.01, 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. (ORC 4511.01(L))

#### **701.06 BUSINESS DISTRICT.**

"Business district" means the territory fronting upon a street or highway, including the street or highway, between successive intersections where fifty percent or more of the frontage between such successive intersections is occupied by buildings in use for business, or where fifty percent or more of the frontage for a distance of 300 feet or more is occupied by buildings in use for business, and the character of such territory is indicated by official traffic control devices. (ORC 4511.01(NN))

#### **701.07 COMMERCIAL TRACTOR.**

"Commercial tractor" means 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 such other vehicles, or the load thereon, or both. (ORC 4511.01(I))

#### **701.08 CONTROLLED-ACCESS HIGHWAY.**

"Controlled-access highway" means every street or highway in respect to which owners or occupants of abutting lands and other persons have no legal right or access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such street or highway. (ORC 4511.01(CC))

#### **701.09 CROSSWALK.**

"Crosswalk" means:

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

- (c) Notwithstanding subsections (a) and (b) hereof, there shall not be a crosswalk where authorized signs have been placed indicating no crossing.  
(ORC 4511.01(LL))

**701.10 DRIVER OR OPERATOR.**

"Driver" or "operator" means every person who drives or is in actual physical control of a vehicle. (ORC 4511.01(Y))

**701.11 EMERGENCY VEHICLE.**

"Emergency vehicle" means emergency vehicles of municipal, township or county departments or public utility corporations when identified as such as required by law, the Ohio Director of Public Safety or local authorities, and motor vehicles when commandeered by a police officer. (ORC 4511.01(D))

**701.12 EXPLOSIVES.**

"Explosives" means 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 such a sudden generation of highly heated gases 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 such limited quantities, of such nature or in such packing, that it is impossible to procure a simultaneous or a destructive explosion of such units, to the injury of life, limb or property by fire, by friction, by concussion, by percussion or by a detonator, such as fixed ammunition for small arms, firecrackers or safety fuse matches. (ORC 4511.01(T))

**701.13 EXPRESSWAY.**

"Expressway" means a divided arterial highway for through traffic with full or partial control of access with an excess of fifty percent of all crossroads separated in grade.  
(ORC 4511.01(ZZ))

**701.14 FLAMMABLE LIQUID.**

"Flammable liquid" means any liquid that has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed cup test device.  
(ORC 4511.01(U))

**701.15 FREEWAY.**

"Freeway" means a divided multi-lane highway for through traffic with all crossroads separated in grade and with full control of access.  
(ORC 4511.01(Y))

**701.16 GROSS WEIGHT.**

"Gross weight" means the weight of a vehicle plus the weight of any load thereon.  
(ORC 4511.01(V))

**701.161 HIGHWAY MAINTENANCE VEHICLE.**

"Highway maintenance vehicle" means a vehicle used in snow and ice removal or road surface maintenance, including a snow plow, traffic line striper, road sweeper, mowing machine, asphalt distributing vehicle, or other such vehicle designed for use in specific highway maintenance activities. (ORC 4511.01(QQQ))

**701.162 HIGHWAY TRAFFIC SIGNAL.**

"Highway traffic signal" means a power-operated traffic control device by which traffic is warned or directed to take some specific action. "Highway traffic signal" does not include a power-operated sign, steadily illuminated pavement markers, warning light, or steady burning electric lamp. (ORC 4511.01(MMM))

**701.17 INTERSECTION.**

"Intersection" means:

- (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways that join at any other angle might come into conflict. The junction of an alley or driveway with a roadway or highway does not constitute an intersection unless the roadway or highway at the junction is controlled by a traffic control device.
- (b) If a highway includes two roadways that are thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway constitutes a separate intersection. If both intersecting highways include two roadways thirty feet or more apart, then every crossing of any two roadways of such highways constitutes a separate intersection.
- (c) At a location controlled by a traffic control signal, regardless of the distance between the separate intersections as described in subsection (b) of this section:
  - (1) If a stop line, yield line, or crosswalk has not been designated on the roadway within the median between the separate intersections, the two intersections and the roadway and median constitute one intersection.
  - (2) Where a stop line, yield line, or crosswalk line is designated on the roadway on the intersection approach, the area within the crosswalk and any area beyond the designated stop line or yield line constitute part of the intersection.
  - (3) Where a crosswalk is designated on a roadway on the departure from the intersection, the intersection includes the area that extends to the far side of the crosswalk. (ORC 4511.01(KK))

**701.18 LANED STREET OR HIGHWAY.**

"Laned street or highway" means a street or highway the roadway of which is divided into two or more clearly marked lanes for vehicular traffic.  
(ORC 4511.01(GG))

**701.181 MEDIAN.**

"Median" means the area between two roadways of a divided highway, measured from edge of traveled way to edge of traveled way, but excluding turn lanes. The width of a median may be different between intersections, between interchanges, and at opposite approaches of the same intersection. (ORC 4511.01(NNN))

**701.19 MOTORCYCLE.**

"Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter," "autocycle," "cab-enclosed motorcycle" or "motorcycle" without regard to weight or brake horsepower. (ORC 4511.01(C))

**701.20 MOTOR VEHICLE.**

"Motor vehicle" means every vehicle propelled or drawn by power other than muscular power, except motorized bicycles, electric bicycles, road rollers, traction engines, power shovels, power cranes and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less. (ORC 4511.01(B))

**701.201 OPERATE.**

"Operate" means to cause or have caused movement of a vehicle.  
(ORC 4511.01(HHH))

**701.21 PARK OR PARKING.**

"Park or parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

**701.22 PEDESTRIAN.**

"Pedestrian" means any natural person afoot. (ORC 4511.01(X))

**701.23 PERSON.**

"Person" means every natural person, firm, copartnership, association or corporation.  
(ORC 4511.01(W))

**701.24 POLE TRAILER.**

"Pole trailer" means 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 connection.  
(ORC 4511.01(O))

**701.25 POLICE OFFICER.**

"Police officer" means every officer authorized to direct or regulate traffic, or to make arrests for violations of traffic regulations.  
(ORC 4511.01(Z))

**701.251 PREDICATE MOTOR VEHICLE OR TRAFFIC OFFENSE.**

"Predicate motor vehicle or traffic offense" means any of the following:

- (a) A violation of Ohio 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, 4511.522, 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;
- (b) A violation of division (A)(2) of Ohio R.C. 4511.17, divisions (A) to (D) of Ohio R.C. 4511.51, or division (A) of Ohio R.C. 4511.74;



- (c) A violation of any provision of Ohio R.C. 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
- (d) A violation of Ohio R.C. 4511.214.
- (e) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in subsection (a) to (d) of this section.  
(ORC 4511.01(III))

#### **701.26 PRIVATE ROAD OR DRIVEWAY.**

(a) "Private road or driveway" means 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. (ORC 4511.01(DD))

(b) "Private road open to public travel" means a private toll road or road, including any adjacent sidewalks that generally run parallel to the road, within a shopping center, airport, sports arena, or other similar business or recreation facility that is privately owned but where the public is allowed to travel without access restrictions. "Private road open to public travel" includes a gated toll road but does not include a road within a private gated property where access is restricted at all times, a parking area, a driving aisle within a parking area, or a private grade crossing. (ORC 4511.01(OOO))

#### **701.27 PUBLIC SAFETY VEHICLE.**

"Public safety vehicle" means any of the following:

- (a) Ambulances, including private ambulance companies under contract to a municipal corporation, township or county and private ambulances and transport vehicles bearing license plates issued under Ohio R.C. 4503.49;
- (b) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the State or the Municipality;
- (c) Any motor vehicle when properly identified as required by the Ohio 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 Ohio Fire Marshal shall be designated by the Ohio Director of Public Safety as the certifying agency for all public safety vehicles described in this subsection (c);
- (d) Vehicles used by fire departments, including motor vehicles when used by volunteer fire fighters responding to emergency calls in the fire department service when identified as required by the Ohio Director of Public Safety. 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 a public safety vehicle when transporting an ill or injured person to a hospital regardless of whether such vehicle has already passed a hospital.  
(ORC 4511.01(E))
- (e) Vehicles used by the Commercial Motor Vehicle Safety Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission as specified in Ohio R.C. 5503.34.

#### **701.28 RAILROAD.**

"Railroad" means a carrier of persons or property operating upon rails placed principally on a private right of way. (ORC 4511.01(P))

**701.29 RAILROAD SIGN OR SIGNAL.**

"Railroad sign or signal" means 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. (ORC 4511.01(SS))

**701.30 RAILROAD TRAIN.**

"Railroad train" means a steam engine, or an electric or other motor, with or without cars coupled thereto, operated by a railroad. (ORC 4511.01(Q))

**701.31 RESIDENCE DISTRICT.**

"Residence district" means the territory, not comprising a business district, fronting on a street or highway, including the street or highway, where, for a distance of 300 feet or more, the frontage is improved with residences or residences and buildings in use for business. (ORC 4511.01(OO))

**701.32 RIGHT OF WAY.**

"Right of way" means either of the following, as the context requires:

- (a) The right of a vehicle or pedestrian to proceed uninterruptedly in a lawful manner in the direction in which it or the individual is moving in preference to another vehicle or pedestrian approaching from a different direction into its or the individual's path;
- (b) 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.

(ORC 4511.01(UU))

**701.321 ROAD SERVICE VEHICLE.**

"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. (ORC 4511.01(JJJ))

**701.33 ROADWAY.**

"Roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, except the berm or shoulder. If a street or highway includes two or more separate roadways, the term "roadway" means any such roadway separately but not all such roadways collectively. (ORC 4511.01(EE))

**701.34 SAFETY ZONE.**

"Safety zone" means 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 as to be plainly visible at all times. (ORC 4511.01(MM))

**701.35 SCHOOL BUS.**

"School bus" means every bus designed for carrying more than nine passengers that 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 the Municipality, or within such limits and the territorial limits of municipal corporations immediately contiguous to the Municipality, nor a common passenger carrier certified by the Public Utilities Commission unless such 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 fifteen children in the van or bus at any time. "Child day-care center" and "type A family day-care home" have the same meanings as in Ohio R.C. 5104.01.  
(ORC 4511.01(F), (FFF))

#### **701.36 SEMITRAILER.**

"Semitrailer" means 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. (ORC 4511.01(N))

#### **701.361 SHARED-USE PATH.**

"Shared-use path" means a bikeway outside the traveled way and physically separate from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. A shared-use path also may be used by pedestrians, including skaters, joggers, users of manual and motorized wheelchairs, and other authorized motorized and non-motorized users. A shared-use path does not include any trail that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use.  
(ORC 4511.01(PPP))

#### **701.37 SIDEWALK.**

"Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians. (ORC 4511.01(FF))

#### **701.38 STATE ROUTE.**

"State route" means every highway that is designated with an official State route number and so marked. (ORC 4511.01(JJ))

#### **701.39 STOP (WHEN REQUIRED).**

"Stop" when required means a complete cessation of movement.

#### **701.40 STOPPING OR STANDING.**

(a) "Stop or stopping" when prohibited means any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device.

(b) "Stand or standing" means the halting of a vehicle, whether occupied or not, otherwise then temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

#### **701.41 STOP INTERSECTION.**

"Stop intersection" means any intersection at one or more entrances of which stop signs are erected. (ORC 4511.01(BBB))

#### **701.42 STREET OR HIGHWAY; ARTERIAL STREET.**

(a) "Street" or "highway" are synonymous and mean 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. (ORC 4511.01(BB))

(b) "Arterial street" means any United States or State numbered route, controlled access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways. (ORC 4511.01(CCC))

**701.43 THROUGH STREET OR HIGHWAY.**

"Through street or highway" means every street or highway as provided in Section 713.02. (ORC 4511.01(HH))

**701.44 THRUWAY.**

"Thruway" means a through street or highway whose entire roadway is reserved for through traffic and on which roadway parking is prohibited. (ORC 4511.01(AAA))

**701.45 TRAFFIC.**

"Traffic" means pedestrians, ridden or herded animals, vehicles and other devices, either singly or together, while using for purposes of travel any street or highway or private road open to public travel. (ORC 4511.01(TT))

**701.46 TRAFFIC CONTROL DEVICE.**

"Traffic control device" means a flagger, sign, signal, marking, or other device used to regulate, warn or guide traffic, placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction. (ORC 4511.01(QQ))

**701.47 TRAFFIC CONTROL SIGNAL.**

"Traffic control signal" means any highway traffic signal by which traffic is alternately directed to stop and permitted to proceed. (ORC 4511.01(RR))

**701.48 TRAILER.**

"Trailer" means 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 such 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 twenty-five miles per hour and a vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour. (ORC 4511.01(M))

**701.49 TRUCK.**

"Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property. (ORC 4511.01(K))

**701.50 URBAN DISTRICT.**

"Urban district" means the territory contiguous to and including any street or highway which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than 100 feet for distance of a quarter of a mile or more, and the character of such territory is indicated by official traffic control devices. (ORC 4511.01(PP))

**701.51 VEHICLE.**

"Vehicle" means every device, including a motorized bicycle and an electric bicycle, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, or any device, other than a bicycle, that is moved by human power. (ORC 4511.01(A))

**701.52 WHEELCHAIR, MOTORIZED.**

"Motorized wheelchair" means any self-propelled vehicle designed for, and used by, a handicapped person and that is incapable of a speed in excess of eight miles per hour. (ORC 4511.01(EEE))

**701.53 COMMERCIAL VEHICLE.**

"Commercial vehicle" means trucks, vans or other vehicles which are being used expressly for the commercial transportation of merchandise. (Ord. 1979-87. Passed 5-9-79.)

**701.54 SKATEBOARD.**

"Skateboard" means any vehicle or device capable of being operated or ridden by a person and consisting of a board, plank or platform mounted on wheels or rollers, whether propelled by gravity, muscle power or mechanical means, which is not equipped with a positive, mechanical means of steering such vehicle or device.

**701.55 WASTE COLLECTION VEHICLE.**

"Waste collection vehicle" means a vehicle used in the collection of garbage, refuse, trash or recyclable materials. (ORC 4511.01(RRR))



**CHAPTER 703**  
**Enforcement, Impounding and Penalty**

703.01	Compliance with lawful order of police officer; fleeing.	703.08	Impounding of vehicles; redemption.
703.02	Traffic direction in emergencies.	703.081	Impounding vehicles on private residential or agricultural property.
703.03	Officer may remove ignition key.	703.082	Private tow-away zones.
703.04	Road workers, motor vehicles and equipment excepted.	703.083	Release of vehicle; records; charges.
703.041	Emergency, public safety and coroner's vehicles exempt.	703.09	Providing false information to police officer.
703.05	Application to persons riding, driving animals upon roadway.	703.99	General Traffic Code penalties.
703.06	Freeway use prohibited by pedestrians, bicycles and animals.	703.991	Committing an offense while distracted penalty.
703.07	Application to drivers of government vehicles.		

**CROSS REFERENCES**

See sectional histories for similar State law  
Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.62 et seq.  
Citations for minor misdemeanors - see Ohio R.C. 2935.26 et seq.  
Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34  
State point system suspension - see Ohio R.C. 4507.40  
Uniform application of Ohio Traffic Law - see Ohio R.C. 4511.06  
Marking motor vehicles used by traffic officers - see Ohio R.C. 4549.13  
Distinctive uniform required for traffic officers - see Ohio R.C. 4549.15  
Exceptions for emergency or public safety vehicles - see TRAF. 731.20, 733.06

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**703.01 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.**

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

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

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

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

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

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

### **703.02 TRAFFIC DIRECTION IN EMERGENCIES.**

Police Officers may direct or regulate traffic in accordance with the provisions of this Traffic Code, provided that, in the event of fire or other emergency or to expedite traffic or safeguard pedestrians, they are authorized to direct traffic as conditions may require notwithstanding the provisions of this Traffic Code. Firemen, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. The direction of traffic may be by word or audible signal, by gesture or visible signal or by any combination thereof. (Ord. 1955-48. Passed 8-15-55.)

### **703.03 OFFICER MAY REMOVE IGNITION KEY.**

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



**703.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.**

(a) The provisions of this Traffic Code do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic control devices, but apply to such persons and vehicles when traveling to or from such work.

(b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and such other markings as are required by law, and such lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of Sections 731.01 to 731.04, 731.06 to 771.08, 731.31, 733.04, 737.01 and Ohio R.C. 4511.66 and 5577.01 to 5577.09.

- (c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of Sections 731.01 to 731.04, 731.06 to 731.08, 731.31, 733.04, 737.01 or Ohio R.C. 4511.66 or 5577.01 to 5577.09.
- (2) This section does not exempt a driver of a vehicle who is not a state employee and who is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09.

(d) As used in this section, "engaged in the performance of official duties" includes driving a highway maintenance vehicle to and from the manufacturer or vehicle maintenance provider and transporting a highway maintenance vehicle, equipment, or materials to and from a work location. (ORC 4511.04)

**703.041 EMERGENCY, PUBLIC SAFETY AND CORONER'S VEHICLES EXEMPT.**

(a) Ohio R.C. 4511.12, 4511.13, 4511.131, 4511.132, 4511.14, 4511.202, 4511.21, 4511.211, 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, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.62, 4511.66, 4511.68, 4511.681 and 4511.69 and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to the driver of an emergency vehicle or public safety vehicle if the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and if the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This section 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. (ORC 4511.041)

(b) Ohio R.C. 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.35, 4511.36, 4511.37, 4511.38 and 4511.66, and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to a coroner, deputy coroner, or coroner's investigator operating a motor vehicle in accordance with Ohio R.C. 4513.171. This section does not relieve a coroner, deputy coroner, or coroner's investigator operating a motor vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.042)

**703.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.**

Every person riding, driving or leading an animal upon a roadway shall be subject to the provisions of this Traffic Code applicable to the driver of a vehicle, except those provisions of such sections which by their nature are inapplicable. (ORC 4511.05)

**703.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.**

- (a) No person, unless otherwise directed by a police officer, shall:
- (1) As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except: in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance;
  - (2) Occupy any space within the limits of the right of way of a freeway, with: an animal-drawn vehicle; a ridden or led animal; herded animals; a pushcart; a bicycle, except on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for bicycle use; an electric bicycle; a bicycle with motor attached; a motor driven cycle with a motor which produces not to exceed five brake horsepower; an agricultural tractor; farm machinery; except in the performance of public works or official duties.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code.  
(ORC 4511.051)

**703.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.**

The provisions of this Traffic Code applicable to the drivers of vehicles shall apply to the drivers of all vehicles owned or operated by the United States, any state or any political subdivision thereof, including this Municipality, except as may be otherwise provided by law and subject to such specific exceptions as are set forth with reference to authorized emergency and public safety vehicles.

**703.08 IMPOUNDING OF VEHICLES; REDEMPTION.**

Police officers are authorized to provide for the removal and impounding of a vehicle under the following circumstances:

- (a) When any vehicle is left unattended as provided in Section 751.13 of this Traffic Code.

**703.991 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.**

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

- (1) "Distracted" means doing either of the following while operating a vehicle:
  - A. Using a handheld electronic wireless communications device, as defined in Ohio R.C. 4511.204 except when utilizing any of the following:
    1. The device's speakerphone function;
    2. A wireless technology standard for exchanging data over short distances;
    3. A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;
    4. Any device that is physically or electronically integrated into the motor vehicle.
  - B. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.
- (2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Section 731.43.
- (3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage or a circumstance affecting the health or safety of individuals.

As used in subsection (a)(3) of this section:

  - A. "Utility" means an entity specified in division (A), (C), (D), (E) or (G) of Ohio R.C. 4905.03.
  - B. "Utility service vehicle" means a vehicle owned or operated by a utility.

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

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

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

- (2) If the offender appears in person to contest the ticket, citation or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars (\$100.00).

If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars (\$100.00), the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars (\$100.00), the offender instead may elect to attend the distracted driving safety course described in subsection (b)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars (\$100.00), so long as the offender submits to the court the offender's payment and such written evidence.

(ORC 4511.991)

## CHAPTER 713 Traffic Control Devices

713.01	Obedience to traffic control devices.	713.07	Unauthorized signs and signals, hiding from view, advertising.
713.02	Through streets; stop and yield right-of-way signs.	713.08	Alteration, injury, removal of traffic control devices.
713.03	Traffic signal indications.	713.09	Driver's duties upon approaching ambiguous or non-working traffic signal.
713.04	Lane-use control signal indications.	713.10	Unlawful purchase, possession or sale.
713.05	Special pedestrian control signals.	713.11	Portable signal preemption devices prohibited.
713.06	Flashing traffic signals. (Repealed)		

### CROSS REFERENCES

See sectional histories for similar State law

Designation of through streets or stop intersections - see Ohio R.C. 4511.07(F), 4511.65

Uniform system of traffic control devices - see Ohio R.C. 4511.09, 4511.11(D)

Placing and maintaining local traffic control devices - see Ohio R.C. 4511.10, 4511.11

Traffic control devices defined - TRAF. 701.46

### **713.01 OBEDIENCE TO TRAFFIC CONTROL DEVICES.**

(a) 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.

No provisions 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 subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code.  
(ORC 4511.12)

**713.02 THROUGH STREETS; STOP AND YIELD RIGHT-OF-WAY SIGNS.**

(a) All State routes are hereby designated as through streets or highways, provided that stop signs, yield signs or traffic control signals shall be erected at all intersections with such through streets or highways, except as otherwise provided in this section. Where two or more State routes that are through streets or highways intersect and no traffic control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the Ohio Department of Transportation, except as otherwise provided in this section.

Whenever the Ohio Director of Transportation determines on the basis of an engineering and traffic investigation that stop signs are necessary to stop traffic on a through highway for safe and efficient operation, nothing in this section shall be construed to prevent such installations. When circumstances warrant, the Director also may omit stop signs on roadways intersecting through highways under his jurisdiction. Before the Director either installs or removes a stop sign under this paragraph, he shall give notice, in writing, of that proposed action to the Municipality at least thirty days before installing or removing the stop sign.

(b) Other streets or highways or portions thereof, are hereby designated through streets or highways, if they are within the Municipality, if they have a continuous length of more than one mile between the limits of such street or highway or portion thereof, and if they have "stop" or "yield" signs or traffic control signals at the entrances of the majority of intersecting streets or highways. For purposes of this section, the limits of such street or highway or portion thereof, shall be a municipal corporation line, the physical terminus of the street or highway or any point on such street or highway at which vehicular traffic thereon is required by regulatory signs to stop or yield to traffic on the intersecting street, provided that in residence districts the Municipality may by ordinance designate such street or highway, or portion thereof, not to be a through highway and thereafter the affected residence district shall be indicated by official traffic control devices. Where two or more streets or highways designated under this subsection (b) intersect and no traffic control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the Ohio Department of Transportation or by Council or the authorized local authority, except as otherwise provided in this section.

(c) Stop signs need not be erected at intersections so constructed as to permit traffic to safely enter a through street or highway without coming to a stop. Signs shall be erected at such intersections indicating that the operator of a vehicle shall yield the right of way to or merge with all traffic proceeding on the through street or highway.

(d) Council or the authorized local authority may designate additional through streets or highways and shall erect stop signs, yield signs or traffic control signals at all streets and highways intersecting such through streets or highways, or may designate any intersection as a stop or yield intersection and shall erect like signs at one or more entrances to such intersection. (ORC 4511.65)

**713.03 TRAFFIC SIGNAL INDICATIONS.**

Highway traffic signal indications for vehicles, and pedestrians shall have the following meanings:

(a) Steady Green Signal Indication:

- (1) A. Vehicular traffic facing a circular green signal indication is permitted to proceed straight through or turn right or left, or make a u-turn movement except as such movement is modified by a lane-use sign, turn prohibition sign, lane marking, roadway design, separate turn signal indication, or other traffic control device. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:

- (2) Except as otherwise provided in this subsection, whoever violates subsection (a)(2) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the third degree.  
(ORC 4511.17)

#### **713.09 DRIVER'S DUTIES UPON APPROACHING AMBIGUOUS OR NON-WORKING TRAFFIC SIGNAL.**

(a) The driver of a vehicle who approaches an intersection where traffic is controlled by traffic control signals shall do all of the following if the signal facing the driver exhibits no colored lights or colored lighted arrows, exhibits a combination of such lights or arrows that fails to clearly indicate the assignment of right of way, or, if the vehicle is a bicycle or an electric bicycle, the signals are otherwise malfunctioning due to the failure of a vehicle detector to detect the presence of the bicycle or electric bicycle.

- (1) Stop at a clearly marked stop line, but if none, stop before entering the crosswalk on the near side of the intersection, or, if none, stop before entering the intersection;
- (2) Yield the right of way to all vehicles in the intersection or approaching on an intersecting road, if the vehicles will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.
- (3) Exercise ordinary care while proceeding through the intersection.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code.  
(ORC 4511.132)

#### **713.10 UNLAWFUL PURCHASE, POSSESSION OR SALE.**

(a) As used in this section, "traffic control device" means any sign, traffic control signal or other device conforming to and placed or erected in accordance with the manual adopted under Ohio R.C. 4511.09 by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic, including signs denoting the names of streets and highways, but does not mean any pavement marking.

(b) No individual shall buy or otherwise possess or sell, a traffic control device, except when one of the following applies:

- (1) In the course of the individual's employment by the State or a local authority for the express or implied purpose of manufacturing, providing, erecting, moving or removing such a traffic control device;
- (2) In the course of the individual's employment by any manufacturer of traffic control devices other than a State or local authority;

- (3) For the purpose of demonstrating the design and function of a traffic control device to State or local officials;
- (4) When the traffic control device has been purchased from the State or a local authority at a sale of property that is no longer needed or is unfit for use;
- (5) The traffic control device has been properly purchased from a manufacturer for use on private property and the person possessing the device has a sales receipt for the device or other acknowledgment of sale issued by the manufacturer.

(c) This section does not preclude, and shall not be construed as precluding, prosecution for theft in violation of Ohio R.C. 2913.02 or a municipal ordinance relating to theft, or for receiving stolen property in violation of Ohio R.C. 2913.51 or a municipal ordinance relating to receiving stolen property.

(d) Whoever violates this section is guilty of a misdemeanor of the third degree.  
(ORC 4511.18)

**713.11 PORTABLE SIGNAL PREEMPTION DEVICES PROHIBITED.**

- (a)
  - (1) No person shall possess a portable signal preemption device.
  - (2) No person shall use a portable signal preemption device to affect the operation of a traffic control signal.

(b) Subsection (a)(1) of this section does not apply to any of the following persons and subsection (a)(2) of this section does not apply to any of the following persons when responding to an emergency call:

- (1) A peace officer, as defined in Ohio R.C. 109.71(A)(11), (12), (14) or (19);
- (2) A State highway patrol trooper;
- (3) A person while occupying a public safety vehicle as defined in Ohio R.C. 4511.01(E)(1), (3) or (4).

(c) Whoever violates subsection (a)(1) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the first degree.

(d) As used in this section, "portable signal preemption device" means a device that, if activated by a person, is capable of changing a traffic control signal to green out of sequence.  
(ORC 4513.031)



(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic control devices designating certain lanes to the left of the center of the roadway for use by traffic not otherwise permitted to use the lanes, or except as permitted under subsection (a) (2) hereof.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.25)

#### **731.02 PASSING TO RIGHT WHEN PROCEEDING IN OPPOSITE DIRECTIONS.**

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.26)

#### **731.03 OVERTAKING, PASSING TO LEFT; DRIVER'S DUTIES.**

(a) The following rules govern the overtaking and passing of vehicles proceeding in the same direction:

- (1) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall, except as provided in subsection (a)(3) hereof, signal to the vehicle to be overtaken, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. When a motor vehicle overtakes and passes a bicycle or electric bicycle, three feet or greater is considered a safe passing distance.
- (2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.

- (3) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided street or highway as defined in Section 731.31, a limited access highway as defined in Ohio R.C. 5511.02 or a highway with four or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.27)

#### **731.04 OVERTAKING AND PASSING UPON RIGHT.**

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is making or about to make a left turn;
- (2) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(b) The driver of a vehicle may overtake and pass another vehicle only under conditions permitting such movement in safety. The movement shall not be made by driving off the roadway.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.28)

#### **731.05 OVERTAKING, PASSING TO LEFT OF CENTER.**

(a) No vehicle shall be driven to the left of the center of the roadway in overtaking and passing traffic proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made, without interfering with the safe operation of any traffic approaching from the opposite direction or any traffic overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for traffic approaching from the opposite direction before coming within 200 feet of any approaching vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.29)

#### **731.06 ADDITIONAL RESTRICTIONS ON DRIVING UPON LEFT SIDE OF ROADWAY.**

(a) No vehicle shall be driven upon the left side of the roadway under the following conditions:

- (1) When approaching the crest of a grade or upon a curve in the highway, where the operator's view is obstructed within such a distance as to create a hazard in the event traffic might approach from the opposite direction;
- (2) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel;
- (3) When approaching within 100 feet of or traversing any intersection or railroad grade crossing.

(b) This section does not apply to vehicles upon a one-way roadway, upon a roadway where traffic is lawfully directed to be driven to the left side or under the conditions described in Section 731.01(a)(2).

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.30)

#### **731.07 HAZARDOUS OR NO PASSING ZONES.**

(a) Hazardous zones, commonly called "no passing zones," shall consist of an auxiliary yellow line marked on the roadway pavement and placed parallel to the normal center line or marked lane line. When the auxiliary yellow line appears on the left side in the driver's lane of travel and to the right of the normal center line or marked lane line, no driver shall drive across the auxiliary yellow line to overtake and pass another vehicle proceeding in the same direction. When auxiliary yellow lines appear on both sides of the normal center line or marked lane line, drivers proceeding in either direction shall not drive across such auxiliary yellow lines to overtake and pass another vehicle proceeding in the same direction. No driver shall, at any other time, drive across the yellow auxiliary line when it appears in the driver's lane of travel, except to make a lawfully permitted left-hand turn under the rules governing such movement. No passing signs may also be erected facing traffic to indicate the beginning and end of each no passing zone.

When appropriate signs or markings indicating hazardous or no passing zones are in place and clearly visible, every operator of a vehicle shall obey the directions of the signs or markings, notwithstanding the distance set out in Section 731.06.

(b) Subsection (a) of this section does not apply when all of the following apply:

- (1) The slower vehicle is proceeding at less than half the speed of the speed limit applicable to that location.
- (2) The faster vehicle is capable of overtaking and passing the slower vehicle without exceeding the speed limit.
- (3) There is sufficient clear sight distance to the left of the center or center line of the roadway to meet the overtaking and passing provisions of Section 731.05, considering the speed of the slower vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.31)

### **731.08 DRIVING IN MARKED LANES OR CONTINUOUS LINES OF TRAFFIC.**

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

- (1) A vehicle shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety.
- (2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where such 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 subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.33)

### **731.09 FOLLOWING TOO CLOSELY.**

(a) 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 such vehicle and the traffic upon and the condition of the highway.

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 such vehicle and another vehicle ahead so an overtaking motor vehicle may enter and occupy such space without danger. This paragraph does not prevent overtaking and passing nor does it apply to any lane specially designated for use by trucks.

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 such vehicles so an overtaking vehicle may enter and occupy such space without danger. This paragraph shall not apply to funeral processions.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.34)

#### **731.10 TURNING 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 such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (3) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such 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 the traffic moving in that lane.
- (4) Markers, buttons or signs may 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 such markers, buttons or signs are so placed, no operator of a vehicle shall turn such vehicle at an intersection other than as directed and required by such markers, buttons or signs.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.36)

#### **731.11 TURNING INTO PRIVATE DRIVEWAY, ALLEY OR BUILDING.**

(a) The driver of a vehicle intending to turn into a private road or driveway, alley or building from a public street or highway 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) Upon a roadway where traffic is proceeding in opposite directions, approach for a left turn and a left turn shall be made from that portion of the right half of the roadway nearest the center line thereof.
- (3) Upon a roadway where traffic is restricted to one direction, approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

It shall be the duty of the driver of any vehicle entering a private road or driveway, alley or building to yield the right of way to pedestrians lawfully using the sidewalk or sidewalk area extending across any alleyway, private road, driveway or building.

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

#### **731.12 "U" TURNS RESTRICTED.**

(a) Except as provided in Section 713.03 and subsection (b) hereof, 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 the 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 subsection applies only when the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, and when the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This subsection 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. (ORC 4511.37)

(c) Except as provided in subsection (b) hereof, no vehicle shall be turned so as to proceed in the opposite direction within an intersection, or upon any street in a business district, or upon a freeway, expressway or controlled-access highway, or where authorized signs are erected to prohibit such movement, or at any other location unless such movement can be made with reasonable safety to other users of the street and without interfering with the safe operation of any traffic that may be affected by such movement.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.37)

### **731.13 STARTING AND BACKING VEHICLES.**

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

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.

No person shall back a motor vehicle on a freeway, except: in a rest area; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.38)

### **731.14 SIGNALS BEFORE CHANGING COURSE, TURNING OR STOPPING.**

(a) No person shall turn a vehicle or move right or left upon a highway unless and until such 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.

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 or electric bicycle, the signal shall be made not less than one time but is not required to be continuous. A bicycle or electric bicycle operator is not required to make a signal if the bicycle or electric 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 or electric bicycle.

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.

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 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 twenty-four 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 fourteen feet, whether a single vehicle or a combination of vehicles.

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.39)

#### **731.15 HAND AND ARM SIGNALS.**

(a) Except as provided in subsection (b) hereof, all signals required by this Traffic Code, when given by hand and arm shall be given from the left side of the vehicle in the following manner, and such 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 subsection (a)(2) hereof, 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 or electric bicycle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.40)

#### **731.16 RIGHT OF WAY AT INTERSECTIONS.**

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

(b) The right of way rule declared in subsection (a) hereof, is modified at through highways and otherwise as stated in this Traffic Code and Ohio R.C. Chapter 4511. (ORC 4511.41)

(c) Subject to compliance with any traffic control device, when two vehicles approach or enter a junction of two or more alleys from different directions 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.



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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.41)

#### **731.17 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, whenever the approaching vehicle is within the intersection or so close to the intersection, alley, private road or driveway as to constitute an immediate hazard.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.42)

#### **731.18 OPERATION OF VEHICLE AT YIELD SIGNS.**

(a) 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 or stopping, 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.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.43(B))

**731.19 OPERATION OF VEHICLE AT STOP SIGNS.**

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.43(A))

**731.20 EMERGENCY OR PUBLIC SAFETY VEHICLES AT STOP SIGNALS OR SIGNS.**

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.03)

**731.21 RIGHT OF WAY OF PUBLIC SAFETY OR CORONER'S VEHICLE.**

(a) Upon the approach of a public safety vehicle or coroner's vehicle, equipped with at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and the driver is giving an audible signal by siren, exhaust whistle or bell, no driver of any other vehicle shall fail to yield the right-of-way, immediately drive if practical to a position parallel to and as close as possible to, the right edge or curb of the street clear of any intersection, and stop and remain in that position until the public safety vehicle or coroner's vehicle has passed, except when otherwise directed by a police officer.

(b) This section does not relieve the driver of a public safety vehicle or coroner's vehicle from the duty to drive with due regard for the safety of all persons and property upon the street.

(c) This section applies to a coroner's vehicle only when the vehicle is operated in accordance with Ohio R.C. 4513.171. As used in this section, "coroner's vehicle" means a vehicle used by a coroner, deputy coroner or coroner's investigator that is equipped with a flashing, oscillating or rotating red or blue light and a siren, exhaust whistle, or bell capable of giving an audible signal.

(d) Except as otherwise provided in this subsection or Section 731.211, whoever violates subsection (a) of this section is guilty of a misdemeanor of the fourth degree on a first offense. On a second offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree, and, on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the second degree. (ORC 4511.45)

#### **731.211 REPORT OF VEHICLE FAILING TO YIELD RIGHT OF WAY TO PUBLIC SAFETY VEHICLE.**

(a) When the failure of a motor vehicle operator to yield the right-of-way to a public safety vehicle as required by Section 731.21(a) impedes the ability of the public safety vehicle to respond to an emergency, any emergency personnel in the public safety vehicle may report the license plate number and a general description of the vehicle and the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred.

- (b)
  - (1) Upon receipt of a report under subsection (a) of this section, the law enforcement agency may conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation.
  - (2) If the identity of the operator at the time of an alleged violation of Section 731.21(a) is established, the law enforcement agency has probable cause to issue either a written warning or a citation for that violation, and the agency shall issue a written warning or a citation to the operator.
  - (3) If the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency may issue a warning to the person who owned the vehicle at the time of the alleged violation. However, in the case of a leased or rented vehicle, the law enforcement agency shall issue the written warning to the person who leased or rented the vehicle at the time of the alleged violation.
- (c)
  - (1) Whoever violates Section 731.21(a) based on a report filed under subsection (a) of this section is guilty of a minor misdemeanor and shall be fined one hundred fifty dollars (\$150.00).
  - (2) If a person who is issued a citation for a violation of Section 731.21(a) based on a report filed under subsection (a) of this section does not enter a written plea of guilty and does not waive the person's right to contest the citation but instead appears in person in the proper court to answer the charge, the trier of fact cannot find beyond a reasonable doubt that the person committed that violation unless the emergency personnel who filed the report appears in person in the court and testifies.
- (d) As used in this section:
  - (1) "License plate" includes any temporary license placard issued under Ohio R.C. 4503.182 or similar law of another jurisdiction.
  - (2) "Public safety vehicle" does not include an unmarked public safety vehicle or a vehicle used by a public law enforcement officer or other person sworn to enforce the criminal and traffic laws of the State or a vehicle used by the Motor Carrier Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission. (ORC 4511.454)

**731.22 DRIVING ONTO ROADWAY FROM PLACE OTHER THAN ROADWAY: DUTY TO YIELD.**

(a) Subject to compliance with any traffic control device, the operator of a vehicle about to enter or cross a highway from an alley or 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 subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.44)

**731.23 EMERGING FROM PRIVATE DRIVEWAY, ALLEY OR BUILDING.**

(a) It shall be the duty of the driver of any vehicle emerging from a private road or driveway, alley or building to yield the right of way to pedestrians using the sidewalk or sidewalk area extending across any alleyway. When conditions restrict a clear view of any approaching pedestrians, the driver shall stop the vehicle immediately prior to driving onto such sidewalk or sidewalk area, sound an audible approach signal and yield the right of way to pedestrians as may be required. (Ord. 1974-124. Passed 11-18-74.)

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.431)

**731.24 RIGHT OF WAY OF FUNERAL PROCESSION.**

(a) As used in this section "funeral procession" means two or more vehicles accompanying the cremated remains or the body of a deceased person in the daytime when each of the vehicles has its headlights lighted and is displaying a purple and white or an orange and white pennant attached to each vehicle in such a manner as to be clearly visible to traffic approaching from any direction.

(b) Excepting public safety vehicles proceeding in accordance with Section 731.21 or when directed otherwise by a police officer, pedestrians and the operators of all vehicles shall yield the right of way to each vehicle that is a part of a funeral procession. Whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow the lead vehicle through the intersection notwithstanding any traffic control devices or right-of-way provisions of this Traffic Code, provided that the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian.

(c) No person shall operate any vehicle as a part of a funeral procession without having the headlights of the vehicle lighted and without displaying a purple and white or an orange and white pennant in such a manner as to be clearly visible to traffic approaching from any direction.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.451)

#### **731.25 DRIVER'S VIEW AND CONTROL TO BE UNOBSTRUCTED BY LOAD OR PERSONS.**

(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 such 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) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.70(A),(B),(D))

#### **731.26 DRIVING UPON STREET POSTED AS CLOSED FOR REPAIR.**

(a) No person shall drive upon, along or across a street or highway, or any part of a street or highway that has been closed in the process of its construction, reconstruction or repair, and posted with appropriate signs by the authority having jurisdiction to close such street or highway.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.71)

#### **731.27 FOLLOWING AND PARKING NEAR EMERGENCY OR SAFETY VEHICLES.**

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.72)

#### **731.28 DRIVING OVER FIRE HOSE.**

(a) No vehicle shall, without the consent of the Fire Chief or fire official in command, be driven over any unprotected fire hose that is laid down on any street or private driveway to be used at any fire or alarm of fire.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.73)

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.60)

#### **731.30 ONE-WAY STREETS AND ROTARY TRAFFIC ISLANDS.**

(a) Upon a roadway designated and posted with signs for one-way traffic a vehicle shall be driven only in the direction designated. 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 subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.32)

**731.31 DRIVING UPON DIVIDED ROADWAYS.**

(a) Whenever any street has been divided into two roadways by an intervening space, or by a physical barrier, or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway, and no vehicle shall be driven over, across or within any such dividing space, barrier or median section, except through an opening, crossover or intersection established by public authority. This section does not prohibit the occupancy of such dividing space, barrier or median section for the purpose of an emergency stop or in compliance with an order of a police officer.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.35)

**731.32 ENTERING AND EXITING CONTROLLED-ACCESS HIGHWAY.**

(a) No person shall drive a vehicle onto or from any controlled-access highway except at such entrances and exits as are established by public authority.

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

**731.33 OBSTRUCTING INTERSECTION, CROSSWALK OR GRADE CROSSING.**

(a) No driver shall enter an intersection or marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, notwithstanding any traffic control signal indication to proceed.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.712)

**731.34 FAILURE TO CONTROL; WEAVING; FULL TIME AND ATTENTION.**

(a) No person shall operate a vehicle without exercising reasonable and ordinary control over such vehicle.

(b) No person shall operate a vehicle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.

(c) No person shall operate a vehicle without giving his full time and attention to the operation of such vehicle.

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

**731.35 OCCUPYING A MOVING TRAILER OR MANUFACTURED OR MOBILE HOME.**

(a) No person shall occupy any travel trailer or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.701)

**731.36 SQUEALING TIRES, "PEELING," CRACKING EXHAUST NOISES.**

(a) No person shall unnecessarily race the motor of any vehicle and no person shall operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the roadway, commonly called "peeling".

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

**731.37 DRIVING UPON SIDEWALKS, STREET LAWNS OR CURBS.**

(a) No person shall drive any vehicle, other than a bicycle or an electric bicycle if the motor is not engaged, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway. (ORC 4511.711)

(b) No person shall drive a vehicle on a street lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.711)



**731.38 STOPPING FOR SCHOOL BUS; DISCHARGING CHILDREN.**

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this subsection (a) hereof that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by subsection (b) hereof.

(b) Every school bus shall be equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, and an automatically extended stop warning sign of a type approved by the State Board of Education, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and County boards of developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are boarding or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the Board.

(c) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle overtaking the school bus shall comply with subsection (a) hereof.

(d) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(e) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child or person's residence side of the road.

(f) As used in this section:

- (1) "Head start agency" has the same meaning as in Ohio R.C. 3301.32.
- (2) "School bus", as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the State Board of Education, is painted the color and displays the markings described in Ohio R.C. 4511.77, and is equipped with amber and red visual signals meeting the requirements of Ohio R.C.

4511.771, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

- (g) (1) Whoever violates subsection (a) of this section may be fined an amount not to exceed five hundred dollars (\$500.00). A person who is issued a citation for a violation of subsection (a) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.
- (2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (a)(7) of Ohio R.C. 4510.02. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court's action. (ORC 4511.75)

#### 731.39 DRIVING ACROSS GRADE CROSSING.

- (a) (1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad, if any of the following circumstances exist at the crossing:
    - A. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.
    - B. A crossing gate is lowered.
    - C. A flagperson gives or continues to give a signal of the approach or passage of a train.
    - D. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.
    - E. An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
    - F. There is insufficient undercarriage clearance to safely negotiate the crossing.
  - (2) A person who is driving a vehicle and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (a)(1)A. to F. of this section exist at the crossing.
- (b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.
- (c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 4511.62)

**731.40 STOPPING AT GRADE CROSSING.**

- (a) (1) Except as provided in subsection (a)(2) hereof, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle, and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.
- (2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.
- A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.
- B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.
- C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.
- (3) As used in this section:
- A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
- B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
- C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.

- (4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)
- (b)
  - (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty but not less than fifteen feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
  - (2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code.

(ORC 4511.61)

#### **731.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.**

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

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

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

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

#### **731.42 LITTERING FROM MOTOR VEHICLE.**

(a) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any street, road or highway, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(b) No operator of a motor vehicle in operation upon any street, road or highway shall allow litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(c) As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.

(d) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4511.82)

#### **731.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.**

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

(b) This section does not apply to:

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

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

#### **731.44 TEXT MESSAGING PROHIBITED WHILE DRIVING.**

(a) "Text message" means a message composed, sent or received via a process using wireless handset that requires the use of one or both hands to compose, send, activate receipt of, or read a message. For the purposes of this section, an e-mail shall be considered a "text message" if sent or received by a wireless handset.

(b) "Wireless handset" means a portable electronic device capable of transmitting or receiving data in the form of a text message.

(c) No person shall use a wireless handset to compose, send, activate receipt of, or read any text message while driving a motor vehicle in the City of Berea.

(d) Notwithstanding the provisions of subdivision (c), this section shall not be construed to prohibit the use of a wireless handset inside a motor vehicle to compose, send or read a text message by:

- (1) Any law enforcement, public safety or police officers, emergency services, first aid, or emergency medical technicians or personnel, or fire safety officials, while performing official duties;
- (2) A driver using a wireless handset to contact an individual listed in paragraph one of this subdivision to report an emergency situation; or
- (3) A driver using a wireless handset inside a motor vehicle while such vehicle is parked, standing or stopped and is removed from the flow of traffic, in accordance with applicable laws or rules, or is stopped due to the inoperability of such vehicle.

(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 in the City to stop the vehicle for the sole purpose of determining whether a violation of subsection (c) hereinabove has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any motor vehicle being operated on any street or highway in the City for the sole purpose of determining whether a violation of that nature has been or is being committed.

(f) Whoever violates this section shall be fined not more than one hundred dollars for the first offense, two hundred fifty dollars for a second offense, and no more than five hundred dollars for each subsequent offense. (Ord. 2011-8. Passed 1-18-11.)

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

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

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

- (c) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.  
(2) In addition to the financial sanctions authorized or required under Section 901.99 and to any costs otherwise authorized or required under any provision of law, the court imposing the sentence upon an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof shall order the offender to reimburse one or more rescuers for the cost any such rescuer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of two thousand dollars (\$2,000). If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under division (B) of Ohio R.C. 2929.28, a rescuer may collect the financial sanction in the same manner as provided in Ohio R.C. 2929.28.

(d) As used in this section:

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

(g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.

(h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.

(i) As used in this section:

- (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.
- (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
- (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
- (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
- (5) "Rural" means outside urbanized areas, as designated in accordance with 23 USC 101, and outside of a business or urban district.

(j) (1) A violation of any provision of this section is one of the following:

- A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;
  - B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
  - C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.
- (2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of Ohio R.C. 4511.21 or of any provision of a municipal ordinance that is substantially similar to Ohio R.C. 4511.21 and operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.

- (3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.
- (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.21)

**733.031 APPROACHING A STATIONARY PUBLIC SAFETY, EMERGENCY OR ROAD SERVICE VEHICLE.**

(a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle that is displaying the appropriate visual signals by means of flashing, oscillating or rotating lights, as prescribed in Section 737.16, shall do either of the following:

- (1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
- (2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) 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.

(b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.



- (d) (1) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (2) Notwithstanding Section 703.99(b), upon a finding that a person operated a motor vehicle in violation of subsection (c) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.
- (3) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code.

(e) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.213)

#### **733.04 STOPPING VEHICLE; SLOW SPEED; POSTED MINIMUM SPEEDS.**

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

(b) Whenever, in accordance with Ohio R.C. 4511.22(B), the minimum speed limit of a controlled-access highway, expressway or freeway has been declared and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. No person shall operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law.

(c) 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.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.22)

**733.05 SPEED LIMITATIONS OVER BRIDGES.**

(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least 100 feet before each end of such structure.

(b) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.23)

**733.06 SPEED EXCEPTIONS FOR EMERGENCY OR SAFETY VEHICLES.**

The prima-facie speed limitations set forth in Section 733.03 do not apply to emergency vehicles or public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and when the drivers thereof sound audible signals by bell, siren or exhaust whistle. This section 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 using the street or highway. (ORC 4511.24)

**733.07 STREET RACING PROHIBITED.**

(a) As used in this section, "street racing" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds.

Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants. The operation of two or more vehicles side by side either at speeds in excess of prima-facie lawful speeds established by Section 733.03 or rapidly accelerating from a common starting point to a speed in excess of such prima-facie lawful speeds shall be prima-facie evidence of street racing.

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

(c) Whoever violates this section is guilty of street racing, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege for not less than thirty days or more than three years. No judge shall suspend the first thirty days of any suspension of an offender's license, permit, or privilege imposed under this subsection. (ORC 4511.251)

**733.08 OPERATION WITHOUT 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.  
(ORC 4511.202)



**737.15 LIGHTS OF LESS INTENSITY ON SLOW-MOVING VEHICLES.**

(a) Any motor vehicle may be operated under the conditions specified in Section 737.02 when it is equipped with two lighted lights upon the front thereof capable of revealing persons and substantial objects seventy-five feet ahead in lieu of lights required in Section 737.13, provided that such vehicle shall not be operated at a speed in excess of twenty miles per hour.

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

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

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

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

- (c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash or recyclable materials on the roadside, rural mail delivery vehicles, vehicles transporting preschool children as provided in Ohio R.C. 4513.182, highway maintenance vehicles, funeral hearses, funeral escort vehicles and similar equipment operated by the Department or local authorities, which shall be equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light, but shall not display a flashing, oscillating or rotating light of any other color, nor to vehicles or machinery permitted by Section 737.10 to have a flashing red light.
- (2) When used on a street or highway, farm machinery and vehicles escorting farm machinery may be equipped with and display a flashing, oscillating, or rotating amber light, and the prohibition contained in subsection (c)(1) hereof does not apply to such machinery or vehicles. Farm machinery also may display the lights described in Section 737.10.

(d) Except a person operating a public safety vehicle, as defined in Section 701.27, or a school bus, no person shall operate, move or park upon or permit to stand within the right of way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light; and except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the State or Municipality, operating a public safety vehicle when on duty, no person shall operate, move or park upon, or permit to stand within the right of way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

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

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

#### **737.17 FOCUS AND AIM OF HEADLIGHTS.**

(a) No person shall use any lights mentioned in Section 737.02 to 737.16, inclusive, upon any motor vehicle, trailer or semitrailer unless the lights are equipped, mounted and adjusted as to focus and aim in accordance with State regulations.

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

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

#### **737.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.**

(a) The following requirements govern as to brake equipment on vehicles:

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

## TITLE NINE - Pedestrians, Bicycles and Motorcycles

Chap. 771. Pedestrians.

Chap. 773. Bicycles and Motorcycles.

Chap. 774. Bicycle Licensing.

Chap. 775. Snowmobiles, Off-Highway Motorcycles, and  
All Purpose Vehicles.

### CHAPTER 771 Pedestrians

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| <p>771.01 Right of way in crosswalk.</p> <p>771.02 Right of way of blind person.</p> <p>771.03 Crossing roadway outside crosswalk; diagonal crossings at intersections.</p> <p>771.04 Moving upon right half of crosswalk.</p> <p>771.05 Walking along highways.</p> <p>771.06 Use of highway for soliciting; riding on outside of vehicles.</p> | <p>771.07 Right of way on sidewalk.</p> <p>771.08 Yielding to public safety vehicle.</p> <p>771.09 Walking on highway while under the influence.</p> <p>771.10 On bridges or railroad crossings.</p> <p>771.11 Persons operating motorized wheelchairs.</p> <p>771.12 Electric personal assistive mobility devices.</p> |
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#### CROSS REFERENCES

See sectional histories for similar State law

Pedestrian defined - see TRAF. 701.22

Pedestrian prohibited on freeways - see TRAF. 703.06

Obedience to traffic control devices - see TRAF.

713.01, 713.03

Pedestrian control signals - see TRAF. 713.05

#### **771.01 RIGHT OF WAY IN CROSSWALK.**

(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 Section 713.09, 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) Subsection (a) hereof does not apply under the conditions stated in Section 771.03(b).

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.46)

#### **771.02 RIGHT OF WAY OF BLIND PERSON.**

(a) 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 twenty degrees.

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 predominately 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 metallic cane, with or without a red tip.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.47)

#### **771.03 CROSSING ROADWAY OUTSIDE CROSSWALK; DIAGONAL CROSSINGS AT INTERSECTIONS.**

(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.



- (g) (1) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.
- (2) Whoever violates subsection (e) or (f) of this section is guilty of a minor misdemeanor. (ORC 4511.51)

#### **771.07 RIGHT OF WAY ON SIDEWALK.**

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.441)

#### **771.08 YIELDING TO PUBLIC SAFETY VEHICLE.**

- (a) Upon the immediate approach of a public safety vehicle as stated in Section 731.21, 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 subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.452)

#### **771.09 WALKING ON HIGHWAY WHILE UNDER THE INFLUENCE.**

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

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.481)

**771.10 ON BRIDGES OR RAILROAD CROSSINGS.**

(a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

(b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.511)

**771.11 PERSONS OPERATING MOTORIZED WHEELCHAIRS.**

(a) Every person operating a motorized wheelchair shall have all of the rights and duties applicable to a pedestrian that are contained in this Traffic Code, except those provisions which by their nature can have no application. (ORC 4511.491)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.99)

**771.12 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.**

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

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

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

- (1) Fail to yield the right-of-way to all pedestrians and human-powered vehicles at all times;
- (2) Fail to give an audible signal before overtaking and passing a pedestrian;
- (3) Operate the device at night unless the device or its operator is equipped with or wearing both of the following:
  - A. A lamp pointing to the front that emits a white light visible from a distance of not less than five hundred feet;

## CHAPTER 773 Bicycles and Motorcycles

773.01	Code application to bicycles and skateboards.	773.08	Reckless operation; control, course and speed.
773.02	Riding upon seats; handle bars; helmets and glasses.	773.09	Parking of bicycle.
773.03	Attaching bicycle, skateboard or sled to vehicle.	773.10	Motorized bicycle operation, equipment and license.
773.04	Riding bicycles and motorcycles abreast.	773.11	Riding on sidewalks.
773.05	Signal device on bicycle.	773.12	Use of motorcycles.
773.06	Lights and reflector on bicycle; brakes.	773.13	Riding skateboard on sidewalks.
773.07	Riding bicycle on right side of roadway; obedience to traffic rules; passing.	773.14	Reckless operation or riding of skateboards; speed.
		773.15	Paths exclusively for bicycles.
		773.16	Electric bicycles.

### CROSS REFERENCES

See sectional histories for similar State law  
 Motorcycle protective equipment - see OAC Ch. 4501-17  
 Motorized bicycle equipment - see OAC Ch. 4501-23  
 Bicycle defined - see TRAF. 701.04  
 Motorcycle defined - see TRAF. 701.19  
 Bicycles prohibited on freeways - see TRAF. 703.06  
 Hand and arm signals - see TRAF. 731.15  
 Motorcycle operator's license required - see TRAF. 735.01(a)  
 Motorcycle headlight - see TRAF. 737.03  
 Motorcycle brakes - see TRAF. 737.18(b)

### 773.01 CODE APPLICATION TO BICYCLES.

(a) The provisions of this Traffic Code which are applicable to bicycles apply whenever a bicycle is operated upon any street, sidewalk, right of way or upon any path set aside for the exclusive or non-exclusive use of bicycles. The provisions of this Traffic Code which are applicable to skateboards apply whenever a skateboard is ridden or operated upon any street, sidewalk, right of way or upon any path set aside for the exclusive or non-exclusive use of skateboards. (ORC 4511.52; Ord. 88-62. Passed 5-2-88.)

(b) Except as provided in subsection (d) of this section, a bicycle operator or electric bicycle operator who violates any section of this Traffic Code described in subsection (a) of this section that is applicable to bicycles or electric 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 or electric 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 Ohio R.C. 4510.036.

(c) Except as provided in subsection (d) of this section, in the case of a violation of any section of this Traffic Code described in subsection (a) of this section by a bicycle operator, electric bicycle operator, or motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of bicycle riders or electric bicycle riders at the time of the violation, the court, notwithstanding any provision of this Traffic Code to the contrary, may require the bicycle operator, electric 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 the Traffic Code for that violation.

(d) Subsections (b) and (c) of this section do not apply to violations of Section 733.01 of this Traffic Code. (ORC 4511.52)

(e) The provisions of this Traffic Code shall apply to bicycles and electric bicycles except those which by their nature are not applicable.

### **773.02 RIDING UPON SEATS; HANDLE BARS; HELMETS AND GLASSES.**

(a) For purposes of this section "snowmobile" has the same meaning as given that term in Ohio R.C 4519.01.

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

(c) 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.

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

(e) No bicycle, electric bicycle or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped, nor shall any motorcycle be operated on a highway when the handle bars or grips are more than fifteen inches higher than the seat or saddle for the operator.

(f) 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 eighteen years, or who holds a motorcycle operator's endorsement or license bearing "novice" designation that is currently in effect as provided in Ohio R.C. 4507.13, shall operate a motorcycle on a highway, or be a passenger on a motorcycle, unless wearing a protective helmet on his 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 Ohio Director of Highway Safety. The provisions of this subsection or a violation thereof shall not be used in the trial of any civil action.  
(ORC 4511.53)

(g) No person under twelve years of age shall operate a bicycle or ride as a passenger on a bicycle equipped with a passenger seat, within the limits of the City of Berea, unless such person is wearing a protective helmet on their head, with the chin strap fastened under the chin. Such helmet shall be fitted to the size of the operator and shall meet or exceed the standards set by the American National Standards Institute ("ANSI") or Snell Memorial Foundation ("SNELL"). This subsection shall not be applicable to the operator of a bicycle on private residential property.

No parent, guardian or legal custodian of a minor person who engages in conduct prohibited by this subsection shall create a substantial risk to the health or safety of such minor person by aiding, abetting, causing, encouraging or permitting conduct which violates this subsection. The provisions of this subsection (g) or a violation thereof shall not be used in the trial of any civil action.

(h) 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 or electric bicycle.

(i) Whoever violates any provision of this section is guilty of a minor misdemeanor, except that whoever violates subsection (g) shall be issued a warning for a first offense, and shall be guilty of a minor misdemeanor for each subsequent offense except that, upon a second offense, if, within three days after issuance of the citation, proof of purchase of a helmet and the helmet itself are produced to the City Police Department, then such citation shall be dismissed at no cost to the defendant.  
(Ord. 98-39. Passed 5-18-98.)

#### **773.03 ATTACHING BICYCLE, SKATEBOARD OR SLED TO VEHICLE.**

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

No operator shall knowingly permit any person riding upon any bicycle, coaster, skateboard, roller skates, sled or toy vehicle to attach the same or himself to any vehicle while it is moving upon any roadway. This section does not apply to the towing of a disabled vehicle.  
(Ord. 88-62. Passed 5-2-88.)

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

#### **773.04 RIDING BICYCLES AND MOTORCYCLES ABREAST.**

(a) Persons riding bicycles upon a roadway shall ride in a single file in a single lane in the same direction as the motor vehicle traffic, except on paths or parts of roadways set aside for the exclusive use of bicycles or motorcycles.

(b) Persons riding motorcycles upon a roadway shall ride not more than two abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles or motorcycles.  
(Ord. 1977-132. Passed 10-3-77.)

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

**773.05 SIGNAL DEVICE ON BICYCLE.**

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

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.56(B))

**773.06 LIGHTS AND REFLECTOR ON BICYCLE; BRAKES.**

(a) Every bicycle or electric bicycle when in use at the times specified in Section 337.02, shall be equipped with the following:

- (1) A lamp mounted on the front of either the bicycle or electric bicycle or the operator that shall emit a white light visible from a distance of at least five hundred feet to the front; and three hundred feet to the sides. A generator-powered lamp that emits light only when the bicycle or electric 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 one hundred feet to six hundred 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 five hundred 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 subsection (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 subsection (a) of this section, except that red lamps and red reflectors shall not be used on the front of the bicycle or electric bicycle and white lamps and white reflectors shall not be used on the rear of the bicycle or electric bicycle.

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

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.56)

**773.07 RIDING BICYCLE ON RIGHT SIDE OF ROADWAY; OBEDIENCE TO TRAFFIC RULES; PASSING.**

(a) Every person operating a bicycle or electric 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 one proceeding in the same direction.

(b) This section does not require a person operating a bicycle or electric 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 or electric bicycle and an overtaking vehicle to travel safely side by side within the lane.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.55(A))

#### **773.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.**

(a) No person shall operate a bicycle or electric bicycle:

- (1) Without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, and so as to endanger the life, limb or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;
- (2) Without exercising reasonable and ordinary control over such bicycle;
- (3) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;
- (4) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 773.02(d);
- (5) At a speed greater than is reasonable and prudent under the conditions then existing.

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

#### **773.09 PARKING OF BICYCLE.**

(a) No person shall park a bicycle or electric bicycle upon a sidewalk in such a manner so as to unduly interfere with pedestrian traffic or upon a roadway so as to unduly interfere with vehicular traffic.

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

#### **773.10 MOTORIZED BICYCLE OPERATION, EQUIPMENT AND LICENSE.**

(a) No person shall operate a motorized bicycle upon any street or 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 fourteen or fifteen years of age and holds a valid probationary motorized bicycle license issued after the person has passed the test provided for in Ohio R.C. 4511.521, or the person is sixteen years of age or older and holds either a valid commercial driver's license issued under Ohio R.C. Chapter 4506, or a driver's license issued under Ohio R.C. Chapter 4507, or a valid motorized bicycle license issued after the person has passed the test provided for in Ohio R.C. 4511.521, except that if a person is sixteen 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 Ohio R.C. 4511.521;
- (2) The motorized bicycle is equipped in accordance with rules adopted by the Ohio Director of Public Safety and is in proper working order;
- (3) The person, if under eighteen 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 rear-view mirror;
- (4) The person operates the motorized bicycle when practicable within three feet of the right edge of the roadway obeying all traffic rules applicable to vehicles; and
- (5) The motorized bicycle displays on the rear of such bicycle the current license plate or validation sticker furnished by the Ohio Director of Public Safety under Ohio R.C. 4503.191.

(b) No person operating a motorized bicycle shall carry another person upon the motorized bicycle.

(c) Each probationary motorized bicycle license or motorized bicycle license shall be laminated with a transparent plastic material.

(d) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4511.521)

#### **773.11 RIDING ON SIDEWALKS.**

(a) No person shall operate a bicycle upon a sidewalk within a business district or upon a sidewalk where signs are erected prohibiting such operation.  
(Ord. 1974-124. Passed 11-18-74.)

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

#### **773.12 USE OF MOTORCYCLES.**

(a) No person shall drive, ride or use a motorcycle, upon any public or private property which is not a public street or highway, or a private street approved by the City, except that this section shall not apply where such vehicle is being driven, ridden or used upon property by the owner, resident or occupant of such property, or by an authorized visitor when such visitor is accompanied by or has a written authorization in his possession from the owner, resident or occupant of such property.  
(Ord. 1977-140. Passed 11-21-77.)



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

#### **773.13 RIDING SKATEBOARD ON SIDEWALKS.**

(a) No person shall ride a skateboard on a sidewalk in a business district in the area of the Dorothy McKelvey Park or on a sidewalk or other paved area within the City which has been posted by sign prohibiting such activity.  
(Ord. 88-62. Passed 5-2-88.)

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

#### **773.14 RECKLESS OPERATION OR RIDING OF SKATEBOARDS; SPEED.**

(a) No person shall ride or operate a skateboard without due regard for the safety and rights of pedestrians and so as to create a risk of physical harm to persons or property of any other person lawfully using the streets, sidewalks or other public areas.

No person shall ride or operate a skateboard at a speed greater than that which is reasonable and prudent under the conditions then existing.  
(Ord. 88-62. Passed 5-2-88.)

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

#### **773.15 PATHS EXCLUSIVELY FOR BICYCLES.**

(a) No person shall operate a motor vehicle, snowmobile, or all-purpose vehicle upon any path set aside for the exclusive use of bicycles, when an appropriate sign giving notice of such use is posted on the path.

Nothing in this section shall be construed to affect any rule of the Ohio Director of Natural Resources governing the operation of motor vehicles, snowmobiles, all-purpose vehicles, and bicycles on lands under the Director's jurisdiction.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code.  
(ORC 4511.713)

**773.12 ELECTRIC BICYCLES.**

- (a)
  - (1) The operation of a class 1 electric bicycle and a class 2 electric bicycle is permitted on a path set aside for the exclusive use of bicycles or on a shared-use path, unless the Municipality by resolution, ordinance, or rule prohibits the use of a class 1 electric bicycle or class 2 electric bicycle on such a path.
  - (2) No person shall operate a class 3 electric bicycle on a path set aside for the exclusive use of bicycles or a shared-use path unless that path is within or adjacent to a highway or the Municipality by resolution, ordinance, or rule authorizes the use of a class 3 electric bicycle on such a path.
  - (3) No person shall operate a class 1 electric bicycle, a class 2 electric bicycle or a class 3 electric bicycle on a path that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use, unless the Municipality by resolution, ordinance or rule authorizes the use of a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on such a path.
- (b)
  - (1) No person under sixteen years of age shall operate a class 3 electric bicycle; however, a person under sixteen years of age may ride as a passenger on a class 3 electric bicycle that is designed to accommodate passengers.
  - (2) No person shall operate or be a passenger on a class 3 electric bicycle unless the person is wearing a protective helmet that meets the standards established by the Consumer Product Safety Commission or the American Society for Testing and Materials.
- (c)
  - (1) Except as otherwise provided in this subsection, whoever operates an electric bicycle in a manner that is prohibited under subsection (a) of this section and whoever violates subsection (b) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
  - (2) The offenses established under subsection (c)(1) of this section are strict liability offenses and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.522)

**1341.01 GENERAL PROVISIONS.**

The definitions provided in this chapter apply in the interpretation and enforcement of this Housing Code. Whenever the words "dwelling", "dwelling unit" or "premises", are used in this Housing Code they are to be construed as though they were followed by the words "or any part thereof".

(Ord. 1965-82. Passed 11-1-65.)

**1341.02 BASEMENT.**

"Basement" means a portion of a building located partly underground but having less than one-half its clear floor-to-ceiling height below the average grade of the adjoining ground.

(Ord. 1965-82. Passed 11-1-65.)

**1341.03 BUILDING INSPECTOR.**

"Building Inspector" means the legally employed Building Inspector of the City or his authorized representative.

(Ord. 1965-82. Passed 11-1-65.)

**1341.04 BOARD.**

"Board" means the Planning Commission of the City as created and existing under the provisions of the Charter.

(Ord. 1965-82. Passed 11-1-65.)

**1341.05 CELLAR.**

"Cellar" means a portion of a building located partly or wholly underground and having one-half or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

(Ord. 1965-82. Passed 11-1-65.)

**1341.06 DWELLING.**

"Dwelling" means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants. However, "temporary housing", as hereinafter defined, is not regarded as a dwelling.

(Ord. 1965-82. Passed 11-1-65.)

**1341.07 DWELLING UNIT.**

"Dwelling unit" means a room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

(Ord. 1965-82. Passed 11-1-65.)

**CHAPTER 1360**  
**Exterior Point of Sale Inspection (Repealed)**

EDITOR'S NOTE: Former Chapter 1360 was repealed by Ordinance 2019-19.

NOTE: The next printed page is page 76E.