

INSTRUCTIONS FOR INSERTING
2022 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES OF BEREAL

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

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

Local legislation current through April 18, 2022

State legislation current through December 31, 2021

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 18, 2022.

/s/ Cyril M. Kleem
Mayor

/s/ Alycia Esson
Council Clerk

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publication by
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CITY OF BEREAL, OHIO
ROSTER OF OFFICIALS
(2022)

ADMINISTRATION

Mayor	Cyril M. Kleem
Director of Law and Public Safety	Barbara Jones
Director of Public Works (Building, Engineering, Planning and Service)	Antonio Armagno
Director of Finance	Andrea Morris
Director of Economic Development	Matthew Madzy
Director of Recreation	Marty Compton
Police Chief	Dan Clark
Fire Chief	Terrell Ledwell

COUNCIL

President	Jim Maxwell
At-Large	Gene Zacharyasz
At-Large	Mary K. Brown
Ward 1	Leon Dozier
Ward 2	Chris McManis
Ward 3	Lisa Weaver
Ward 4	Erika Coble
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.

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**CHARTER
OF THE CITY OF BEREA, OHIO**

PREAMBLE

In order that we may exercise our duties as responsible citizens to the full extent and secure for ourselves the full benefits of self-government available to us under the Constitution and laws of the State of Ohio, we, the people of the City of Berea, in the County of Cuyahoga and State of Ohio, do hereby adopt this Charter for the government of our City. Berea strives to be an inclusive and welcoming community. Whenever in this Charter the male gender prnoun is used, it is understood that it reflects and includes all gender pronouns. (Ord. 2021-33. Passed 6-21-21.)

**SECTION I
Name and Boundaries**

The municipal corporation now existing as the City of Berea shall continue to be a body politic and corporate under the same name and with the same boundaries. The Municipality shall have authority to change its boundaries and annex other territory in the manner authorized by the General Laws of Ohio. Territories that may be annexed shall immediately become subject to the provisions of this Charter.

**SECTION II
Powers**

The City of Berea shall have all power now or hereafter granted to municipalities by the Constitution and laws of Ohio.

All powers shall be exercised in the manner prescribed by this Charter, or if not prescribed herein, then in such manner as shall be provided by ordinance or resolution of the Council, or in such manner as may be prescribed by the General Laws of Ohio.

**SECTION III
The Mayor**

ITEM 1. EXECUTIVE AND ADMINISTRATIVE POWERS.

The executive and administrative powers of the City shall be vested in the Mayor, directors of departments, and other administrative officers provided for in this Charter or by ordinance.

ITEM 2. TERMS AND QUALIFICATIONS.

(a) The Mayor shall be elected for a term of four (4) years commencing on the first Sunday of January following a regularly scheduled municipal election, and shall serve until a successor is elected, qualified and assumes office.

(b) The Mayor shall be elected by a majority of the votes cast for such office at a regularly scheduled municipal election. If no candidate shall receive a majority of the votes cast for such office at a regularly scheduled municipal election, a special election shall be conducted on the first Tuesday of December immediately thereafter between the two candidates receiving the highest number of votes for such office at the said regularly scheduled municipal election and the candidate receiving the majority of the votes cast in the special election shall assume the office of the Mayor on the first Sunday of January following the special election.

(c) The Mayor shall be a qualified elector of the City, and a bona fide resident of the City for at least two (2) years immediately prior to any election or appointment to such office.

(d) The Mayor shall hold no other public office in conflict with the duties of Mayor.

(e) The provisions of this Item shall come into full force and effect with the regularly scheduled municipal election for November, 1987.

(Amended 11/4/86; 11-6-90; 11-6-01).

ITEM 3. APPOINTING POWER.

It shall be the duty of the Mayor to appoint the directors of all departments and to make all other appointments provided for by law or ordinance unless otherwise provided herein. All appointees of the Mayor shall serve until removed by him or until their respective successors are appointed.

ITEM 4. GENERAL POWERS AND DUTIES.

It shall be the duty of the Mayor to act as chief conservator of the peace within the City; to supervise the administration of the affairs of the City; to see that all ordinances of the City are enforced; to recommend to the Council for adoption such measures as he may deem necessary or expedient and to keep the Council advised of the financial condition and future needs of the City. He shall sign on behalf of the City all contracts, conveyances, evidences of indebtedness and all other instruments not otherwise provided by this Charter or by ordinance of Council to be signed on behalf of the City by another official. He shall exercise such other powers and perform such other duties as are conferred or required by this Charter, by any resolution of the Council or by the General Laws of Ohio.

ITEM 5. VETO POWER.

Any ordinance or resolution passed by the Council shall be signed by the President of Council or other presiding officer and presented to the Mayor by the Clerk of Council. If the Mayor approves such ordinance or resolution, he shall sign it within ten (10) days after its passage or adoption by the Council, but if he does not approve it, he shall return it to the Council with his objections within said ten (10) days by delivery to the Clerk of Council, which objections shall be entered in full on the journal of the Council. The Mayor may approve or disapprove the whole or any item of an ordinance appropriating money, but otherwise his approval or

CODIFIED ORDINANCES OF BEREAL PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

- Chap. 101. Codified Ordinances.
- Chap. 103. Official Standards.
- Chap. 105. Wards and Boundaries.
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- Chap. 113. Ordinances and Resolutions.

TITLE FIVE - Administrative

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- 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.
- Chap. 135. Civil Service Commission.
- Chap. 137. Board of Control.

TITLE SEVEN - Judicial

- Chap. 151. Municipal Court.

TITLE EIGHT - Personnel Plan

- Chap. 185. Discrimination, Harassment (Including Sexual Harassment) and Retaliation.

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.

TITLE ELEVEN - Code of Ethics

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

- (o) "Public place" includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.
- (p) "Registered mail" includes certified mail and "certified mail" includes registered mail.
(ORC 1.02(G))
- (q) "Rule" includes regulation. (ORC 1.59(F))
- (r) "Sidewalk" means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.
- (s) "This State" or "the State" means the State of Ohio.
(ORC 1.59(G))
- (t) "Street" includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.
- (u) "Tenant" or "occupant", as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.
- (v) "Whoever" includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private.
(ORC 1.02(A))
- (w) "Written" or "in writing" includes any representation of words, letters, symbols or figures. This provision does not affect any law relating to signatures.
(ORC 1.59(J))
- (x) "Public meeting open to the public" means a pre-arranged gathering of a majority of a public body, either in person or electronic means, for the purpose of discussing public business. In order for a meeting held by electronic means to satisfy the requirements of a public meeting, the public body shall first establish a written rule or regulation setting forth the terms and conditions that shall apply when conducting or participating remotely in a public meeting, provided that such rule include, at a minimum, all of the following conditions:
 - (1) That either the President of Council or the President Pro Tem or the Chair or Vice-Chair of a public body shall be physically present at the location designated for the public meeting; and
 - (2) That all members of the body participating by remote means shall be both seen and heard in the location designated for the public meeting; and
 - (3) That the public shall be afforded the right to attend the meeting in person.
- (y) "Voting" or "vote" means the act of voting during a public meeting, by a majority of the members of City Council or a majority of the members of a public body, either in person or by electronic means, provided that in the case of a member participating by electronic means, said member must be both seen and heard while deliberating and voting in the location designated for the public meeting and that said public meeting meets the requirements set forth in subsection (x) hereof.
(Ord. 2021-73. Passed 12-20-21.)

101.03 RULES OF CONSTRUCTION.

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

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

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

(c) Calendar: Computation of Time.

(1) Definitions.
A. "Week" means seven consecutive days.
B. "Year" means twelve consecutive months.
(ORC 1.44)

(2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.
(ORC 1.45)

(3) A. The time within which an act is required by law to be done shall be computed by excluding the first and including the last day; except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day that is not a Sunday or a legal holiday.
B. When a public office, in which an act required by law is to be performed, is closed to the public for the entire day that constitutes the last day for doing the act or before its usual closing time on that day, the act may be performed on the next succeeding day that is not a Sunday or a legal holiday.
C. As used in subsections (c)(1) and (c)(2) of this section, legal holiday means the following days:
1. The first day of January, known as New Year's Day;
2. The third Monday in January, known as Martin Luther King, Jr. Day;
3. The third Monday in February, known as Washington-Lincoln Day;
4. The day designated in the "Act of June 28, 1968", 82 Stat. 250, 5 U.S.C. § 6103, as amended, for the commemoration of Memorial Day;
5. The nineteenth day of June, known as Juneteenth day;
6. The fourth day of July, known as Independence Day;
7. The first Monday in September, known as Labor Day;
8. The second Monday in October, known as Columbus Day;
9. The eleventh day of November, known as Veteran's Day;
10. The fourth Thursday in November, known as Thanksgiving Day;
11. The twenty-fifth day of December, known as Christmas Day; and
12. Any day appointed and recommended by the Governor of this state or the President of the United States as a holiday.
D. If any day designated in this section as a legal holiday falls on a Sunday, the next succeeding day is a legal holiday.
(ORC 1.14)

- (4) When legislation is to take effect or become operative from and after a day named, no part of that day shall be included.
(ORC 1.15)
- (5) In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

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

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

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

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

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

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

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

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

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

101.05 CONSTRUCTION OF SECTION REFERENCES.

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

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

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

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

101.06 CONFLICTING PROVISIONS.

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

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

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

(ORC 1.52)

101.07 DETERMINATION OF LEGISLATIVE INTENT.

(a) In enacting an ordinance, it is presumed that:

- (1) Compliance with the constitutions of the State and of the United States is intended;
- (2) The entire ordinance is intended to be effective;
- (3) A just and reasonable result is intended;
- (4) A result feasible of execution is intended.

(ORC 1.47)

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

(c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:

- (1) The object sought to be attained;
- (2) The circumstances under which the ordinance was enacted;
- (3) The legislative history;
- (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
- (5) The consequences of a particular construction;
- (6) The administrative construction of the ordinance.

(ORC 1.49)

101.08 SEVERABILITY.

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

(ORC 1.50)

101.99 GENERAL PENALTY.

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

CHAPTER 125
Department of Finance

125.01 Deposit or investment authorized.

125.02 Identity Theft Prevention Program.

125.03 Disposition of personal property.

CROSS REFERENCES

Rights in Council - see CHTR. Sec. III, Item 8
 Department established - see CHTR. Sec. V
 Qualifications and duties - see CHTR. Sec. IX, Item 1
 Reports - see CHTR. Sec. IX, Item 2
 Certification of funds - see CHTR. Sec. IX, Item 3
 Bidding procedure - see CHTR. Sec. IX, Item 4
 Annual estimate and appropriation ordinance - see CHTR.
 Sec. IX, Item 5
 Transfers, balances and payments of appropriations - see
 CHTR. Sec. IX, Item 6
 Board of Control members - see CHTR. Sec. X, Item 5
 Board of Revision of Assessments members - see CHTR. Sec.
 XII, Item 6

125.01 DEPOSIT OR INVESTMENT AUTHORIZED.

Pursuant to Section IX, Item 1(b), and Section II of the City Charter, Council directs that all moneys coming into the possession or custody of the Director of Finance shall be deposited as provided under Ohio R.C. Chapter 135 except as may be provided otherwise by ordinance of Council.

125.02 IDENTITY THEFT PREVENTION PROGRAM.

(EDITOR'S NOTE: The "Identity Theft Prevention Program" of the City of Berea, as detailed in Exhibit "A" attached to Ordinance 2009-69 and fully incorporated herein is hereby adopted and ratified. (Ord. 2009-69. Passed 10-5-09.)

125.03 DISPOSITION OF PERSONAL PROPERTY.

(a) Municipal personal property that is not needed for public use, or is obsolete or unfit for the use for which it was acquired, and that the property has no value, the Director having supervision or management of the property may discard or salvage that property, provided that a record is kept by the Director demonstrating that the property has no value, and documenting the date of disposal.

(b) Internet Auction.

- (1) Personal property that is not needed for municipal purposes or is unsuitable for public use or is obsolete or unfit for the use for which it was required may be sold by internet auction to the highest bidder.
- (2) If property is to be sold by internet auction, the City shall post on a page on the City's website dedicated to the sale of personal property, the following information:
 - A. The City's intent to sell personal property by internet auction
 - B. Photographs of items to be sold.
 - C. Terms and conditions of each sale.
 - D. The name, address and telephone number of the entity conducting the auction.
 - E. The general terms and conditions of sales.
- (3) Personal property to be sold by internet auction shall be available for public bid for a minimum of ten (10) days, excluding Saturdays, Sundays and legal holidays.
- (4) The Director having supervision or management of the property may establish a minimum price that will be accepted for specific items and may establish any special terms and conditions for the particular sale, including requirements for pick-up or delivery, method of payment, and sales tax. This information shall be provided on the City's web page dedicated to the disposition of personal property.
- (5) In the absence of any bids, or if a minimum bid is not met, and the personal property has been listed as available for sale by public auction for a minimum of ten (10) days, excluding Saturdays, Sundays and legal holidays, the Director may relist the items for sale by internet auction or may donate or discard or salvage the property, in a manner consistent with this Section.
- (6) Information required to be posted in accordance with subsection (2) above, shall also be posted outside the office of the Clerk of Council.

(c) When the City has vehicles, equipment, or machinery which are obsolete, or is not needed for municipal purposes or is unfit for public use, and also has need for other vehicles, equipment, or machinery of the same type, and it is in the best interest of the municipal corporation that the sale of such property be made simultaneously with the purchase of the new vehicles, equipment, or machinery of the same type, the Director having supervision or management of the property, may offer to sell, those vehicles, equipment, or machinery and to have the selling price credited against the purchase price of other vehicles, equipment, or machinery and to consummate the sale and purchase, provided such purchase otherwise complies with applicable law.

(d) Donation of Personal Property.

- (1) Municipal personal property with a value of less than two-thousand five hundred dollars (\$2,500.00), that is not needed for public use, or is obsolete or unfit for the use for which it was required, may be donated to another public agency, including, but not limited to, a county, public school or library, or to another political subdivision, or to a not-for-profit organization serving the residents of the City of Berea. Donations of personal property with a value of less than two-thousand five hundred dollars (\$2,500.00) made to a not-for-profit organization serving the residents of Berea shall require the approval of the Board of Control, which shall among other relevant factors, consider how the organization serves the residents of Berea.

(2) Municipal personal property with a value in excess of two-thousand five hundred dollars (\$2,500), that is not needed for public use, or is obsolete or unfit for the use for which it was required, may be donated to another public agency, including but not limited to a county, public school or library, or to another political subdivision, or to a not-for-profit organization serving the residents of the City of Berea, upon passage of a Resolution by Berea City Council.

(e) Lost property in the custody of any City department may be disposed of in accordance with this Section, provided that a good faith effort has been made to ascertain the owner of the property, and if so identified, the owner receives notice by regular mail that the property shall be so disposed if it is not picked-up within ten (10) days of mailing.

(f) Unclaimed or forfeited property in the custody of the Berea Police Department or personal property ordered forfeited as contraband shall be disposed of in accordance with Ohio R.C. 2981.12.

(Ord. 2021-70. Passed 12-20-21.)

(b) Age Requirements. Applicants for an entry examination position must be at least eighteen years of age unless otherwise mandated by the statutory law, provided however, that the Commission may prescribe other minimum or maximum age limits for particular positions where the requirements of the particular position necessitate.

(c) Acceptance and Rejection of Applications.

- (1) Completion and filing of applications. All applications for placement into the classified service shall be signed by the applicant on forms furnished by the Commission, and filed in the manner prescribed thereby.
- (2) Examination fees. A fee shall be charged for any examination authorized by the Commission, and in such amount as the Commission may determine to be fair, just and equitable. Such fee shall be set by the Commission at the time of the announcement of the examination and shall be paid to the Commission upon filing of an application for placement in the classified service.
- (3) Character and fitness of applicants. Every applicant must be of good character, of sound health, and must be physically able to perform the duties of the position for which application is made. The Commission may require an examination, physical or mental, or any other investigation necessary, to establish or confirm evidence of the character and fitness of any applicant.
- (4) Causes for rejection of application. An applicant may be disqualified from consideration of employment if the Commission finds that the applicant:
 - A. Has failed to submit a complete application to the Commission on or before the last date for receiving applications as published in the application or examination announcement;
 - B. Has intentionally made a false statement of any material fact, or has practiced or attempted to practice any deception or fraud, in the application or examination;
 - C. Lacks any of the minimum qualifications as stated in the application or examination announcement;
 - D. Is presently engaged in the abuse of drugs or alcohol;
 - E. Has been previously dismissed from any public service for cause, or has resigned from public service with charges pending;
 - F. Has been found guilty of any crime involving moral turpitude.
- (5) Appeal of rejection. Any person who is denied permission to compete in any examination, or whose examination is disqualified by reason of Section 135.07(c)(4), may, within five days after postmark of notice of rejection or disqualification, appeal in writing to the Commission for a review of such ruling. The Commission shall afford such appellant the opportunity to be heard, and the decision by the Commission on review shall be final.

135.09 EXAMINATIONS.

(a) Ascertainment of Merit and Fitness for Appointment, Lateral Transfers and Promotions. The Commission shall provide by rule for ascertainment of merit and fitness as the basis for appointment and promotion in the classified service of the City, as required by the Constitution of the State of Ohio

- (1) The Commission shall determine if an applicant meets the requirements for original appointment or promotion to the classified service of the City by arranging for examinations designed to measure such requirements. Examinations shall be administered at any time prior to appointment to any position of employment.
- (2) Ascertainment of fitness and merit for appointment to the Division of Police.
There shall be two methods for determining the merit and fitness of a candidate for an original appointment to the position of Patrol Officer in the Division of Police.
 - A. Civil service examinations, as determined by the Commission, shall be used to establish an eligibility list.
 - B. Lateral entries to the Division of Police as a Patrol Officer are exempt from written civil service examinations. The Commission shall determine the merit and fitness of the candidate through an oral interview, and any other tests, including, but not limited to a physical agility test, physical examination, psychological test, polygraph and/or voice test analysis.

(b) Scope of Examinations.

- (1) Scope of Examinations. Entry-level and promotional examinations may be written, oral, physical, a demonstration of skill, or an evaluation of training and experiences and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought. Tests may include structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, psychological tests, psychiatric tests, tests of physical abilities or agility, medical examinations, pre-employment drug testing and any other acceptable testing methods, as determined by the Commission.
- (2) No educational requirement shall be imposed, and no test shall be designed to determine any educational level, except for such general education as may be related to the work of the position for which the test is to be given.

(c) Notice of Examinations and Opportunities for Lateral Transfers.

- (1) Entrance examinations and Opportunities for Lateral Transfers. Notice of competitive entrance examinations shall be given through at least one publication of general circulation in the County of Cuyahoga, and by posting a notice on the City's website, on the City's social media accounts, and in such other places as the Commission may deem advisable, not less than fifteen calendar days prior to any scheduled examination

(2) Promotional examinations.

A. If each eligible employee has a City email address, the notice of a competitive promotional examination shall be provided through the employee's City email account. In addition, notice shall also be sent by regular mail to the employee's home using the address on file in the Payroll Office. Such notice shall be given not less than fifteen (15) calendar days prior to the scheduled examination.

B. If each eligible employee does not have a City email address, the notice of a competitive promotional examination shall be provided by regular mail to the employee's home using the address on file in the Payroll Office. In addition, written notice shall be posted in a prominent place in the workplace of each eligible employee. Such notice shall be given not less than fifteen (15) calendar days prior to the scheduled examination.

(d) Grading of Examinations.

(1) Written examinations and assessment centers shall be rated on a scale of 100, where 100 represents the highest possible attainment and seventy (70) represent the minimum acceptable attainment.

(2) Physical agility tests shall be rated as pass or fail.

(3) Other types of examination shall be rated in such a way as may be prescribed by the Commission.

(e) Special Credit. No additional credit, such as may have been given previously for military service, seniority, efficiency or any other reason shall be granted so as to artificially increase the grade on any examination with the exception that:

(1) Except in cases of lateral transfers, any applicant for an original appointment who has attained a passing grade on the written entrance examination, and who has completed one (1) year or longer in the service of the Armed Forces of the United States of America and has been honorably discharged therefrom, shall be given a credit of two percent (2%) of the basic score attained on such entrance examination, the credit to be added to the basic score in order to obtain the final grade upon such entrance examination; and

(2) Any applicant for a promotional appointment who has attained a passing grade on the written promotional examination, shall be given a credit of one percent (1%) of the basic score attained on such promotional examination for each of the first four (4) years of full-time service with the City immediately preceding such promotional examination, and six-tenths percent (.6%) of the basic score attained on such promotional examination for each of the next ten (10) years of full-time service with the City immediately preceding the first four (4) years of service, as above, the credit to be added to the basic score in order to obtain the final grade upon such promotional examination.

(f) Physical, Psychological and Psychiatric Examinations.

(1) The Commission may establish standards and requirements for physical and mental fitness necessary to perform positions of employment.

(2) The Commission may, as required, employ licensed professionals, and others, as consultants on all procedures, methods, examinations and policies relating to requirements for physical and mental fitness, as established in this Chapter.

(Ord. 2021-20. Passed 5-3-21.)

135.11 ELIGIBLE CANDIDATE LISTS.

(a) Eligible Candidate List. The Commission shall prepare and keep open to public inspection an eligible candidate list of the persons who have been examined and attained a score of at least seventy percent (70%) and are otherwise apparently eligible for appointment to employment with the City, provided that the Commission may include persons on the eligible candidates list without a final determination that such person meets and possesses the requirements of physical and mental fitness for appointment to any position, as may be established at some time later.

(b) Eligible Candidate List - Lateral Transfer Candidates in the Divisions of Police.

The Commission shall prepare and keep open to public inspection a list of candidates eligible for lateral transfer. Candidates for lateral transfers for entry-level positions in the Division of Police may be placed on an Eligible Lateral Transfer Candidate List upon meeting the following requirements:

- (1) No person shall be eligible for a lateral transfer to the Divisions of Police before their twenty-first birthday or on and after the person's forty-second birthday.
- (2) The person must be currently working or have worked within the past twelve (12) months, as either a full-time (minimum thirty (30) hours per week) OPOTA-certified Ohio Peace Officer in a jurisdiction in the State of Ohio as defined in Ohio R.C. 109.71 (the definition of jurisdiction shall include full-service college or university police department established pursuant to Ohio R.C. Chapter 3345, as well as service as a commissioned officer with a hospital police department). All certifications must be current as of the date of hire.
- (3) Must have successfully completed the probation period at the current or most recent place of employment.
- (4) An applicant will not be placed on the lateral transfer list if they are leaving their current employer or left a prior employer for disciplinary reasons or to avoid disciplinary action.
- (5) The applicant's current or previous employment as an Ohio peace officer must have been as a result of a competitive examination process.
- (6) Before being placed on the Eligible Lateral Transfer Candidate List, each applicant shall submit to an oral interview before a panel consisting of the Director of Public Safety, the Chief of Police and two (2) members of the Civil Service Commission. In the oral interview, the panel may consider the following factors, among other job-related factors, deemed appropriate by the panel:
 - A. The reason the applicant has been separated from the applicant's former employers or why the candidate wishes to leave the applicant's current employer.
 - B. The type of agency or entity that employed the applicant in the past.
 - C. Any additional certifications obtained by the applicant.
 - D. The results of any background check.
 - E. Any other job-related factors the panel deems appropriate.

If three (3) of the four (4) members of the panel determines that the applicant meets the criteria for placement on the Eligible Lateral Transfer Candidate List and the applicant successfully completes the oral interview process, the panel shall place the applicant on the list, and forward the list to the Civil Service Commission. Candidates placed on the Eligible Lateral Transfer Candidate List shall not be ranked.

(c) Duration of the Eligible Candidates Lists. The Eligible Candidate Lists shall be valid for two years, provided however, that any list that has been in effect for at least one year may, at the discretion of the Commission, be terminated at any time that a subsequent eligible candidate list is certified. (Ord. 2021-20. Passed 5-3-21.)

135.13 CERTIFICATION.

(a) Filling of Vacancies. When a vacancy occurs in the classified service, the appointing authority shall request that the Commission certify names from the eligible candidates list, or in the case of vacancies in the Divisions of Police and Fire, the appointing authority shall request that names be certified either from the eligible candidates list or the eligible lateral transfer candidate list.

- (1) If certifying from an eligible candidate list, the Commission shall certify the names and addresses of the ten (10) persons ranking highest on the eligible candidate list for the position to be filled, or the names and address of the highest-ranking twenty-five percent (25%) of persons on the eligible candidate list, whichever is the greater number.
- (2) If certifying from an eligible lateral transfer candidate list, the Commission shall certify the names and address of all candidates on the list. No more than two (2) hires from the certified list of eligible lateral transfer candidate list may be made without at least one (1) hire from the certified list of candidates from the eligible candidate list.

(b) Objections to Certification. An appointing authority may submit written objections to the Commission objecting to the certification of any eligible candidate and setting forth specific reason therefor. Such objections must be based on just cause, and the person against whom the objection is made shall be notified using the email address on file with the Commission. Within five (5) days after the date of such notice, the candidate may submit a written response to be heard by the Commission. If the objection is sustained by the Commission, the next highest name on the eligible candidate list shall be certified to the appointing authority, and notice of withdrawal of certification shall be sent to the person against whom the objection was sustained.

(c) Additional Causes for Removal from both the Eligible and Certified Lists.

- (1) Six (6) days (Sundays and holidays excluded) after notice from the City, using the email address on file with the Commission, the candidate fails to report or arrange for an interview.
- (2) The failure to respond to a notice of conditional appointment or accept appointment, within the time limit set forth in such notice, sent to the candidate using the email address on file with the Commission.
- (3) Declining a conditional appointment or appointment
- (4) A candidate passed over five (5) times shall be removed.

(Ord. 2021-20. Passed 5-3-21.)

135.15 APPOINTMENT.

(a) Appointment. The appointing authority shall fill any vacant position in the classified service by appointment of one of the persons certified to such appointing authority by the Commission.

(b) Probationary Period. All original and promotional appointees shall serve a probationary period of eighteen months in service or grade. If the service of the probationary appointee is unsatisfactory, such employee may be removed at any time during the probationary period without cause.

- (1) Promotional appointees. When an appointment is made as a result of a promotional examination and such appointee is removed from the promotional position during the probationary period, such appointee shall be restored to service in the classification which was held immediately prior to such promotion, and without prejudice of any kind.
- (2) Reconsideration of removal decision. An appointee who has been removed by the appointing authority during the probationary period may submit a written request to the Commission for reconsideration of such removal, and request a hearing. Such notice shall be made in writing within five days after notice to the appointee of removal or reduction. The Commission shall review the reasons for the decision of removal, and may sustain or deny the action of the appointing authority.

(c) Temporary Appointments. The appointing authority may make a temporary appointment to the classified service (original or promotional), provided however, that such appointment shall remain in force for a period not exceeding thirty days, and only until a regular appointment can be made under the provisions of this chapter.

(d) Restoration of Probationer to the Eligible Candidate List. Should the position for which an appointee has been certified prove to be temporary, and such appointee be laid off without fault or delinquency before the time of probation has been completed, such probationary appointee shall be restored to the earlier position held on the eligible candidate list.

135.17 PROMOTION.

(a) Eligibility. Any person in the classified service may be examined for promotion pursuant to the provisions of this chapter, without regard to time or seniority served or held in the present grade.

(b) Method of Promotion. Promotion in the classified service shall be made on the basis of examination by the Commission pursuant to the provisions of this chapter, particularly at Section 135.09 hereof.

All examinations for promotion shall be competitive among all members of the next lower rank or class immediately beneath the rank or class of the vacant position to be filled, provided however, that not fewer than three persons shall be certified to compete in such examination. In the event that fewer than three persons are eligible for promotion from the next lower rank or class or, for any other reason, the Commission is advised that fewer than three persons are willing to compete in any proposed promotional examination, then all members of the second lower rank or class shall be eligible to compete in such proposed promotional examination.

(c) Certification. Whenever a promotion is to be made in the classified service, the appointing authority shall make a written request to the Commission for the certification of eligible candidates. Upon receipt of such request, the Commission shall certify to the appointing authority the names and addresses of three persons standing highest upon the promotional examination given pursuant to Section 135.17(b) hereof, provided however, that no person shall be certified to the appointment authority who has previously been removed from the service of the City for cause.

(d) Appointment. The appointing authority shall promote any one of the three persons certified to such appointing authority by the Commission.

135.19 TRANSFER, RESIGNATION AND LEAVE OF ABSENCE.

(a) Transfer. A person holding a position in the classified service may be transferred to a similar position in another department or division having the same pay and similar duties, but no transfer shall be made to a position requiring qualifications substantially different from those required in the position presently held, without the written consent of the person so transferred.

(b) Resignation. Any employee who has resigned in writing may, within thirty days thereafter, withdraw such resignation and be restored to the position vacated, if such position remains vacant or is filled by temporary appointment. If such position is not vacant, such person shall be placed on a reinstatement list for re-appointment to the class or position from which the resignation was made.

(c) Leave of Absence. The Mayor may grant a leave of absence to any person in the classified service for such period of time as the Mayor may determine, but in no event shall such period exceed one year, except that it enables such person to enter the service of the Armed Forces of the United States of America or other employment directly associated with the national defense, or is caused by reason of disability or injury received in the service of the City, or when such leave of absence is predicated upon the provisions of any disability benefit program or pension fund established for such person.

(d) Holding Position Open. Upon the expiration of a leave of absence, all persons in the classified service shall report to the Mayor and be reinstated in the position previously held.

(e) Absence Without Leave. Absence from duty of a person in the classified service without a leave being granted by authority of Section 135.19(c), above, is neglect of duty, and good and sufficient cause for dismissal. Absence without leave, or permission, for three or more consecutive days shall be deemed a resignation from the service. Failure to report for duty after a leave of absence has expired is neglect of duty and good and sufficient cause for dismissal.

135.21 LAYOFF AND REINSTATEMENT.

(a) Layoff. Whenever it may be necessary to reduce the working force in the classified service of the City, the appointing authority shall act in the inverse order of original appointment in department, division or other appropriate classification. As between higher and lower ranks or classes, the person holding the higher rank or class shall be given precedence in the order of retention. Any person retained in service by operation of this section, may be assigned to a lower rank or class, provided however, that such reduction in rank or class shall be in order of seniority as to all members of any such rank or class.

(b) Placement on Eligible Candidate List. Upon any reduction in force, all persons laid off shall have their names placed at the head of any eligible candidate list for the classification from which such layoff is made, and in order of original appointment. Such persons shall be eligible for recertification and re-appointment for a period of three years thereafter.

135.23 TENURE AND DISCIPLINE.

(a) Tenure. The tenure of all persons in the classified service of the City shall be during good behavior and efficient service and no such person shall be reduced in pay or position, suspended, or removed, except for just and reasonable cause and upon specific written notice.

(b) Causes for Disciplinary Action. Just and reasonable cause for disciplinary action include one or more of the following, to wit:

- (1) Incompetency or inefficiency;
- (2) Absence from duty without leave;
- (3) Excessive absenteeism or tardiness;
- (4) Abusive, improper or illegal use of controlled substances, including drugs and intoxicants;
- (5) Conviction of a criminal offense involving moral turpitude;
- (6) Dishonesty;
- (7) Solicitation or acceptance of any item of value given in hope or expectation of favored treatment by the City or any of its individual employees;
- (8) Refusal to terminate outside employment which is incompatible with, or detrimental to, the performance of assigned duties;
- (9) Insubordination or other failure to obey any lawful rule, regulation, order or direction;
- (10) Willful or negligent conduct which causes waste or damage to persons or property;
- (11) Neglect of duty or any other act of misfeasance, malfeasance or nonfeasance;
- (12) Conduct unbecoming an officer or employee of the City;
- (13) Failure of good behavior; and
- (14) Such other and additional cause as set forth in Ohio R.C. Chapter 124, including Section 124.34, and any amendments thereto.

(c) Causes for Termination, Suspension or Other Interruption of Tenure. Just and reasonable causes for interruption of tenure, including termination, include one or more of the following, to wit:

- (1) All causes set forth in Section 135.23(b), as above; and
- (2) Physical or mental incapacitation.

(d) Procedures for Interruption of Tenure and/or Disciplinary Procedure.

- (1) Before a person in the classified service is removed, suspended, or reduced in pay or position, the appointing authority shall furnish written notice of the proposed action to such person and the reasons therefor. Within three days subsequent to receipt of such notice, such person may file a written demand for a hearing to be held before the appointing authority, at which hearing such employee may present evidence, including the testimony of witnesses, and may cross-examine witnesses, for the purpose of demonstrating that the reasons for discipline are not true, or that extenuating circumstances exist to justify modification of the proposed action.
- (2) If the demand for hearing is filed timely, the appointing authority shall set a time and place for such hearing, which shall be within ten days from the date of receipt of written demand therefor. The appointing authority shall give such person at least three days notice in writing of the time and place of such hearing, and such person may be represented by counsel at any and all proceedings throughout the disciplinary procedure process. On the basis of the evidence offered at such hearing, the appointing authority may sustain, dismiss or modify its previous order of removal, suspension or reduction in pay or position.

- (3) The appointing authority may suspend any person sought to be disciplined, prior to hearing upon the same, if, in the judgment of the appointing authority, the nature of the matter warrants such action. Any person suspended shall continue to receive regular pay until any proposed disciplinary action becomes finally effective.
- (4) Except as provided in subsection (d)(3), above, any proposed disciplinary action shall become effective only upon the expiration of the period within which a hearing can be demanded. In the event such a hearing is timely demanded and, if the proposed action is confirmed or modified upon such hearing, then such confirmed or modified action shall become effective upon the date upon which the determination of the appointing authority is served upon such person.

(e) Appeal to the Civil Service Commission.

- (1) Notice of appeal. Within ten days following the date upon which an order of discipline becomes effective as provided in subsection (d)(4), above, the person so disciplined may file an appeal, in writing, with the Commission. In the event such an appeal is filed, the Commission shall forthwith notify all parties that it shall hear such appeal at a specific time, date and place within thirty days following the filing of such Appeal with the Commission.
- (2) Hearing. A disciplinary hearing shall be private unless the appellant demands a public hearing, and shall be conducted by at least a majority of the members of the Commission. The appellant may be present at such hearing and may be represented by counsel. The appellant or counsel may offer evidence and testimony and may examine and cross-examine witnesses under oath.
- (3) Decision of the Commission. The Commission may sustain, dismiss or modify the determination of the appointing authority as to the disciplinary action on appeal, and shall notify the appellant and the appointing authority of the decision rendered by it.

135.25 RESIDENCY REQUIREMENT.

(a) Any person employed in the classified service of the City shall establish a permanent domicile within a radius of seven miles from the Berea City Hall not later than six months after permanent appointment, and such domicile shall be maintained as long as such person continues in the classified service.

(b) No exceptions from the residency rule as set out in Section 135.25(a), above, shall be allowed, either by the appointing or the Commission, provided however, that the Commission may allow a period of not more than six months to any original appointee in which such appointee is directed to meet the residency requirement established herein.

TITLE EIGHT - Personnel Plan
Chap. 185. Discrimination, Harassment (Including Sexual Harassment) and Retaliation.

EDITOR'S NOTE: Since many provisions of personnel policies and procedures are subject to frequent change, the personnel plan for City employees is published separately and not codified herein.

CHAPTER 185
Discrimination, Harassment (Including Sexual Harassment) and Retaliation

185.01 Definitions.
185.02 Policy.

185.03 Grievance procedure.
185.04 Sanctions.

185.01 DEFINITIONS.

- (a) "Age" means age forty (40) and older
- (b) "Color" means skin tone
- (c) "Disability" means a physical or mental impairment that substantially limits one or more major life activities of the individual, including have a record of such impairment or being regarded as having such impairment.
- (d) "Genetic information" means information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder, or condition of an individual's family members (i.e., an individual's family medical history). Family medical history is included in the definition of genetic information because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future.
- (e) "Harassment" means unwelcomed, offensive conduct that creates a work environment that would be intimidating, hostile or offensive to reasonable people, when such conduct is based on a protected class, as defined herein.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name-calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker or a member of the public.

The victim does not have to be the person harassed; but can be anyone affected by the offensive conduct.

Unlawful harassment may occur without economic injury to or discharge of, the victim.

(f) "National origin" means birthplace, ancestral, cultural, family descent or lineage; the linguistic characteristics common to a specific nationality; marriage or association with persons of a national origin group.

(g) "Race" means the physical, tribal, ancestral, cultural, geographic or linguistic characteristics common to a specific ethnic group or stock including but not limited to persons having origins in any of the original people of the Americas, Europe, Africa, Australia, Antarctica, or Asia.

(h) "Religion" means a system of moral and ethical standards as to what constitutes right and wrong which are sincerely held with the strength of traditional religious views.

(i) "Sex" means gender, as defined by State and Federal law and as further interpreted by Courts of appropriate geographic and subject-matter jurisdiction.

(j) "Sexual harassment" includes the definition above of "harassment" and also includes any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.

Petty slights, annoyances and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile or offensive to reasonable people.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name-calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. Sexual harassment can be committed by a person of either sex against a person of the opposite or same sex; and can occur in any workplace relationship. Sexual harassment could include, but is not limited to, sexually-oriented jokes or comments and verbal "kidding" or "teasing," gender-biased comments, subtle pressure for sexual activity, physical contact such as patting, pinching or brushing against another's body, and sexually explicit or suggestive posters, calendars or publications in the workplace.

(Ord. 2021-22. Passed 5-3-21.)

185.02 POLICY.

(a) In accordance with Title VII of the Civil Rights Act of 1964, it is the policy of the City of Berea that all employees should be allowed to work in an environment free from discrimination and harassment due to race, color, religion, sex, disability, national origin, age or genetic information.

(b) The City of Berea will not tolerate any form of discrimination or harassment in the workplace, including acts of non-employees. Management and non-management employees are expected to refrain from any behavior or conduct toward any other employee, employer's agent or the public that could be interpreted as discriminatory or harassing in nature.

(c) Managers, administrators, chiefs, directors, supervisors and elected officials who knowingly allow or tolerate discrimination, harassment or retaliation, including the failure to immediately report such conduct in accordance with the Grievance Procedure, are in violation of this policy and subject to sanctions.

(d) Retaliation against an individual for raising a concern about a possible violation of this policy or for providing a witness statement about such possible violation is strictly prohibited. Anyone who retaliates against an employee in connection with reporting or providing information about an incident of alleged discrimination or harassment shall be subject to the penalties set forth in Section 185.05.

(e) All complaints of sexual or other harassment or discrimination will be taken seriously and investigated thoroughly. It is recognized that not all incidents of sexual or other harassment can be supported by other witnesses or other evidence. Employees are nonetheless encouraged to report all incidents of sexual or other harassment. However, after a thorough investigation, if it is determined that an employee has intentionally fabricated allegations of sexual or other harassment or pursued a false complaint of sexual or other harassment, then that employee will be disciplined accordingly.

(f) A copy of this chapter shall be provided to all full-time, part-time and temporary employees. The Law Department shall be responsible for providing and/or arranging for periodic employee training. (Ord. 2021-22. Passed 5-3-21.)

185.03 GRIEVANCE PROCEDURE.

(a) Any employee who feels that he or she has been the victim of discrimination or harassment shall report the incident within fifteen (15) working days of the incident which gave rise to the complaint. While a written statement is preferred, the individual may make the complaint verbally. The complaint shall be made to the employee's department head and shall include the date, time and a description of the alleged discrimination or harassment. If it is inappropriate for the complainant to make the complaint to his or her department head, then the complaint shall be made to the Director of Law. If the Director of Law is the subject of the complaint, it shall instead be made directly to the Mayor.

(b) A department head shall be responsible for forwarding the complaint to the Director of Law, who immediately upon receipt, shall advise the Mayor of the complaint.

(c) An investigation shall immediately commence upon receipt of a report of discrimination or harassment. The Director of Law shall conduct or direct the investigation and shall immediately contact the person who allegedly engaged in the discrimination or harassment and inform him or her of the basis of the complaint and afford the person the opportunity to respond. The investigation may include, but is not limited to, questioning witnesses to the alleged conduct. Employee witnesses are required to participate in any investigation.

(d) Within five (5) working days of the receipt of the complaint and upon notice to all parties, the investigator shall meet with all affected parties to make a determination of facts and to attempt to resolve the matter, if appropriate.

(e) If the matter cannot be resolved, then the investigation and determination of facts shall be completed within ten (10) business days of receipt of the complaint and upon notice to all parties and such information shall immediately be provided to the Mayor or the Mayor's designee. In determining whether the alleged conduct constitutes discrimination or harassment, the Mayor or the Mayor's designee shall look at the record as a whole and the totality of the circumstances and the context in which the alleged incidents occurred.

(f) Every complaint will be handled as discreetly as possible; however, the City of Berea cannot and does not guarantee complete confidentiality of any such matter and will comply with any requirements set forth in Ohio R.C. 149.43.

(Ord. 2021-22. Passed 5-3-21.)

185.04 SANCTIONS.

Sanctions for violations of this Chapter may include one or more of (but are not limited to) the following: an apology, transfer, direction to stop offensive behavior, counseling or training, verbal reprimand, written reprimand, suspension without pay for a specified period of time, or dismissal. (Ord. 2021-22. Passed 5-3-21.)

**CODIFIED ORDINANCES OF BEREAL
PART THREE - STREETS, UTILITIES AND PUBLIC SERVICES CODE**

TITLE ONE - Streets and Sidewalk Areas

- Chap. 301. Right-of-Way; Curb Installation and Cuts.
- Chap. 303. Sidewalk Construction or Repair.
- Chap. 305. Building Numbering.
- Chap. 307. Telecommunication Right of Way Permits.

TITLE THREE - Public Utilities

- Chap. 311. Water Supply.
- Chap. 313. Sewers.
- Chap. 315. Gas.
- Chap. 317. Electricity.
- Chap. 319. Storm Water Illicit Discharge and Connection.
- Chap. 320A. Construction Site Soil Erosion, Sediment and Other Wastes and Storm Water Runoff.
- Chap. 320B. Post-Construction Water Quality Runoff.
- Chap. 320C. Riparian and Wetlands Setbacks.

TITLE FIVE - Other Public Services

- Chap. 321. Garbage and Rubbish.
- Chap. 323. Woodvale Union Cemetery.
- Chap. 325. Parks and Recreation.
- Chap. 327. Trees and Weeds.
- Chap. 329. Tree Conservation.

TITLE THREE - Public Utilities

- Chap. 311. Water Supply.
- Chap. 313. Sewers.
- Chap. 315. Gas.
- Chap. 317. Electricity.
- Chap. 319. Storm Water Illicit Discharge and Connection.
- Chap. 320A. Construction Site Soil Erosion, Sediment and Other Wastes and Storm Water Runoff.
- Chap. 320B. Post-Construction Water Quality Runoff.
- Chap. 320C. Riparian and Wetlands Setbacks.

CHAPTER 311
Water Supply

311.01	Definitions.	311.11	Disruption of service; pressure and supply.
311.02	Rules and regulations.	311.12	Investigation of private water supply; approval.
311.03	Initiation of service; deposit; responsible party; billing; request for adjustment.	311.13	Water rates.
311.04	Payment; dishonored payments.	311.14	Surcharges and discounts.
311.05	Collection of delinquent accounts.	311.15	Meters and service taps; rates.
311.06	Requirements upon sale of property; duty of seller and escrow agent; buyers rights.	311.16	Sprinkling ban.
311.07	Termination of service; final bill; refund.	311.17	Backflow prevention, cross-connection control and inspections required.
311.08	Termination or disruption of service in occupied residential structures.	311.18	Tampering with fire hydrant, water meter, or water distribution pipe and valves.
311.09	Access to the premises.	311.99	Penalty.
311.10	Disruption of service due to improper connections.		

CROSS REFERENCES

- Power to provide and regulate water system - see Ohio R.C. 715.08, 717.01, 743.01
- Water pollution - see Ohio R.C. 715.08, 743.24 et seq.
- Water works mortgage revenue bonds - see Ohio R.C. 715.99 et seq.
- Compulsory water connections - see Ohio R.C. 729.06, 743.23
- Management and control of water works - see Ohio R.C. 743.02 et seq.
- Weekly deposit of water works money collected - see Ohio R.C. 743.06
- Tampering with water hydrants, pipes or meters; unauthorized connections - see Ohio R.C. 4933.22

311.01 DEFINITIONS.

(a) "Approved" means that a backflow prevention assembly, device, or method has been accepted by the Director as suitable for the proposed use.

(b) "Auxiliary water system" means any water system on or available to the premises other than the public water system. These auxiliary water systems shall include used water or water from a source other than the public water system, such as wells, cisterns or open reservoirs that are equipped with pumps or other prime movers, including gravity.

(c) "Backflow" means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable water supply from any source other than the intended source of the potable water supply.

(d) "Backflow preventer" means any assembly, device, method, or type of construction intended to prevent backflow into a potable water system. This definition applies wherever "backflow prevention device" is used in this chapter.

(e) "Consumer" means the owner or person in control of any premises supplied by or in any manner connected to a public water system.

(f) "Consumer's water system" means any water system, located on the consumer's premises, supplied by or in any manner connected to a public water system. A household plumbing system is considered to be a consumer's water system.

(g) "Cross-connection" means any arrangement whereby backflow can occur.

(h) "Director" means the Director of Public Service, their designee or authorized agent.

(i) "Health hazard" means any condition, device, or practice in a water system or its operation that creates, or may create, a danger to the health of users.

(j) "Person" means any individual, public or private corporation, partnership, or other legal entity.

(k) "Pollution hazard" means a condition through which an aesthetically objectionable or degrading material, which is not dangerous to the public water system or health of users, may enter the public water system or portion of a consumer's water system.

(l) "Premises" means any building, structure, dwelling or area containing plumbing or piping supplied from the City's water system.

(m) "Service connection," means the terminal end of a service line from the City's water system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.

(n) "Severe health hazard" means a health hazard to users that could reasonably be expected to result in significant morbidity or death.

(o) "System hazard" means a condition posing an actual or potential threat of damage to the physical properties of the water system or a consumer's water system.

(p) "Water system" means a system for the provision of piped water or process fluids, and includes any collection, treatment, storage or distribution facilities used primarily in connection with such system.

(Ord. 2021-67. Passed 12-6-21.)

311.02 RULES AND REGULATIONS.

The Director of Public Service is hereby authorized and directed to make, issue and enforce such rules and regulations as may be necessary for the administration of this chapter and as may be necessary for the safe, economical and efficient management and protection of the water system of the City. Such rules and regulations shall be available on the City's website and in the Water Billing office.

(Ord. 2021-67. Passed 12-6-21.)

311.03 INITIATION OF SERVICE; DEPOSIT; RESPONSIBLE PARTY; BILLING; REQUEST FOR ADJUSTMENT.

(a) Water service shall be initiated only upon an application by the owner or owner's authorized agent in the form provided by the City.

(b) Deposit.

- (1) An applicant may be required to pay a deposit of two hundred fifty dollars (\$250.00) upon either of the following:
 - A. If the applicant owns or has owned real property in the City of Berea in the ten years immediately preceding the application, and the water bill for said property, while under the applicant's ownership or control, was certified; or
 - B. If at the time of application, the applicant is a debtor in a bankruptcy case pending in the U.S. District Court.
- (2) Deposits shall not be applied to current water or sewer bills. However, a deposit held on an account shall be returned upon written request, if, subsequent to the date of the deposit, four (4) consecutive quarterly bills are timely paid. If a deposit is held on an account at the time it is closed, the deposit shall be applied to any final amount outstanding.

(c) Responsible Party; Billing.

- (1) All accounts for water service established after January 1, 2022, shall be established and maintained in the name of the record title owner of the premises served thereby. All accounts in existence prior to the effective date of this section which were not contracted in the name of the owner of the serviced property will be permitted to remain in the name of the current contract obligor. However, upon cancellation or termination of such contract, all future contracts for the serviced property shall be made in accordance with this section.
- (2) Any owner of real estate premises to which water is supplied shall be deemed liable for all water and service charges for such premises, whether or not the premises is occupied by the owner, tenant or other persons.

- (3) Bills shall be mailed or otherwise made available electronically to the owner at the address provided by the owner. Failure to receive a bill shall not relieve the owner from obligation to pay for service rendered when due.
- (4) The owner may request that a copy of the bill be mailed to a tenant. However, mailing a copy of the bill to a tenant shall not be construed as relieving the owner of the real property of liability for payment of the bill.

(d) Request for Adjustment. An account holder may request a billing adjustment if it is determined by the Director of Public Service that the water meter malfunctioned. An account holder may also request a billing adjustment due to a leak. In either case, eligibility for an adjustment is determined by the Director, in accordance with the applicable regulation and upon approval of the Board of Control.
(Ord. 2021-67. Passed 12-6-21.)

311.04 PAYMENT; DISHONORED PAYMENTS.

(a) All payments shall be in currency, credit card, debit card, money order or by check made payable to the order of the City of Berea.

(b) In the event the credit card, debit card, money order or check is not honored by the bank and is returned for refund, the account to which payment has been credited will be charged twenty-five dollars (\$25.00) for additional collection efforts and handling.
(Ord. 2021-67. Passed 12-6-21.)

311.05 COLLECTION OF DELINQUENT ACCOUNTS.

The City of Berea may collect delinquent accounts by doing either or both of the following:

- (a) Certify the amount owing, together with a penalty of twenty percent (20%) per annum, and interest in the rate of eighteen percent (18%) per annum, to the county auditor. The county auditor shall place the certified amount on the real property tax list and duplicate against the property served by the connection. The amount placed on the tax list and duplicate shall be a lien on the property served from the date placed on the list and duplicate and shall be collected in the same manner as other taxes, except that, notwithstanding Ohio R.C. 323.15, a county treasurer shall accept a payment in such amount when separately tendered as payment for the full amount of such unpaid water rents or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount; or
- (b) Collect the delinquency by actions at law.
(Ord. 2021-67. Passed 12-6-21.)

311.06 REQUIREMENTS UPON SALE OF PROPERTY; DUTY OF SELLER AND ESCROW AGENT; BUYERS RIGHTS.

(a) No person, agent, firm or corporation shall sell by deed, land contract or otherwise transfer any interest in any property served by Berea water, without furnishing the buyer prior to such sale, a statement from the City setting forth the current status of the water account, and when an escrow has been established, depositing in escrow prior to delivery of possession or transfer of title a statement from the buyer acknowledging the receipt of this document and accepting responsibility for all future water bills in accordance with these Codified Ordinances.

(b) No person, agent, firm or corporation acting in the capacity of an escrow agent in any real estate transaction involving the sale of any premises which is supplied with City water, shall disburse any funds without complying with this section.

(c) A conviction under this section shall not be a bar to the rights of a buyer to recover, by civil suit from the seller, real estate agent or broker or escrow agent for the amounts of water supplied, to the previous owner and paid by the buyer, either prior to or after the closing of such purchase and sale transaction.

(Ord. 2021-67. Passed 12-6-21.)

311.07 TERMINATION OF SERVICE; FINAL BILL; REFUND.

(a) An account holder who intends to move or terminate their water service shall contact the Water Billing Office to request that service be discontinued and shall specify a termination date, which shall be at least three (3) business days after the request. The customer shall provide a forwarding address for the final bill. The account holder shall be responsible for the service at the premise until the termination date.

(b) Final bills showing a credit or debit of less than five dollars and one cent (\$5.01) shall not be collected or refunded.

(Ord. 2021-67. Passed 12-6-21.)

311.08 TERMINATION OR DISRUPTION OF SERVICE IN OCCUPIED RESIDENTIAL STRUCTURES.

Requests for disruption or disconnection of service in legally occupied residential structures will not be honored or accepted for such purposes as eviction, enforcing collection of rents, or as a result of differences between owner and occupant, unless the request is made for the purpose of repairing or maintaining water lines at the premises.

(Ord. 2021-67. Passed 12-6-21.)

311.09 ACCESS TO THE PREMISES.

The City, upon presentation of proper identification by its employees or agents, reserves the right to enter the premises served at any reasonable hour, for the purpose of reading, repairing, installing, removing and inspecting meters, or for any other purpose which it may deem necessary for the proper operation and maintenance of the water supply system.

The City, at its sole discretion, reserves the right to temporarily disrupt service until such access is provided or it may obtain an administrative warrant from a court of competent jurisdiction to authorize such access.

Owners and occupiers of the premises served shall, upon request, provide truthful information necessary to determine connections of the water supply system. A failure to provide the requested information shall be deemed evidence of one or more improper connections.

(Ord. 2021-67. Passed 12-6-21.)

311.10 DISRUPTION OF SERVICE DUE TO IMPROPER CONNECTIONS.

The Director of Public Service is hereby authorized and directed to disrupt water service, after reasonable notice to the owner and occupant thereof, when there are reasonable grounds to believe that any water connection is in violation of this chapter or state or federal law or regulation, and to take such other precautionary measures as may be deemed necessary to eliminate any danger of contamination of the public water supply. Water service to such property shall not be restored until such connection or connections shall have been eliminated or corrected in compliance with the provisions of applicable law. The City reserves the right to impose a charge to restore water services disrupted in accordance with this section.

(Ord. 2021-67. Passed 12-6-21.)

311.11 DISRUPTION OF SERVICE; PRESSURE AND SUPPLY.

(a) The Director of Public Service may temporarily disrupt the water supply or request that any user limit their use of water at any premises, when it is necessary, in the opinion of the Director, in order to prevent or abate an imminent or substantial threat to the water system or to the health, safety or welfare of the public or to perform maintenance, repairs or improvements to the system. Any person notified of such order affecting a premises under his control shall immediately comply with the order. In the event of a person's failure to immediately comply voluntarily with the order, the director may take such steps as deemed necessary to prevent or abate the imminent or substantial threat to the water system or to the health, safety or welfare of the public. Water service shall be restored once the imminent or substantial threat has passed. The City shall not be liable for damages resulting from interruptions in service.

(b) The City does not guarantee any fixed pressure or a continuous supply of water; these being subject to the varying conditions which may arise in the operation and maintenance of the water supply. Consumers whose operations require a continuous supply of water or definite pressures should provide against interruption by the installation of tanks or other auxiliary supplies or pressure regulation sufficient to carry them over a period of interruption.

(Ord. 2021-67. Passed 12-6-21.)

311.12 INVESTIGATION OF PRIVATE WATER SUPPLY; APPROVAL.

(a) The City shall cause surveys and investigations to be made, as necessary, of all industrial and other properties served by the public water supply where private, auxiliary or emergency water supplies other than the public water supply are known to exist, or where such supplies are likely to exist.

(b) No person shall establish or permit to be established, or maintain or permit to be maintained, any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of the City may enter the supply or distributing system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Director of Public Service and by any other required federal, state or county agency.

(Ord. 2021-67. Passed 12-6-21.)

311.13 WATER RATES.

(a) To pay part of the cost and expense of maintaining and operating the water distribution system and water treatment works, there is levied upon each lot and premises on which is located any building which has installed thereon or therein any water connection with the water system, a direct quarterly charge according to Schedule 1 – Residential Class and Scheduled 2 – Non-Residential Class.

Schedule 1 applies to properties classified as residential by the Cuyahoga County Fiscal Office and excludes properties that are required to have a multiple-occupancy permit by the City.

(1) SCHEDULE 1 - Residential rate class.

SCHEDULE 1 - RESIDENTIAL RATES					
Per Quarter Gallon Usage Range	2003	2004	2005	2006	2007 until revised
0 - 5,000	\$1.77	\$2.56	\$3.38	\$3.72	\$4.09
5,001 - 10,000	\$2.05	\$2.95	\$3.90	\$4.30	\$4.75
10,001 - 50,000	\$2.14	\$3.11	\$4.10	\$4.51	\$4.96
50,001 ++	\$2.23	\$3.23	\$4.26	\$4.69	\$5.16

(2) SCHEDULE 2 - Non-Residential rate class.

SCHEDULE 2 - NON-RESIDENTIAL RATES					
Per Quarter Gallon Usage Range	2003	2004	2005	2006	2007 until revised
0 - 5,000	\$2.03	\$2.94	\$3.88	\$4.27	\$4.69
5,001 - 10,000	\$2.35	\$3.40	\$4.50	\$4.95	\$5.50
10,001 - 50,000	\$2.46	\$3.56	\$4.70	\$5.17	\$5.69
50,001 ++	\$2.55	\$3.70	\$4.89	\$5.38	\$5.91

(b) Bulk Water.

(1) Bulk water is any potable water taken for use in a manner that is not from a residential or commercial tap found within a structure.

(2) Cash Deposit or Bond Requirements for Bulk Water.

A. Equipment Bond or Deposit.

1. In order to ensure the full and complete compliance with, and performance under this subsection, including any costs to the City as a result of any failure attributable to a permittee to return the equipment in a substantially similar condition to when permittee took possession of said equipment, the Director of Public Service shall require the applicant to post a cash deposit or bond ("Equipment Bond") according to the Bulk Water Rates table in (b)(4), provided the permittee takes possession of equipment provided by the City.

B. Water Bond or Deposit.

1. All permittees are required to place a cash deposit or bond to be reimbursed to permittee minus the usage, charged in accordance with the Bulk Water Rates table in (b)(4). The Water Bond shall be at least one thousand dollars (\$1,000.00), if the Water Department determines that the usage is likely to exceed the minimum amount of one thousand dollars (\$1,000.00), the Water Bond amount shall be raised.
- (3) The permit fees for bulk water permits are charged in accordance with Codified Ordinance Sections 1311.06 and 1312.04. The cash deposit or bond is in addition to the permit fee provided for in Sections 1311.06 and 1312.04.
- (4) Bulk Water Rates.

BULK WATER RATES**				
Per Quarter Gallon Usage Range	Rate	Meter Fee	Equipment Bond	Water Bond
0 - 5,000	\$6.90	\$6/DAY	\$1,500.00	\$1,000.00 MINIMUM
5,001 - 10,000	\$7.71	\$6/DAY	\$1,500.00	\$1,000.00 MINIMUM
10,001 - 50,000	\$7.90	\$6/DAY	\$1,500.00	\$1,000.00 MINIMUM
50,001 ++	\$8.12	\$6/DAY	\$1,500.00	\$1,000.00 MINIMUM

**BULK WATER RATES DO NOT INCLUDE THE PERMIT FEES FOR BULK WATER PERMITS

(Ord. 2022-12. Passed 4-4-22.)

311.14 SURCHARGES AND DISCOUNTS.

(a) Surcharges for Water Service Outside Corporate Limits.

- (1) Properties outside the corporate limits of the City of Berea served by Berea water shall pay, in addition to the rates established in Schedule A or Schedule B, whichever is applicable, a surcharge of fifteen percent (15%).
- (2) To pay part of the cost and expense of the principal and interest payments on the notes and bonds issued for the purpose of paying for the improvement being done to the Municipal Water Treatment Plant pursuant to Ordinance 1982-88, 1982-107, and 1982-108, water plant and water line capital improvements or the cost of borrowings related thereto, there is levied on each lot and premises located outside of the corporate limits of the City of Berea served with Berea water, there is levied an additional surcharge of two dollars and twenty-one cents (\$2.21) per thousand gallons.

(b) Tax-Exempt Properties. To pay part of the cost and expense of the principal and interest payments on the notes and bonds issued for the purpose of paying for the improvement being done to the Municipal Water Treatment Plant pursuant to Ordinance 1982-88, 1982-107, and 1982-108, water plant and water line capital improvements or the cost of borrowings related thereto, there is levied an additional charge of two dollars and twenty-one cents (\$2.21) per thousand gallons on each property located within the corporate limits of the City of Berea that is exempt from the payment of property taxes.

(c) Homestead Credit. A residential customer whom is sixty-five (65) years of age or older, or is permanently and totally disabled, and has received a certificate of reduction of real estate taxes from the Fiscal Officer of Cuyahoga County pursuant to Ohio R.C. 323.154, is entitled to a ten percent (10%) discount of the rates established in Schedule A. Customers may be required to show proof of eligibility. Any such discount shall be effective only upon approval by the City and shall not be retroactive.

(Ord. 2021-67. Passed 12-6-21.)

311.15 METERS AND SERVICE TAPS; RATES.

(a) Meters Required; Meter Maintenance Fee.

- (1) All premises using the City water supply shall be equipped with a remote-control water meter furnished by the City, but paid for by the consumer.
- (2) The remote-control water meter shall be installed prior to the issuance of any occupancy permit. Water service shall not be provided until such installation is complete.
- (3) Effective July 1, 2016, a monthly fee of two dollars (\$2.00) will be assessed to every customer utilizing the City water supply to pay the cost of the remote-control water meter, installation of the meter, maintenance of the meter and other costs directly related to the program.

(Ord. 2021-67. Passed 12-6-21.)

(b) The fees for water service taps permits are charged in accordance with Codified Ordinance Sections 1311.06, 1311.08, 1312.04 and 1312.07.

(Ord. 2022-13. Passed 4-4-22.)

(c) Fees for temporary connections are fixed and established as follows:

- (1) Temporary connection. For each such connection, the charge shall be an amount equal to the cost thereof. "Cost" includes:
 - A. Cost of all materials;
 - B. Cost of labor; and
 - C. Twenty percent (20%) of subsections (a) and (b) hereof for overhead expense.
- (2) An application for a temporary connection shall be accomplished by applicant's deposit in cash, certified check or money order payable to the City of Berea in a sum sufficient to cover the estimated cost thereof, in accordance with a schedule of estimated costs to be determined and approved from time to time by the Board of Control. Any unexpended portion of this deposit shall be refunded to the applicant by the City upon completion of the connection. Any additional sums due from the applicant shall be paid to the City upon completion of the connection.

(Ord. 2021-67. Passed 12-6-21.)

311.16 SPRINKLING BAN.

The Director of Public Service or the designee is authorized to establish a sprinkling ban when in their sole discretion, a water emergency exists. Notice of a sprinkling ban shall be posted on the city's web page and on at least one social media account, which shall constitute notice for the purpose of enforcement.

No person shall knowingly violate the terms or conditions of a sprinkling ban.

(Ord. 2021-67. Passed 12-6-21.)

311.17 BACKFLOW PREVENTION, CROSS-CONNECTION CONTROL AND INSPECTIONS REQUIRED.

(a) No person shall install or maintain a water service connection to any premises where actual or potential cross-connections to a public water system or a consumer's water system may exist unless such actual or potential cross-connections are abated or controlled to the satisfaction of the Director.

(b) No person shall install or maintain a connection between a public water system or consumer's water system and an auxiliary water system unless the auxiliary water system, the method of connection and the use of such system have been made accordance with Ohio R.C. 6109.13 and as approved by the Director of Public Service.

(c) When backflow prevention measures are required:

- (1) An approved backflow preventer shall be installed on each service line, where in the judgment of the Director of Public Service, a pollution, system, health or severe health hazard to the public water system exists.
- (2) An approved backflow preventer shall be installed on each service line where any of the following conditions exist:
 - A. Premises with an auxiliary water system on the premises, unless such auxiliary system is accepted and approved as an additional source by the Director of Public Service.
 - B. Premises on which any substance is handled in such a fashion as to create an actual or potential hazard to a public water system. This shall include premises having sources or systems containing process fluids.
 - C. Premises having internal cross-connections that, in the judgment of the Director, are not correctable, or intricate plumbing arrangements which make it impracticable to determine whether or not cross-connections exist.
 - D. Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.
 - E. Premises having a repeated history of cross-connections being established or re-established.
 - F. As otherwise specified by the Director of Public Service.

(d) Notwithstanding subsection (c) above, an approved backflow preventer shall be installed on each service line to a consumer's premises, but not necessarily limited to, the following types of facilities unless the Director determines that no severe health, health, system or pollution hazard to the public water system exists:

- (1) Hospitals, mortuaries, clinics, nursing homes.
- (2) Laboratories.
- (3) Piers, docks, waterfront facilities.
- (4) Sewage treatment plants, sewage pumping stations, or storm water pumping stations.
- (5) Food or beverage processing plants.
- (6) Chemical plants.
- (7) Metal plating industries.
- (8) Petroleum processing or storage plants.
- (9) Radioactive material processing plants or nuclear reactors.
- (10) Car washes.

(e) Backflow Prevention Devices.

- (1) Any backflow preventer required shall be of a model or construction approved by the Director of Public Service.
- (2) Any backflow preventer device shall be installed at a location and in a manner approved by the Director and shall be installed at the expense of the water consumer.

(f) Duties of Consumers, Inspections.

- (1) It shall be the duty of the water consumer to maintain any backflow preventer in proper working order and in continuous operation.
- (2) The consumer shall, on any premises on which any backflow preventer is required, have thorough inspections and operational tests made of the backflow preventers at the time of installation or repair, and at least once every twelve (12) months. These inspections and tests shall be at the expense of the water consumer, made by a certified plumber with a certification in backflow inspection and as further approved by the Director.
- (3) These devices shall be repaired, overhauled or replaced at the expense of the consumer whenever they are found to be defective.
- (4) Records of such inspections, tests, repairs and overhaul shall be kept by the consumer and made available to the City of Berea upon request.
- (5) The Director shall inspect or cause to be inspected all installations where an approved connection exists between an auxiliary water system and the public water system or a consumer's water system at least once every twelve (12) months.

(g) Temporary Disruption of Water Service. In accordance with Ohio EPA regulation, 3745-95-08, the City shall, after reasonable notice to the occupant thereof, deny or discontinue the water service to any premises wherein any of the following occurs:

- (1) A backflow preventer required by this chapter is not installed, tested and maintained in a manner acceptable to the supplier of water.
- (2) The backflow preventer has been removed or by-passed.
- (3) An unprotected cross-connection exists on the premises.
- (4) If the Director of Public Service is denied entry to determine compliance with this chapter.

Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this chapter, and to the satisfaction of the Director of Public Service. The City reserves the right to impose a charge to restore water services disrupted in accordance with this section.
(Ord. 2021-67. Passed 12-6-21.)

311.18 TAMPERING WITH FIRE HYDRANT, WATER METER, OR WATER DISTRIBUTION PIPE AND VALVES.

(a) No person shall operate or attach a hose to any fire hydrant without the express written consent of the Director of Public Service or the designee.

(b) No person shall knowingly open, adjust or interfere with a fire hydrant, valve, regulator, gauge, gate, curb stop, water meter or measuring device, with the intent to cause the escape of water, theft of water, or to injure or destroy such property.

(c) No person shall knowingly tap, sever, open or make unauthorized connections with a main or pipe used for the transmission of water.

This section shall not apply the Berea Fire Department and its agents.

(Ord. 2021-67. Passed 12-6-21.)

311.99 PENALTY.

(a) Whoever violates Sections 311.12 and 311.17 shall be guilty of a misdemeanor of the fourth degree. Each day's continued violation shall constitute a separate offense.

(b) Whoever violates Section 311.18 shall be guilty of a misdemeanor of the third degree. Each day's continued violation shall constitute a separate offense.

(c) Whoever violates any other section of this chapter shall be guilty of a minor misdemeanor. Each day's continued violation shall constitute a separate offense.
(Ord. 2021-67. Passed 12-6-21.)

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 the City are declared to constitute a nuisance:

- (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, unless approved by the Shade Tree Commission, in accordance with Codified Ordinance Sections 327.01 – 327.11.
- (2) Any tree, plant or shrub, wherever located in 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, roadway or public place. Branches overhanging any public sidewalk, pavement, street or roadway within nine (9) feet of the public sidewalk, pavement street or roadway, or within thereof, shall be *prima facie* evidence of a safety hazard.

(b) Grass, Weeds and Other Conditions.

- (1) Definitions.
 - A. **Cultivated Flowers and Gardens:** Plants that are deliberately planted or maintained, which includes the need for weed removal, in a planned or designed yard or landscape, with the intent to control, direct and maintain the growth of the plant.
 - B. **Improved property:** Means any residential or commercial property with a building of any description.
 - C. **Noxious Weeds:** Any weed that is listed in Ohio Administrative Code 901:5-37-01, which is incorporated herein, and as further amended.
 - D. **Ornamental Grass:** Grasses which do not serve any purpose other than as decoration.

- E. Poisonous weed or poisonous vine: Any plant that when touched or ingested in sufficient quantity that can be harmful or fatal or capable of evoking a toxic reaction to another person. Examples include, but are not limited to poison ivy, poison oak, poison sumac, poison hemlock, wild parsnip, and giant hogweed, ragweed, goldenrod.
- F. Responsible Person: The owner(s), occupant(s), lessee(s), or other person(s) or company having the charge or management of any property located in the City is required to comply with Section 327.22.
- G. Turf Grass: Grasses commonly used in regularly cut lawns or play areas, such as, but not limited to, bluegrass, fescue, and ryegrass blends, whether dormant or alive.
- H. Unimproved property: Means vacant or unimproved property, lot or parcel of land with no building of any description.
- I. Weeds: Plants, grasses, except for turf grasses or ornamental grasses, or vines that are generally not valued by a reasonable person, or that is not managed or maintained by a Responsible Person or where a plant experiences vigorous growth, especially one that tends to overgrow or choke-out cultivated plants, provided, however, that this term shall not include cultivated flowers and gardens.

If there is a reasonable disagreement between the City and the Responsible Person about whether a particular plant is a weed, the burden shall be on the Responsible Person, at his or her cost, to provide evidence through a trained professional in botany or a similar field, to the satisfaction of the Director of Public Service, that the particular plant is not a weed.

- (2) Nuisance Condition. The existence, upon any improved or unimproved property, of turf grass, weeds, noxious weeds, poisonous weeds or poisonous vines, or other combustible material likely to catch fire and spread such to other property, or of weeds, noxious weeds or poisonous weeds or vines, which 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 the storm drain or to create an environmental hazard, safety hazard or health concern, or to spread or reach beyond the property line, or as otherwise set forth in this Section, is hereby declared to be a nuisance.

- (3) Length Restrictions.
 - A. Except as provided in subsection (b)(3)B. below, on both improved and unimproved properties, the Responsible Person(s) shall maintain turf grasses or weeds at a length not to exceed six (6) inches. Turf grasses or weeds that are found to be over six (6) inches in length shall be *prima facia* evidence that they are reasonably likely to catch fire and spread such fire to other property and shall constitute a nuisance.
 - B. On any unimproved property less than one-acre in size, in the CC, GI or BR-CD Zoning Districts, as defined in Section 200.01 of the City of Berea Zoning Code, turf grass or weeds in excess of six (6) inches within the first thirty (30) feet of land that is adjacent to any public right of way, shall be *prima facia* evidence that they are reasonably likely to catch fire and spread such fire to other property and shall constitute a nuisance.

(4) **Noxious Weeds, Poisonous Weeds or Poisonous Vines.** The Responsible Party of any improved or unimproved property shall remove and destroy any and all noxious or poisonous weeds or poisonous vines found on the property. The existence of any and all noxious or poisonous weeds or poisonous vines shall constitute a nuisance.

(5) **General Maintenance Requirements.**

- A. Bushes and shrubs shall be trimmed and maintained in a reasonable fashion and kept from becoming overgrown and unsightly. Examples include, but are not limited to, bushes or shrubs that choke-out other plants or are unsightly to a reasonable person or bushes or shrubs that have experienced wild or uncontrolled growth or other deleterious, unhealthy or unsightly growth. A failure to maintain bushes and shrubs shall constitute a nuisance.
- B. Turf grass, ornamental grasses or weeds, or groundcover shall not encroach upon a sidewalk or driveway, and a violation herein shall constitute a nuisance.
- C. The location of any tree, shrub, bush, ornamental grass, weed or any cultivated plant shall be located in and maintained in a manner so as not to create a safety hazard for vehicle, bike or pedestrian travel. An officer of the Berea Police Department shall have the duty of determining whether or not a safety hazard exists. Any condition creating a safety hazard shall constitute a nuisance.
- D. No Responsible Person shall plant or cause to be planted any plant material in the public right of way. Any property with plantings or stones in a tree lawn that was in existence on June 23, 2021 shall be permitted to maintain the planting in accordance with the requirements of this Section. However, if the City or any utility requires access to the tree lawn to perform the maintenance, repair or replacement of any infrastructure, the plantings or stones shall be removed at the Owner's expense and shall not be permitted to be replanted or otherwise replaced with any material other than turf grass.

(c) **Enforcement; Abatement.**

- (1) No person, who is the owner, occupant or who has charge, care or control of any improved or unimproved property, lot or parcel within the City shall permit a violation of this Section or permit a nuisance as herein defined, to exist or continue. Any violation of this subsection shall be subject to the penalties set forth in Section 327.99.
- (2) Whenever in the opinion of the Director of Public Service, or the designee, any of the nuisance conditions, as defined herein, exist, the Director or designee shall cause the nuisance condition to be abated, which may include, but is not limited to, trimming or removal or destruction or cutting. The cost of such abatement shall be charged and collected in the manner provided in Chapter 931 of the Codified Ordinances.

(Ord. 2021-39. Passed 6-21-21.)

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.)

327.26 DIAGNOSIS BY STATE OR FEDERAL AUTHORITY.

If upon the inspection of any tree within the City reported or supposed to be infected as aforesaid, it is impossible to determine with certainty the existence of either of the diseases in the tree, it is hereby determined that in such event specimens from the tree shall be forwarded for complete examination, diagnosis and report to either the Ohio State Experimental Station at Wooster, Ohio, or to the United States Department of Agriculture Station at Beltsville, Maryland. The action of the Director of Public Service under this chapter shall wait and be determined by the report received from the examination and diagnosis.

(Ord. 1977-68. Passed 6-7-77.)

327.99 PENALTY.

Whoever violates any provision of this chapter or fails to comply therewith shall, for each violation or noncompliance be deemed guilty of a minor misdemeanor for a first offense, and for a second or subsequent offense within one year be deemed guilty of a misdemeanor of the fourth degree. Each day of any violation or failure to comply shall constitute a separate offense.

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	Impounding vehicles on public property.
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

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)

the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Ohio R.C. 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (c) of this section, may recover the vehicle in accordance with subsection (g) of this section.

- (2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.
- (3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.

(c) If the owner or operator of a vehicle that is being removed under authority of subsection (b) of this section, arrives after the vehicle has been prepared for removal, but prior to the actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner of the private property or in violation of any posted parking condition or regulation.

- (d)
 - (1) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section. The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.
 - (2) A towing service shall deliver a vehicle towed under subsection (b) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.

(e) (1) If an owner of a private property that is established as a private tow-away zone in accordance with subsection (a) of this section causes the removal of a vehicle from that property by a towing service under subsection (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the Police Department concerning all of the following:

- A. The vehicle's license number, make, model and color;
- B. The location from which the vehicle was removed;
- C. The date and time the vehicle was removed;
- D. The telephone number of the person from whom the vehicle may be recovered;
- E. The address of the place from which the vehicle may be recovered.

(2) The Chief of Police shall maintain a record of any vehicle removed from private property in the Chief's jurisdiction that is established as a private tow-away zone of which the Chief has received notice under this section. The record shall include all information submitted by the towing service. The Chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.

(f) (1) When a vehicle is removed from private property in accordance with this section, within three business days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of either of the following to ascertain the identity of the owner and any lienholder of the vehicle:

- A. The records of the Bureau of Motor Vehicles;
- B. The records of any vendor or vendors, approved by the Registrar of Motor Vehicles, that are capable of providing real-time access to owner and lienholder information.

(2) The towing service or storage facility may search the National Motor Vehicle Title Information System in order to determine the state in which the vehicle is titled. The entity that provides the record of the owner and any lienholder under this division shall ensure that such information is provided in a timely manner.

(3) Subject to subsection (f)(6) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:

- A. Within five business days after the applicable entity provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt.
- B. If the vehicle remains unclaimed thirty days after the first notice is sent, in the manner required under subsection (f)(3)A. of this section.

(4) Sixty days after any notice sent pursuant to subsection (f)(3) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under Ohio R.C. 4505.101(B), may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.

- (5) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under Ohio R.C. 4505.101(B).
- (6) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under Ohio R.C. 4505.101, the towing service or storage facility need only comply with the initial notice required under subsection (f)(3)A. of this section.

(g) (1) The owner or lienholder of a vehicle that is removed under subsection (b) of this section may reclaim it upon both of the following:

- A. Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement;
- B. Payment of the following fees:
 1. All applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice sent under subsection (f)(1)A. of this section;
 2. If notice has been sent to the owner and lienholder as described in subsection (f) of this section, a processing fee of twenty-five dollars (\$25.00).

(2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (b) of this section shall show the vehicle owner, operator or lienholder who contests the removal of the vehicle all photographs taken under subsection (d) of this section. Upon request, the towing service or storage facility shall provide a copy of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.

(3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.

(4) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement, the owner of a vehicle that is removed under authority of subsection (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (g)(4) of this section, "personal items" do not include any items that are attached to the vehicle.

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

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

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

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

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

703.083 IMPOUNDING VEHICLES ON PUBLIC PROPERTY.

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

- (1) Has come into the possession of the Sheriff, Chief of Police, or state highway patrol trooper as a result of the performance of the Sheriff's, Chief's or trooper's duties; or
- (2) Has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the Sheriff or Chief of Police of the reasons for leaving the motor vehicle in such place. However, when such a motor vehicle constitutes an obstruction to traffic it may be ordered into storage immediately unless either of the following applies:
 - A. The vehicle was involved in an accident and is subject to Ohio R.C. 4513.66, or any substantially equivalent municipal ordinance;
 - B. The vehicle is a commercial motor vehicle. If the vehicle is a commercial motor vehicle, the Sheriff, Chief of Police, or state highway patrol trooper shall allow the owner or operator of the vehicle the opportunity to arrange for the removal of the motor vehicle within a period of time specified by the Sheriff, Chief of Police, or state highway patrol trooper. If the Sheriff, Chief of Police, or state highway patrol trooper determines that the vehicle cannot be removed within the specified period of time, the Sheriff, Chief of Police, or state highway patrol trooper shall order the removal of the vehicle.
- (3) Subject to subsection (c) of this section, the Sheriff or Chief of Police shall designate the place of storage of any motor vehicle so ordered removed.

(b) If the Sheriff, Chief of Police, or a state highway patrol trooper issues an order under subsection (a) of this section and arranges for the removal of a motor vehicle by a towing service, the towing service shall deliver the motor vehicle to the location designated by the Sheriff or Chief of Police not more than two hours after the time it is removed.

(c) (1) The Sheriff or Chief of Police shall cause a search to be made of the records of an applicable entity listed in Ohio R.C. 4513.601(F)(1) to ascertain the identity of the owner and any lienholder of a motor vehicle ordered into storage by the Sheriff or Chief of Police, or by a state highway patrol trooper within five business days of the removal of the vehicle. Upon obtaining such identity, the Sheriff or Chief of Police shall send or cause to be sent to the owner or lienholder at the owner's or lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt. The notice shall inform the owner or lienholder that the motor vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of the sending of the notice.

(2) A. The owner or lienholder of the motor vehicle may reclaim the motor vehicle upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title or memorandum certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement. Upon presentation of proof of ownership evidenced as provided above, the owner of the motor vehicle also may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under Ohio R.C. 4513.69(B)(3), if applicable. However, the owner shall not do either of the following:

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

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

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

(d) If the owner or lienholder makes no claim to the motor vehicle within ten days of the date of sending the notice, and if the vehicle is to be disposed of at a public auction as provided in Ohio R.C. 4513.62 or any substantially equivalent municipal ordinance, the Sheriff or Chief of Police, without charge to any party, shall file with the Clerk of Courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the Clerk, without charge, shall issue a salvage certificate of title, free and clear of all liens and encumbrances, to the Sheriff or Chief of Police.

If the vehicle is to be disposed of to a motor vehicle salvage dealer or other facility as provided in Ohio R.C. 4513.62 or any substantially equivalent municipal ordinance, the Sheriff or Chief of Police shall execute in triplicate an affidavit, as prescribed by the Registrar of Motor Vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with. The Sheriff or Chief of Police shall retain the original of the affidavit for the Sheriff's or Chief's records, and shall furnish two copies to the motor vehicle salvage dealer or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage dealer, the Clerk of Courts, within thirty days of the presentation, shall issue a salvage certificate of title, free and clear of all liens and encumbrances.

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

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

703.09 PROVIDING FALSE INFORMATION TO POLICE OFFICER.

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

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

703.99 GENERAL TRAFFIC CODE PENALTIES.

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

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

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

(ORC 2929.24; 2929.28)

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)

(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 motor vehicle license registration 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.

- A. Except as specifically authorized under this section, the term must be served in a jail.
- B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.

(3) "Municipal OVI ordinance" and "municipal OVI offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum, or plasma, breath or urine.

(4) "Community residential sanction", "continuous alcohol monitoring", "jail", "mandatory prison term", "mandatory term of local incarceration", "sanction" and "prison term" have the same meanings as in Ohio R.C. 2929.01.

(5) "Drug of abuse" has the same meaning as in Ohio R.C. 4506.01.

(6) "Equivalent offense that is vehicle-related" means an equivalent offense that is any of the following:

- A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
- B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;
- C. A violation of a former law of this state that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19.

(ORC 4511.181)

733.02 RECKLESS OPERATION.

(a) No person shall operate a vehicle on any street or highway in willful or wanton disregard of the safety of persons or property. (ORC 4511.20)

(b) No person shall operate a vehicle on any public or private property other than streets or highways, in willful or wanton disregard of the safety of persons or property.

This subsection does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.
(ORC 4511.201)

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

(d) Whenever a person is found guilty under this section of operating a motor vehicle in violation of this section relating to reckless operation, the trial court of any court of record, in addition to or independent of all other penalties provided by law, may impose a class five suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02.
(ORC 4510.15)

733.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.

(a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.

(b) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to Ohio R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

- (1) A. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when twenty miles per hour school speed limit signs are erected; except, that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(7) hereof. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.
- B. As used in this section, "school" means all of the following:
 1. Any school chartered under Ohio R.C. 3301.16;
 2. Any nonchartered school that during the preceding year filed with the Department of Education in compliance with O.A.C. § 3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets state minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone;
 3. Any special elementary school that in writing requests the County Engineer to create a school zone at the location of the school. Upon receipt of such written request, the County Engineer shall create a school zone at that location by erecting appropriate signs;
 4. Any preschool education program operated by an educational service center that is located on a street or highway with a speed limit of forty-five miles per hour or more, when the educational service center in writing requests that the County Engineer create a school zone at the location of that program. Upon receipt of such a written request, the County Engineer shall create a school zone at that location by erecting the appropriate signs.
- C. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway. Upon request from the Municipality for streets and highways under its jurisdiction, the Ohio Director of Transportation may extend the traditional school zone boundaries. The distances in subsections (b)(1)C.1. to 3. hereof shall not exceed 300 feet per approach per direction and are bounded by whichever of the following distances or combinations thereof the Director approves as most appropriate:

1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of highway;
Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (b)(1)A. and C. hereof.

D. As used in this subsection, "crosswalk" has the meaning given that term in Section 701.09. The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a State route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the State route;

- (2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;
- (3) Thirty-five miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and (5) hereof;
- (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality, except as provided in subsections (b)(8) to (b)(12) of this section;
- (5) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower *prima-facie* speed is established as further provided in this section;
- (6) Fifteen miles per hour on all alleys within the Municipality;
- (7) Fifty-five miles per hour on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (12);
- (8) Sixty miles per hour on rural expressways with traffic control signals and on all portions of rural divided highways, except as provided in subsections (b)(9) and (10) of this section;
- (9) Sixty-five miles per hour on all rural expressways without traffic control signals;
- (10) Seventy miles per hour on all rural freeways;
- (11) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the Director and that are located within a municipal corporation or within an interstate freeway outerbelt, except as provided in subsection (b)(12) of this section;

(12) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urbanized areas.

(c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (b)(1)A. to (b)(6) hereof, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) hereof. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.

(d) No person shall operate a motor vehicle upon a street or highway as follows:

- (1) At a speed exceeding fifty-five miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof;
- (2) At a speed exceeding sixty miles per hour upon a highway as provided in subsection (b)(8) hereof;
- (3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in subsection (b)(9) hereof, or upon a freeway as provided in subsection (b)(12) of this section, except upon a freeway as provided in subsection (b)(10) hereof;
- (4) At a speed exceeding seventy miles per hour upon a freeway as provided in subsection (b)(10) hereof;
- (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).

(e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.

(f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.

The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If the offender previously has been convicted of or pleaded guilty to any violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

(2) If the offender's driver's or commercial driver's license or permit or, in a case involving the operation of a motorcycle by the offender, the offender's driver's or commercial driver's license bearing the motorcycle endorsement or the offender's restricted license was expired at the time of the offense, except as otherwise provided in this subsection, the offense is a minor misdemeanor. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

(d) The court shall not impose a license suspension for a first violation of this section or if more than three years have passed since the offender's last violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance.

(e) If the offender is sentenced under subsection (c)(2) hereof, if within three years of the offense the offender previously was convicted of or pleaded guilty to one or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, and if the offender's license was expired for more than six months at the time of the offense, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.12)

735.02 PERMITTING OPERATION WITHOUT VALID LICENSE; ONE LICENSE PERMITTED.

(a) No person shall permit the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking knowing the operator does not have a valid driver's license issued to the operator by the Registrar of Motor Vehicles or a Deputy Registrar under Ohio R.C. Chapter 4507 or a valid commercial driver's license issued under Ohio R.C. Chapter 4506.

(b) (1) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, temporary instruction permit, or identification card unless and until the person surrenders to the Registrar or a deputy registrar all valid licenses, temporary instruction permits, and identification cards issued to the person by another jurisdiction recognized by this state.

(2) The Registrar shall report the cancellation of a license, temporary instruction permit, or identification card to the issuing authority, together with information that the license, temporary instruction permit, or identification card is now issued in this state. The Registrar or a deputy registrar shall destroy any such license, temporary instruction permit, or identification card that is not returned to the issuing authority.

(3) No person shall possess more than one valid license, temporary instruction permit, or identification card at any time.
(ORC 4507.02(A))

(c) (1) Except as otherwise provided in this subsection, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000) and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.02 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

(2) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 4507.02; 4507.99)

735.021 OHIO DRIVER'S LICENSE REQUIRED FOR IN STATE RESIDENTS.

(a) Any person who becomes a resident of this State, within thirty days of becoming a resident, shall surrender any driver's license, temporary instruction permit, or identification card issued by another state to the Registrar of Motor Vehicles or a Deputy Registrar. If such a person intends to operate a motor vehicle upon the public roads or highways, the person shall apply for a temporary instruction permit or driver's license in this State. If the person fails to apply for a driver's license or temporary instruction permit within thirty days of becoming a resident, the person shall not operate any motor vehicle in this municipality under a license or permit issued by another state.

(b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. 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.

(c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:

(1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.

(2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01. (ORC 4507.213)

735.03 DRIVING WITH TEMPORARY INSTRUCTION PERMIT; CURFEW.

(a) No holder of a temporary instruction permit issued under Ohio R.C. 4507.05(A) shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in violation of the following conditions:

(1) If the permit is issued to a person who is at least fifteen years six months of age, but less than sixteen years of age:

- A. The permit and identification card are in the holder's immediate possession;
- B. The holder is accompanied by an eligible adult who actually occupies the seat beside the permit holder and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);
- C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(2) If the permit is issued to a person who is at least sixteen years of age:

- A. The permit and identification card are in the holder's immediate possession;
- B. The holder is accompanied by a licensed operator who is at least twenty-one years of age and is actually occupying a seat beside the driver and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);
- C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(b) Except as provided in subsection (b) hereof, no holder of a temporary instruction permit that is issued under Ohio R.C. 4507.05(A) and that is issued on or after July 1, 1998, and who has not attained the age of eighteen years, shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m.

The holder of a permit issued under Ohio R.C. 4507.05(A) on or after July 1, 1998, who has not attained the age of eighteen years, may operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. if, at the time of such operation, the holder is accompanied by the holder's parent, guardian, or custodian, and the parent, guardian or custodian holds a current valid driver's or commercial driver's license issued by this State and is actually occupying a seat beside the permit holder, and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Section 333.01(a).

(c) As used in this section:

- (1) "Eligible adult" means any of the following:
 - A. An instructor of a driver education course approved by the Department of Education or a driver training course approved by the Department of Public Safety;
 - B. Any of the following persons who holds a current valid driver's or commercial driver's license issued by this State:
 1. A parent, guardian or custodian of the permit holder;
 2. A person twenty-one years of age or older who acts in loco parentis of the permit holder.
- (2) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4507.05)

735.031 DRIVING WITH PROBATIONARY LICENSE; CURFEW.

(a) (1) A. No holder of a probationary driver's license who has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. unless the holder is accompanied by the holder's parent or guardian.

B. No holder of a probationary driver's license who has held the license for twelve months or longer shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of one a.m. and five a.m. unless the holder is accompanied by the holder's parent or guardian.

(2) A. Subject to subsection (c)(1) of this section, subsection (a)(1)A. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

1. Traveling to or from work between the hours of midnight and six a.m. provided that the holder has in the holder's immediate possession written documentation from the holder's employer.
2. Traveling to or from an official function sponsored by the school the holder attends between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;
3. Traveling to or from an official religious event between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

B. Subsection (a)(1)B. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

1. Traveling to or from work between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from the holder's employer.
2. Traveling to or from an official function sponsored by the school the holder attends between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;
3. Traveling to or from an official religious event between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

(3) An employer, school official or official affiliated with a religious event is not liable in damages in a civil action for any injury, death or loss to person or property that allegedly arises from, or is related to, the fact that the employer, school official, or official affiliated with a religious event provided the holder of a probationary driver's license with the written documentation described in subsection (a)(2) of this section.

The Registrar of Motor Vehicles shall make available at no cost a form to serve as the written documentation described in subsection (a)(2) of this section, and employers, school officials, officials affiliated with religious events, and holders of probationary driver's licenses may utilize that form or may choose to utilize any other written documentation to meet the requirements of that subsection.

(4) No holder of a probationary driver's license who has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking with more than one person who is not a family member occupying the vehicle unless the probationary license holder is accompanied by the probationary license holder's parent, guardian or custodian.

(b) It is an affirmative defense to a violation of subsection (a)(1)A. or B. of this section if, at the time of the violation, an emergency existed that required the holder of the probationary driver's license to operate a motor vehicle in violation of subsection (a)(1)A. or B. of this section; or the holder was an emancipated minor.

(c) (1) If a person is issued a probationary driver's license prior to attaining the age of seventeen years and the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed a moving violation during the six-month period commencing on the date on which the person is issued the probationary driver's license, the court with jurisdiction over the violation may order that the holder must be accompanied by the holder's parent or guardian whenever the holder is operating a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking for a period not to exceed six months or the date the holder attains the age of seventeen years, whichever occurs first.

(2) Any person who is subject to the operating restrictions established under subsection (c)(1) of this section as a result of a first moving violation may petition the court for driving privileges without being accompanied by the holder's parent or guardian during the period of time determined by the court under that subsection. In granting the driving privileges, the court shall specify the purposes of the privileges and shall issue the person appropriate forms setting forth the privileges granted. If a person is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a second or subsequent moving violation, the court with jurisdiction over the violation may terminate any driving privileges previously granted under this division.

(3) No person shall violate any operating restriction imposed under subsection (c)(1) or (2) of this section.

(d) No holder of a probationary license shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking unless the total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(e) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether each occupant of the motor vehicle is wearing all of the available elements of a properly adjusted occupant restraining device as required by subsection (d) hereof, or for the sole purpose of issuing a ticket, citation, or summons if the requirement in that subsection has been or is being violated, or for causing the arrest of or commencing a prosecution of a person for a violation of that requirement.

(f) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (a)(1)A. or B. hereof has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for such a violation or for causing the arrest of or commencing a prosecution of a person for such violation.

(g) As used in this section:

- (1) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.
- (2) "Family member" of a probationary license holder includes any of the following:
 - A. A spouse;
 - B. A child or stepchild;
 - C. A parent, stepparent, grandparent, or parent-in-law;
 - D. An aunt or uncle;
 - E. A sibling, whether or the whole or half blood or by adoption, a brother-in-law or a sister-in-law;
 - F. A son or daughter of the probationary license holder's stepparent if the stepparent has not adopted the probationary license holder;
 - G. An eligible adult, as defined in Ohio R.C. 4507.05.
- (3) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles, streetcars, or trackless trolleys on the highways or streets. "Moving violation" does not include a violation of Ohio R.C. 4513.263 or a substantially equivalent municipal ordinance, or a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.

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

(ORC 4507.071)

735.04 CERTAIN ACTS PROHIBITED.

- (a) No person shall do any of the following:
 - (1) Display, or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended or altered;
 - (2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;

- (3) Display or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit not issued to the person so displaying the same;
- (4) Fail to surrender to the Registrar of Motor Vehicles, upon the Registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit that has been suspended or canceled;
- (5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit, or any renewal, reprint, or duplicate thereof, knowingly conceal a material fact, or present any physician's statement required under Ohio R.C. 4507.08 or 4507.081 when knowing the same to be false or fictitious.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 4507.30)

735.05 WRONGFUL ENTRUSTMENT OF A MOTOR VEHICLE.

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

- (1) The offender knows or has reasonable cause to believe that the other person does not have a valid driver's or commercial driver's license or permit or valid nonresident driving privileges.
- (2) The offender knows or has reasonable cause to believe that the other person's driver's or commercial driver's license or permit or nonresident operating privileges have been suspended or canceled under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or this Traffic Code.
- (3) The offender knows or has reasonable cause to believe that the other person's act of driving the motor vehicle would violate any prohibition contained in Ohio R.C. Chapter 4509.
- (4) The offender knows or has reasonable cause to believe that the other person's act of driving would violate Ohio R.C. 4511.19 or any substantially equivalent municipal ordinance.
- (5) The offender knows or has reasonable cause to believe that the vehicle is the subject of an immobilization waiver order issued under Ohio R.C. 4503.235 and the other person is prohibited from operating the vehicle under that order.

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

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

- (2) Regarding an operator allegedly in the category described in subsection (a)(2) of this section, the offender and the operator of the motor vehicle reside in the same household, and the offender knows or has reasonable cause to believe that the operator has been charged with or convicted of any violation of law or ordinance, or has committed any other act or omission, that would or could result in the suspension or cancellation of the operator's license, permit or privilege.
- (3) Regarding an operator allegedly in the category described in subsection (a)(4) of this section, the offender and the operator of the motor vehicle occupied the motor vehicle together at the time of the offense.

(c) Whoever violates this section is guilty of wrongful entrustment of a motor vehicle and shall be punished as provided in subsections (c) to (h) of this section.

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a)(1), (2) or (3) of this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02.
- (2)
 - A. If, within three years of a violation of subsection (a)(1), (2) or (3) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of division (A)(1), (2) or (3) of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
 - B. Whoever violates subsection (a)(4) or (5) of this section is guilty of a misdemeanor of the first degree.
- (3) For any violation of this section, in addition to the penalties imposed under Section 703.99, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02, and, if the vehicle involved in the offense is registered in the name of the offender, the court may order one of the following:
 - A. Except as otherwise provided in subsection (c)(3)B. or C. of this section, the court may order, for thirty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.
 - B. If the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order, for sixty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.

C. If the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order the criminal forfeiture to the state of the vehicle involved in the offense. If issued, the order shall be issued and enforced under Ohio R.C. 4503.234.

If title to a motor vehicle that is subject to an order for criminal forfeiture under this subsection is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national automobile dealer's association. The proceeds from any fine imposed under this subsection shall be distributed in accordance with division (C)(2) of Ohio R.C. 4503.234.

(d) If a court orders the immobilization of a vehicle under subsection (c) of this section, the court shall not release the vehicle from the immobilization before the termination of the period of immobilization ordered unless the court is presented with current proof of financial responsibility with respect to that vehicle.

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

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

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

(h) For purposes of this section, a vehicle is owned by a person if, at the time of a violation of this section, the vehicle is registered in the person's name.
(ORC 4511.203)

735.06 DISPLAY OF LICENSE.

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

(b) (1) Except as provided in subsection (b)(2) hereof, whoever violates this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.

(2) If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.35 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree. (ORC 4507.35)

735.07 DRIVING UNDER SUSPENSION OR LICENSE RESTRICTION.

(a) Except as provided under subsection (b) hereof and Sections 735.072 and 735.074, no person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under any provision of the Ohio Revised Code, other than Ohio R.C. Chapter 4509, or under any applicable law in any other jurisdiction in which the person's license or permit was issued shall operate any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this Municipality during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality in violation of any restriction of the person's driver's or commercial driver's license or permit imposed under division (D) of Ohio R.C. 4506.10 or under Ohio R.C. 4507.14.

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

(d) (1) Whoever violates subsection (a) or (b) hereof, is guilty of a misdemeanor of the first degree. The court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

(2) A. Except as provided in subsection (d)(2)B. or C. of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the court, in addition to or independent of any other sentence that it imposes upon the offender, may order the immobilization of the vehicle involved in the offense for thirty days and the impoundment of that vehicle's license plates for thirty days in accordance with Ohio R.C. 4503.233.

B. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two violations of Ohio R.C. 4510.11 or any combination of two violations of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the immobilization of the vehicle involved in the offense for sixty days and the impoundment of that vehicle's license plates for sixty days in accordance with Ohio R.C. 4503.233.

C. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 4510.11, or any combination of three or more violations of Ohio R.C. 4501.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the criminal forfeiture of the vehicle involved in the offense to the State.

(e) Any order for immobilization and impoundment under this section shall be issued and enforced under Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(f) Any order of criminal forfeiture under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of the copy of the order from the court, neither the Ohio Registrar of Motor Vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that lead to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar shall then take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(g) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section. (ORC 4510.11)

(h) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under this section and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving under a twelve-point suspension, a misdemeanor of the first degree. The court shall sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this subsection. (ORC 4510.037)

735.071 DRIVING UNDER OVI SUSPENSION.

(a) No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under Ohio R.C. 4511.19, 4511.191, or 4511.196 or under Ohio R.C. 4510.07 for a conviction of a violation of a municipal OVI ordinance shall operate any motor vehicle upon the public roads or highways within this Municipality during the period of the suspension.

(b) Whoever violates this section is guilty of driving under OVI suspension. The court shall sentence the offender under Ohio R.C. Chapter 2929, subject to the differences authorized or required by this section.

(1) Except as otherwise provided in subsection (b)(2) or (3) of this section, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of three consecutive days. The three-day term shall be imposed, unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than thirty consecutive days of house arrest with electronic monitoring. A period of house arrest with electronic monitoring imposed under this subsection shall not exceed six months. If the court imposes a mandatory three-day jail term under this subsection, the court may impose a jail term in addition to that term, provided that in no case shall the cumulative jail term imposed for the offense exceed six months.

B. A fine of not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000).

C. A license suspension under subsection (e) of this section.

(2) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of this section or one equivalent offense, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of ten consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The ten-day mandatory jail term shall be imposed unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than ninety consecutive days of house arrest with electronic monitoring. The period of house arrest with electronic monitoring shall not exceed one year.

B. Notwithstanding the fines provided for in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).

C. A license suspension under subsection (e) of this section.

(3) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of this section or two or more equivalent offenses, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

- A. A mandatory jail term of thirty consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The court shall not sentence the offender to a term of house arrest with electronic monitoring in lieu of the mandatory portion of the jail term.
- B. Notwithstanding the fines set forth in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).
- C. A license suspension under subsection (e) of this section.

(c) No court shall impose an alternative sentence of house arrest with electronic monitoring under subsection (b)(1) or (2) of this section unless, within sixty days of the date of sentencing, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the jail term imposed, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing.

An offender sentenced under this section to a period of house arrest with electronic monitoring shall be permitted work release during that period.

(d) Fifty per cent of any fine imposed by a court under subsection (b)(1), (2) or (3) of this section shall be deposited into the county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (H) of Ohio R.C. 4511.191.

(e) In addition to or independent of all other penalties provided by law or ordinance, the trial judge of any court of record or the mayor of a mayor's court shall impose on an offender who is convicted of or pleads guilty to a violation of this section a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

When permitted as specified in Ohio R.C. 4510.021, if the court grants limited driving privileges during a suspension imposed under this section, the privileges shall be granted on the additional condition that the offender must display restricted license plates, issued under Ohio R.C. 4503.231, on the vehicle driven subject to the privileges, except as provided in division (B) of that section.

A suspension of a commercial driver's license under this section shall be concurrent with any period of suspension or disqualification under Ohio R.C. 3123.58 or 4506.16. No person who is disqualified for life from holding a commercial driver's license under Ohio R.C. 4506.16 shall be issued a driver's license under Ohio R.C. Chapter 4507 during the period for which the commercial driver's license was suspended under this section, and no person whose commercial driver's license is suspended under this section shall be issued a driver's license under Ohio R.C. Chapter 4507 during the period of the suspension.

(f) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense that is a misdemeanor of the first degree under this section for which the offender is sentenced. (ORC 4510.14)

(g) (1) If a person is convicted of or pleads guilty to a violation of a municipal ordinance that is substantially equivalent to Ohio R.C. 4510.14, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, shall do whichever of the following is applicable:

- A. If, within six years of the current offense, the offender has not been convicted of or pleaded guilty to a violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for thirty days of the vehicle involved in the offense and the impoundment for thirty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.
- B. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for sixty days of the vehicle involved in the offense and the impoundment for sixty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.
- C. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02 or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense.

(2) An order for immobilization and impoundment of a vehicle under this section shall be issued and enforced in accordance with Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(3) An order for criminal forfeiture of a vehicle under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of a copy of the order from the court, neither the Registrar of Motor Vehicles nor a Deputy Registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then shall take the necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(ORC 4510.161)

(h) As used in this section:

- (1) "Electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.
- (2) "Equivalent offense" means any of the following:
 - A. A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to subsection (a) of this section;

B. A violation of a former law of this State that was substantially equivalent to subsection (a) of this section.

(3) "Jail" has the same meaning as in Ohio R.C. 2929.01.

(4) "Mandatory jail term" means the mandatory term in jail of three, ten, or thirty consecutive days that must be imposed under subsection (b)(1), (2) or (3) of this section upon an offender convicted of a violation of subsection (a) of this section and in relation to which all of the following apply:

A. Except as specifically authorized under this section, the term must be served in a jail.

B. Except as specifically authorized under this section, the term cannot be suspended, reduced, or otherwise modified pursuant to any provision of the Ohio Revised Code.
(ORC 4510.14)

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

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

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

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

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

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

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

735.073 DRIVING WITHOUT COMPLYING WITH LICENSE REINSTATEMENT REQUIREMENTS.

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

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

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

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

735.074 DRIVING UNDER LICENSE FORFEITURE OR CHILD SUPPORT SUSPENSION.

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

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

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

- (1) Except as otherwise provided in subsection (c)(2) of this section, the offense is an unclassified misdemeanor. The offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours.

The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.

(2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of subsection (A) of Ohio R.C. 4510.111, or any combination of two or more violations of subsection (A) of Ohio R.C. 4510.111, or Ohio R.C. 4510.11 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree and the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.111)

735.08 OPERATION OR SALE WITHOUT CERTIFICATE OF TITLE.

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

- (1) Operate in this Municipality a motor vehicle for which a certificate of title is required without having that certificate in accordance with Ohio R.C. Chapter 4505 or, if a physical certificate of title has not been issued for a motor vehicle, operate the motor vehicle in this Municipality knowing that the ownership information relating to the vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;
- (2) Display or display for sale or sell as a dealer or acting on behalf of a dealer, a motor vehicle without having obtained a manufacturer's or importer's certificate, a certificate of title, or an assignment of a certificate of title for it as provided in Ohio R.C. Chapter 4505;
- (3) Fail to surrender any certificate of title or any certificate of registration or license plates upon cancellation of the same by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4505;
- (4) Fail to surrender the certificate of title to a clerk of a court of common pleas as provided in Ohio R.C. Chapter 4505 in case of the destruction or dismantling or change of a motor vehicle in such respect that it is not the motor vehicle described in the certificate of title;
- (5) Violate any rules adopted pursuant to Ohio R.C. Chapter 4505;
- (6) Except as otherwise provided in Ohio R.C. Chapter 4505 and Chapter 4517, sell at wholesale a motor vehicle the ownership of which is not evidenced by an Ohio certificate of title, or the current certificate of title issued for the motor vehicle, or the manufacturer's certificate of origin, and all title assignments that evidence the seller's ownership of the motor vehicle, and an odometer disclosure statement that complies with Ohio R.C. 4505.06 and subchapter IV of the "Motor Vehicle Information and Cost Savings Act", 86 Stat. 961 (1972), 15 U.S.C. 1981;
- (7) Operate in this Municipality a motor vehicle knowing that the certificate of title to the vehicle or ownership of the vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) This section does not apply to persons engaged in the business of warehousing or transporting motor vehicles for the purpose of salvage disposition.

(c) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both.
(ORC 4505.18)

735.09 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS; REGISTRATION.

(a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker when required by and issued under Ohio R.C. 4503.19 and 4503.191. However a commercial tractor shall display the license plate on the front of the commercial tractor.

(2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.

(3) No person to whom a temporary motor vehicle license registration has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary motor vehicle license registration in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle.

(4) No person shall cover a temporary motor vehicle license registration by any material that obstructs its visibility.
(ORC 4503.21(A))

(b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(2) The offenses established under subsection (a) of this section are strict liability offenses and Ohio R.C. 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
(ORC 4503.21(B), (C))

735.091 OPERATING WITHOUT DEALER OR MANUFACTURER LICENSE PLATES.

(a) No person shall operate or cause to be operated upon a public road or highway a motor vehicle of a manufacturer or dealer unless the vehicle carries and displays a placard, except as provided in Ohio R.C. 4503.21, issued by the Director of Public Safety that displays the registration number of its manufacturer or dealer.

(b) Whoever violates subsection (a) of this section is guilty of illegal operation of a manufacturer's or dealer's motor vehicle, a minor misdemeanor.
(ORC 4549.10)

735.10 EXPIRED OR UNLAWFUL LICENSE PLATES.

(a) No person who is the owner of a motor vehicle which is parked or operated upon the public streets or highways shall fail to annually file the application for registration or to pay the tax therefor, as required by Ohio R.C. Chapter 4503. (ORC 4503.11)

(b) No person shall operate, drive or park upon the public streets or highways a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration. (ORC 4549.11)

(c) No person who is the owner of a motor vehicle and a resident of Ohio shall operate, drive or park the motor vehicle upon the public streets or highways, while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of Ohio relating to the registration and identification of motor vehicles. (ORC 4549.12)

(d) No person shall park or operate any vehicle upon any public street or highway upon which is displayed an expired license plate or an expired validation sticker.

(e) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates not legally registered and issued for such vehicle, or upon which are displayed any license plates that were issued on an application for registration that contains any false statement by the applicant.

(f)

- (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.
- (2) Whoever violates subsection (b) hereof is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.
- (3) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor. (ORC 4549.11; 4549.12)

735.11 USE OF ILLEGAL LICENSE PLATES; TRANSFER OF REGISTRATION.

(a) No person shall operate or drive a motor vehicle upon the streets in this Municipality if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:

- (1) Is fictitious;
- (2) Is a counterfeit or an unlawfully made copy of any distinctive number or identification mark;
- (3) Belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the streets in this Municipality when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the streets in this Municipality, during the thirty-day period described in subsection (c) hereof.

(b) Whoever violates subsection (a)(1), (2) or (3) of this section is guilty of operating a motor vehicle bearing an invalid license plate or identification mark, a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense. (ORC 4549.08)

B. A red reflector facing the rear that is visible from all distances from one hundred feet to six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle.

(4) Operate the device on any portion of a street or highway that has an established speed limit of fifty-five miles per hour or more;

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

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

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

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

(d) No person shall distribute or sell an electric personal assistive mobility device unless the device is accompanied by a written statement that is substantially equivalent to the following: "WARNING: TO REDUCE THE RISK OF SERIOUS INJURY, USE ONLY WHILE WEARING FULL PROTECTIVE EQUIPMENT - HELMET, WRIST GUARDS, ELBOW PADS, AND KNEE PADS". (ORC 4511.512)

(e) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour. (ORC 4501.01)

(f) Whoever violates subsection (b) or (c) hereof is guilty of a minor misdemeanor and shall be punished as follows:

(1) The offender shall be fined ten dollars (\$10.00).

(2) If the offender previously has been convicted of or pleaded guilty to a violation of division (B) or (C) of Ohio R.C. 4511.512 or a substantially similar municipal ordinance, the court, in addition to imposing the fine required under subsection (f)(1) hereof, shall do one of the following:

A. Order the impoundment for not less than one day but not more than thirty days of the electric personal assistive mobility device that was involved in the current violation of that section. The court shall order the device to be impounded at a safe indoor location designated by the court and may assess storage fees of not more than five dollars (\$5.00) per day, provided the total storage, processing, and release fees assessed against the offender or the device in connection with the device's impoundment or subsequent release shall not exceed fifty dollars (\$50.00).

B. If the court does not issue an impoundment order pursuant to subsection (f)(2)A. hereof, issue an order prohibiting the offender from operating any electric personal assistive mobility device on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles for not less than one day but not more than thirty days.

(g) Whoever violates subsection (d) hereof is guilty of a minor misdemeanor.
(ORC 4511.512)

771.13 OPERATION OF PERSONAL DELIVERY DEVICE ON SIDEWALKS AND CROSSWALKS.

(a) As used in this section:

- (1) "Eligible entity" means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.
- (2) "Personal delivery device" means an electrically powered device to which all of the following apply:
 - A. The device is intended primarily to transport property and cargo on sidewalks and crosswalks.
 - B. The device weighs less than 250 pounds excluding any property or cargo being carried in the device.
 - C. The device has a maximum speed of ten miles per hour.
 - D. The device is equipped with technology that enables the operation of the device with active control or monitoring by a person, without active control or monitoring by a person, or both with or without active control or monitoring by a person.
- (3) "Personal delivery device operator" means an agent of an eligible entity who exercises direct physical control over, or monitoring of, the navigation and operation of a personal delivery device. The phrase does not include, with respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service. The phrase also does not include a person who only arranges for and dispatches a personal delivery device for a delivery or other service.

(b) An eligible entity may operate a personal delivery device on sidewalks and crosswalks so long as all of the following requirements are met:

- (1) The personal delivery device is operated in accordance with all regulations, if any, established by each local authority within which the personal delivery device is operated.
- (2) A personal delivery device operator is actively controlling or monitoring the navigation and operation of the personal delivery device.
- (3) The eligible entity maintains an insurance policy that includes general liability coverage of not less than one hundred thousand dollars (\$100,000) for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity.
- (4) The device is equipped with all of the following:
 - A. A marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device and a unique identification number;
 - B. A braking system that enables the personal delivery device to come to a controlled stop;

CHAPTER 913

Drug Abuse Control

913.01	Definitions.	913.10	Hypodermic possession, display and dispensing.
913.02	Gift of marihuana.	913.11	Harmful intoxicants; possessing nitrous oxide in motor vehicle.
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913.04	Possessing drug abuse instruments.	913.121	Marihuana drug paraphernalia.
913.05	Permitting drug abuse.	913.13	Counterfeit controlled substances.
913.06	Illegal cultivation of marihuana.	913.14	Offender may be required to pay for controlled substance tests.
913.07	Possessing or using harmful intoxicants.	913.15	Sale of dextromethorphan.
913.08	Illegally dispensing drug samples.	913.99	Penalty.
913.09	Controlled substance or prescription labels.		

CROSS REFERENCES

See sectional histories for similar State law
 Federal prosecution bar to local prosecution - see Ohio R.C.

2925.50, 3719.19

Analysis report and notarized statement as evidence - see
 Ohio R.C 2925.51

Criteria for granting probation - see Ohio R.C 3719.70(B)

Adulterating food with drug of abuse - see GEN. OFF. 937.13

Using weapons while under the influence - see GEN. OFF. 949.03.

913.01 DEFINITIONS.

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

- (a) "Administer." Has the same meaning as in Ohio R.C. 3719.01.
- (b) "Adulterate." To cause a drug to be adulterated as described in Ohio R.C. 3715.63.
- (c) "Bulk amount." Of a controlled substance, means any of the following:
 - (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in subsection (c)(2), (5), or (6) of this definition, whichever of the following is applicable: