

CITY OF KETTERING GENERAL OFFENSES CODE

CODIFIED ORDINANCES OF KETTERING

PART SIX – GENERAL OFFENSES CODE

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CODIFIED ORDINANCES OF KETTERING

PART SIX – GENERAL OFFENSES CODE

CHAPTER 606

General Provisions; Administration and Enforcement

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Disposition of unclaimed, abandoned and junk motor vehicles – see Ohio R.C. 737.32, 4513.61, et seq.

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SECTION 606.01 DEFINITIONS

As used in these Codified Ordinances, unless otherwise expressly provided, or unless the context clearly indicates that a different meaning is intended:

- (a) “Force” means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) “Deadly force” means any force which carries a substantial risk that it will proximately result in the death of any person;
- (c) “Physical harm to persons” means any injury, illness, or other physiological impairment, regardless of its gravity or duration;

- (d) "Physical harm to property" means any tangible damage to property which, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (e) "Serious physical harm to persons" means any of the following:
- (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment.
 - (2) Any physical harm which carries a substantial risk of death;
 - (3) Any physical harm which involves some permanent incapacity, whether partial or total, or which involves some temporary, substantial incapacity;
 - (4) Any physical harm which involves some permanent disfigurement, or which involves some temporary, serious disfigurement.
 - (5) Any physical harm which involves acute pain of such duration as to result in substantial suffering, or which involves any degree of prolonged or intractable pain;
- (f) "Serious physical harm to property" means any physical harm to property which does either of the following:
- (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use or enjoyment for an extended period of time;
- (g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist;
- (h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist;
- (i) "Offense of violence" means any of the following:
- (1) A violation of Ohio Revised Code 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.12, 2909.02, 2909.04, 2909.05, 2911.01, 2911.02,

- 2911.11, 2911.12, 2917.01, 2917.02, 2921.03, 2921.34, 2921.35, 2923.13, a felony offense under Ohio Revised Code 2909.03, 2917.31, or 2923.12, or a violation of Section 636.02, 636.04, 636.05, 642.07, 642.09, 648.01, 648.08 or 672.02 of this General Offenses Code.
- (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in Subsection (i)(1) hereof;
 - (3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 - (4) A conspiracy or attempt to commit, or complicity in committing, any offense under Subsection (i)(1), (2) or (3) hereof;
- (j) (1) “Property” means any property, real or personal, tangible or intangible, and any interest or license in such property. “Property” includes, but is not limited to, electronically processed, produced or stored data, data while in transit, computer programs in either machine or human readable form, and any original or copy of a document associated with computers.
- (2) As used in this subsection, “computer”, “computer program” and “data” have the same meaning as in Section 642.01.
- (k) “Law enforcement officer” means any of the following:
- (1) A sheriff, deputy sheriff, constable, marshal, deputy marshal, municipal police officer or state highway patrolman;
 - (2) An officer, agent or employee of the State, or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of such statutory duty and authority.
 - (3) The Mayor, in his capacity as chief conservator of the peace within the Municipality.
 - (4) A member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of such member’s appointment or commission;

- (5) A person lawfully called, pursuant to Ohio Revised Code 311.07, to aid a sheriff in keeping the peace for the purposes and during the time when such person is called;
 - (6) A person appointed by the Mayor, pursuant to Ohio Revised Code 737.10, as a special patrolman or officer during riot or emergency, for the purposes and during the time when such person is appointed;
 - (7) A member of the organized militia of the State or the Armed Forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or to protect against domestic violence;
 - (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or the Municipal Prosecutor;
- (l) "Privilege" means an immunity, license or right conferred by law or bestowed by express or implied grant or arising out of status, position, office or relationship or growing out of necessity; (ORC 2901.01)
- (m) "Public official" means any elected or appointed officer or employee or agent of the state or municipality, whether in a temporary or permanent capacity and including, without limitation, legislators, judges and law enforcement officers;
- (n) "Public servant" means any of the following:
- (1) Any public official;
 - (2) Any person performing ad hoc a governmental function including, without limitation, a juror, member of a temporary commission, master, arbitrator, advisor or consultant;
 - (3) A candidate for public office, whether or not he is elected or appointed to the office for which he is a candidate. A person is a candidate for the purposes of this subsection if he has been nominated according to law for election or appointment to public office or if he has filed a petition or petitions as required by law to have his name placed on a ballot in a primary, general or special election or, if he campaigns as a write-in candidate, in any primary, general or special election;
- (o) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which he directs, conducts or participates in directing or conducting party affairs at any level of responsibility;

- (p) "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath and includes any proceeding before a referee, hearing examiner, commissioner, notary or other person taking testimony or a deposition in connection with an official proceeding;
- (q) "Detention" means arrest or confinement in any facility for custody of persons charged with or convicted of crime or alleged or found to be delinquent or unruly or detention for extradition or deportation. Detention does not include supervision of probation or parole, nor constraint incidental to release on bail;
- (r) "Detention facility" means any place used for the confinement of a person charged with or convicted of crime or alleged or found to be delinquent or unruly. (ORC 2921.01) (Ord. No. 3049-83. Effective 3-16-83.)

SECTION 606.02 CULPABLE MENTAL STATES

- (a) A person acts purposely when it is his specific intention to cause a certain result, or when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is his specific intention to engage in conduct of that nature.
- (b) A person acts knowingly, regardless of his purpose, when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he is aware that such circumstances probably exist.
- (c) A person acts recklessly when, with heedless indifference to the consequences, he perversely disregards a known risk that his conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, he perversely disregards a known risk that such circumstances are likely to exist.
- (d) A person acts negligently when, because of a substantial lapse from due care, he fails to perceive or avoid a risk that his conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial laps from due care, he fails to perceive or avoid a risk that such circumstances may exist.
- (e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element. (ORC 2901.22)

SECTION 606.03 CLASSIFICATION OF OFFENSES

As used in this General Offenses Code:

- (a) Offenses include misdemeanors of the first, second, third and fourth degree, minor misdemeanors and offenses not specifically classified.
- (b) Regardless of the penalty which may be imposed, any offense specifically classified as a misdemeanor is a misdemeanor.
- (c) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.
- (d) Any offense not specifically classified is a minor misdemeanor if the only penalty which may be imposed is a fine not exceeding one hundred dollars (\$100.00). (ORC 2901.02)

SECTION 606.04 OFFENSES DEFINED

- (a) No conduct constitutes a criminal offense against the Municipality unless it is defined as an offense in this General Offenses Code or in any other ordinance or resolution, rule or regulation of the Municipality.
- (b) An offense is defined when one or more sections of this General Offenses Code state a positive prohibition or enjoin a specific duty and provide a penalty for violation of such prohibition or failure to meet such duty. (ORC 2901.03)

SECTION 606.05 RULE OF CONSTRUCTION

Sections of this General Offenses Code defining offenses or penalties shall be strictly construed against the Municipality and liberally construed in favor of the accused. (ORC 2901.04)

SECTION 606.06 LIMITATION ON CRIMINAL PROSECUTIONS

- (a) Except as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:
 - (1) For a misdemeanor other than a minor misdemeanor, two years;

(2) For a minor misdemeanor, six months.

(b) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of fiduciary duty, within one year after discovery of the offense either by an aggrieved person or by his legal representative who is not himself a party to the offense.

(c) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter.

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

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

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

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

(h) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information or process which commenced the prosecution is quashed or the proceedings thereon are set aside or reversed on appeal. (ORC 2901.13)

SECTION 606.07 REQUIREMENTS FOR CRIMINAL LIABILITY

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

- (1) His liability is based on conduct which includes either a voluntary act or an omission to perform an act or duty which he is capable of performing;
- (2) He has the requisite degree of culpability for each element as to which a culpable mental state is specified by the section defining the offense.

(b) When the section defining an offense does not specify any degree of culpability and plainly indicates a purpose to impose strict criminal liability for the conduct described in such section, then culpability is not required for a person to be guilty of the offense. When the section neither specifies culpability nor plainly indicates a purpose to impose strict liability, recklessness is sufficient culpability to commit the offense.

(c) As used in this section:

- (1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of his control thereof for a sufficient time to have ended his possession.
- (2) Reflexes, convulsions, body movements during unconsciousness or sleep and body movements that are not otherwise a product of the actor's volition are involuntary acts.
- (3) "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 606.02 or any other specific mental state required by any section of this General Offenses Code. (ORC 2901.21)

SECTION 606.08 ORGANIZATIONAL CRIMINAL LIABILITY

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

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

whose conduct the organization is accountable or the circumstances under which it is accountable, such provisions shall apply.

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

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

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

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

SECTION 606.09 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT

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

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

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

SECTION 606.10 FALSIFICATION

(a) No person shall knowingly make a false statement or knowingly swear or affirm the truth of a false statement previously made when any of the following applies:

- (1) The statement is made in any official proceeding;
- (2) The statement is made with purpose to incriminate another;
- (3) The statement is made with purpose to mislead a public official in performing his official function;
- (4) The statement is made with purpose to secure the payment of workmen's compensation, unemployment compensation, aid for the aged, aid for the blind, aid for the permanently and totally disabled, aid to dependent children, general relief, retirement benefits or other benefits administered by a governmental agency or paid out of a public treasury;
- (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration or release;
- (6) The statement is sworn or affirmed before a notary public or other person empowered to administer oaths;
- (7) The statement is in writing on or in connection with a report or return which is required or authorized by law.
- (8) The statement is in writing and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom such statement is directed relies upon it to his detriment.

(b) It is no defense to a charge under subsection (a)(4) hereof that the oath or affirmation was administered or taken in an irregular manner.

(c) Where contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.

(d) Whoever violates this section is guilty of falsification, a misdemeanor of the first degree. Punishment shall be provided in Section 698.02. (ORC 2921.13)

SECTION 606.11 COMPOUNDING A CRIME

(a) No person shall knowingly demand, accept or agree to accept anything of value in consideration of abandoning or agreeing to abandon a pending criminal prosecution.

(b) It is an affirmative defense to a charge under this section when both of the following apply:

- (1) The pending prosecution involved is for a violation of Section 642.02, 642.14 or 642.15(b)(2) of this General Offenses Code or a felony offense under Ohio Revised Code 2913.02, 2913.11 or 2913.21(b)(2) of which the actor under this section was the victim.
- (2) The thing of value demanded, accepted or agreed to be accepted in consideration of abandoning or agreeing to abandon the prosecution did not exceed an amount which the actor reasonably believed due him as restitution for the loss caused him by the offense.

(c) When a prosecuting witness abandons or agrees to abandon a prosecution under subsection (b) hereof, such abandonment or agreement in no way binds the Municipality to abandoning the prosecution.

(d) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (Ohio Revised Code 2921.21)

SECTION 606.12 FAILURE TO REPORT A CRIME

(a) No person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(b) No physician, limited practitioner, nurse or person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by him, or any serious physical harm to persons which he knows or has reasonable cause to believe resulted from an offense of violence.

(c) Subsection (a) hereof does not require disclosure of information when any of the following applies:

- (1) The information is privileged by reason of the relationship between attorney and client, doctor and patient, licensed psychologist or licensed school psychologist and client, priest and penitent, or husband and wife;
- (2) The information would tend to incriminate a member of the actor's immediate family;
- (3) Disclosure of the information would amount to revealing a news source, privileged under Ohio Revised Code 2739.04 or 2739.12;
- (4) Disclosure of the information would amount to disclosure by an ordained clergyman of an organized religious body of a confidential communication made to him in his capacity as such by a person seeking his aid or counsel;
- (5) Disclosure would amount to revealing information acquired by the actor in the course of his duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency or organization registered pursuant to Ohio Revised Code 5122.51.

(d) No disclosure of information pursuant to subsection (a) or (b) hereof shall give rise to any liability or recrimination for a breach of privilege or confidence.

(e) Whoever violates this section is guilty of failure to report a crime. Violation of subsection (a) hereof is a misdemeanor of the fourth degree. Violation of subsection (b) hereof is a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02. (Ohio Revised Code 2921.22)

SECTION 606.13 FAILURE TO AID A LAW ENFORCEMENT OFFICER OR FIREMAN

(a) No person shall negligently fail or refuse to aid a law enforcement officer when called upon for assistance in preventing or halting the commission of an offense or in apprehending or detaining an offender, when such aid can be given without a substantial risk of physical harm to the person giving it. (Ohio Revised Code 2921.23)

(b) It shall be the duty of every person, when called upon, to render all assistance in his power to the members and officers of the Fire and Police Departments, in order to

assist in the suppression of fires or to arrest and confine an offender against the laws of the State or the Ordinances of the City. No person shall refuse to render such assistance when called upon, or resist, delay or obstruct any member of such Departments in the discharge of his duty. (Ord. 617-58. Passed 10-28-58.)

(c) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (Ord. 2844-79. Passed 5-8-79.)

SECTION 606.14 OBSTRUCTING OFFICIAL BUSINESS

(a) No person shall abuse a judge or the mayor in the execution of his office or knowingly and willfully obstruct or abuse a police officer, fireman or other public official in the execution of his office or duties.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (Ord. 2591-74. Passed 9-24-74.)

SECTION 606.15 OBSTRUCTING JUSTICE

(a) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction or punishment of another for crime, or to assist another to benefit from the commission of a crime, shall do any of the following:

- (1) Harbor or conceal such other person;
- (2) Provide such other person with money, transportation, a weapon, a disguise or other means of avoiding discovery or apprehension.
- (3) Warn such other person of impending discovery of apprehension;
- (4) Destroy or conceal physical evidence of the crime, or induce any person to withhold testimony or information or to elude legal process summoning him to testify or supply evidence;
- (5) Communicate false information to any person.

(b) Whoever violates this section is guilty of obstructing justice, a misdemeanor of the first degree, provided the crime committed by the person aided is not a felony. Punishment shall be as provided in Section 698.02. (Ohio Revised Code 2921.32)

SECTION 606.16 TAUNTING, TEASING, PROVOKING OR INTERFERING WITH POLICE DOGS

(a) No person shall act recklessly so as to taunt, tease or otherwise provoke a police dog in either of the following circumstances:

- (1) The police dog is assisting a law enforcement officer in the performance of his official duties at the time the taunting, teasing, or provocation takes place; or
- (2) The police dog is not assisting a law enforcement officer in the performance of his official duties at the time the taunting, teasing or provocation takes place, but facts and circumstances would lead non-negligent persons to believe that the animal is a police dog.

(b) No person, other than a law enforcement officer of this City, shall knowingly interfere with a police dog in the performance of its official duties.

(c) 'Police dog' means any dog that has been trained, and/or is used to assist law enforcement officers in the performance of their official duties.

(d) Whoever violates this section is guilty of a misdemeanor of the third degree. (Ord. 3621. Passed 10/12/93.)

SECTION 606.17 RESISTING ARREST

(a) No person, recklessly or by force, shall resist or interfere with the arrest of himself or another. (Ord. 2805-78. Passed 6/13/78.)

(b) Whoever violates this section is guilty of resisting arrest, a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02. (Ohio Revised Code 2921.33)

SECTION 606.18 HAVING AN UNLAWFUL INTEREST IN A PUBLIC CONTRACT

(a) No public official shall knowingly do any of the following:

- (1) During his term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by him or by a legislative body, commission or board of which he was a member at the time of authorization, and not let by competitive

bidding, or let by competitive bidding in which his is not the lowest and best bid;

- (2) Have an interest in the profits or benefits of a public contract entered into by or for the use of the Municipality.
- (3) Have an interest in the profits or benefits of a public contract which is not let by competitive bidding when required by law and which involves more than one hundred fifty dollars (\$150.00).

(b) In the absence of bribery or a purpose to defraud, a public servant, member of his family or any of this associates shall not be considered as having an interest in a public contract or the investment of public funds when all of the following apply:

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

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

- (1) The subject of the public contract is necessary supplies or services for the Municipality;
- (2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the municipality as part of a continuing course of dealing established prior to the public servant's becoming associated with the Municipality;
- (3) The treatment accorded the Municipality is either preferential to or the same as that accorded other customers or clients in similar transactions;

- (4) The entire transaction is conducted at arm's length, with full knowledge by the Municipality of the interest of the public servant, member of his family or business associate, and the public servant takes no part in the deliberations or decision of the Municipality with respect to the public contract.
- (d) As used in this section, "public contract" means any of the following:
- (1) The purchase or acquisition, or a contract for the purchase or acquisition, of property or services by or for the use of the Municipality or any agency or instrumentality of the Municipality;
 - (2) A contract for the design, construction, alteration, repair or maintenance of any public property.
- (e) Whoever violates this section is guilty of having an unlawful interest in a public contract, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (Ohio Revised Code 2921.42)

SECTION 606.19 SOLICITING OR RECEIVING IMPROPER COMPENSATION

- (a) No public servant shall knowingly do any of the following:
- (1) Solicit or receive compensation, other than that allowed by law, to perform his official duties;
 - (2) Solicit or receive greater fees or costs than are allowed by law to perform his official duties;
 - (3) Receive any fee or reward, or any part of the compensation of a public servant over whom he has supervisory authority, in consideration of appointing such public servant to public employment.
- (b) Whoever violates this section is guilty of soliciting or receiving improper compensation, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02 and subsection (c) hereof.
- (c) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment or position of trust in the Municipality for a period of seven years from the date of conviction. (Ohio Revised Code 2921.43)

SECTION 606.20 DERELICTION OF DUTY

- (a) No law enforcement officer shall negligently do any of the following:
- (1) Fail to service a lawful warrant without delay;
 - (2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in his power to do so alone or with available assistance
- (b) No law enforcement, ministerial or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.
- (c) No officer, having charge of a detention facility, shall negligently do any of the following:
- (1) Allow the detention facility to become littered or unsanitary;
 - (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding shelter and medical attention;
 - (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;
 - (4) Allow a prisoner to escape;
 - (5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.
- (d) No public official of the Municipality shall recklessly create a deficiency, incur a liability or expend a greater sum than is appropriated by Council for the use in any one year of the department or agency of the Municipality.
- (e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to his office, or recklessly do any act expressly forbidden by law with respect to his office.
- (f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02. (Ohio Revised Code 2921.44)

SECTION 606.21 INTERFERING WITH CIVIL RIGHTS

(a) No public servant, under color of his office, employment or authority, shall knowingly deprive or conspire or attempt to deprive, any person of a constitutional or statutory right or a right created by ordinance, resolution or regulation.

(b) whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (Ohio Revised Code 2921.45)

SECTION 606.22 CONSPIRACY

(a) No person, with purpose to commit or to promote or facilitate the commission of any offense under these Codified Ordinances or a fourth degree felony offense under Ohio Revised Code 2907.22 (Promoting Prostitution) or 2913.03 (Unauthorized Use of a Vehicle), shall do either of the following:

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

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

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

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

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

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

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

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

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

- (1) After conspiring to commit an offense, the actor thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of his criminal purpose;
- (2) After conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense which was the object of the conspiracy, either by advising all other conspirators of his abandonment or by informing any law enforcement authority of the existence of the conspiracy and of his participation therein.

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

- (1) With respect to the offense specified as the object of the conspiracy in such other section or sections, subsection (a) hereof defines the voluntary act or acts and culpable mental state necessary to constitute the conspiracy;
- (2) Subsections (b) through (i) hereof are incorporated by reference in the conspiracy offense defined by such other section or sections of these Codified Ordinances or of the Ohio Revised Code.

(k) Whoever violates this section is guilty of conspiracy, an offense of the next lesser degree than the offense which is the object of the conspiracy. Conspiracy to commit a minor misdemeanor is not an offense under this section. Punishment shall be as provided in Section 698.02. (Ohio Revised Code 2923.01)

SECTION 606.23 ATTEMPT

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

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

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

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

(e) Whoever violates this section is guilty of an attempt to commit an offense, an offense of the next lesser degree than the offense attempted. In the case of an attempt to commit an offense not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. An attempt to commit a minor misdemeanor, or to engage in conspiracy, is not an offense under this section. Punishment shall be as provided in Section 698.02. (Ohio Revised Code 2923.02)

SECTION 606.24 COMPLICITY

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

- (1) Solicit or procure another to commit the offense;
- (2) Aid or abet another in committing the offense;
- (3) Conspire with another to commit the offense in violation of Section 606.21;
- (4) Cause an innocent or irresponsible person to commit the offense.

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

(c) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of Section 606.22.

(d) No person shall be convicted of complicity under this section solely upon the testimony of an accomplice, unsupported by other evidence.

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

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

SECTION 606.25 DETENTION OF SHOPLIFTERS

A merchant, or his employee or agent, who has probable cause for believing that items offered for sale by a mercantile establishment have been unlawfully taken by a person, may, in order to recover such items without search or undue restraint or in order to cause an arrest to be made by a police officer until a warrant can be obtained, detain such a person in a reasonable manner for a reasonable length of time within such mercantile establishment or the immediate vicinity thereof.

Any police officer may, within a reasonable time after such alleged unlawful taking has been committed, arrest without a warrant, any person he has probable cause for believing has committed such unlawful taking in a mercantile establishment. (Ohio Revised Code 2935.041; Ord. 2057-69. Passed 11-25-69.)

SECTION 606.26 DISPOSITION OF PROPERTY HELD BY POLICE DEPARTMENT

(a) Property that has been lost, abandoned, stolen, or lawfully seized or forfeited, and that is in the custody of the Police Department, shall be safely kept pending the time it is no longer needed as evidence and shall be disposed of pursuant to this ordinance.

(b) The Police Department shall make a reasonable effort to locate the persons entitled to possession of property in its custody and to notify them when and where it may be claimed. If after a period of 90 days the Police Department is unable to identify or locate the owner of property in its custody, or, once notified, the owner fails to claim such property, that property shall be considered "unclaimed property" and disposed of pursuant to this ordinance.

(c) Unclaimed property in the custody of the Kettering Police Department that was "found" and placed into the custody of the Department by a person not employed by the City of Kettering may be returned to the "finder" after a period of 90 days provided:

- (1) The property is not a weapon, firearm or dangerous ordnance.
- (2) The property is not drugs, drug paraphernalia, obscene material, beer, intoxicating liquor or alcohol, or any other dangerous or illegal material;
- (3) The owner of the found property is unknown, or cannot be located, or fails to claim the property within 90 days after a reasonable attempt to locate the owner is made by the Police Department;
- (4) The person who found the property and turned it over to the Police Department signs an affidavit that they are the finder of the property in question and that they did not obtain this property illegally, and that they have fully and truthfully informed the Police Department of all the circumstances surrounding the finding of this property.

(d) A person loses any right he may have to possession of property;

- (1) That was the subject of, or was used in a conspiracy or attempt to commit or in the commission of, an offense, other than a traffic offense, and such person is a conspirator, accomplice, or offender with respect to the offense;
- (2) When a court determines that the property should be forfeited because, when in light of the nature of the property or the circumstances of such person, it is unlawful for him to acquire or possess it.

(e) Unclaimed and forfeited property in the custody of the Police Department shall be disposed of on application to and order of any court of record that has territorial jurisdiction within the municipality as follows:

- (1) Drugs shall be destroyed, or shall be placed in the custody of the Secretary of the Treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.
- (2) Firearms and dangerous ordnance suitable for police work may be given to the Police Department for that purpose. Firearms suitable for sporting use, or as museum pieces or collector's items, may be sold at public auction pursuant to Section E-5 of this ordinance, or donated for

public display to a museum open to the general public. Other firearms and dangerous ordnance shall be destroyed.

- (3) Obscene materials shall be destroyed.
- (4) Beer, intoxicating liquor, or alcohol seized from a person who is not the holder of a permit issued under Chapters 4301 and 4303 of the Revised Code, or is an offender, and forfeited to the state under Section 4301.45 or 4301.53 of the Revised Code, shall be destroyed or turned over to the Department of Liquor Control to be sold by the Department of Liquor Control pursuant to Section 2933.41 D-4 of the Revised Code.
- (5) Other unclaimed or forfeited property may be sold at public auction, or disposed of as the court considers proper in the circumstances, or turned over to the City and converted to City ownership.
- (6) Vehicle and vehicle parts forfeited under Sections 4549.61 to 4549.63 of the Revised Code may be given to a law enforcement agency for use in the performance of its duties. Such parts may be incorporated into any other official vehicle. Parts that do not bear vehicle identification numbers or derivatives thereof may be sold or disposed of as provided by rules of the director of highway safety. Parts from which a vehicle identification number or derivative thereof has been removed, defaced, covered, altered, or destroyed and that are not suitable for police work or incorporation into an official vehicle shall be destroyed and sold as junk or scrap.

(f) The Police Department may dispose of certain property in its possession in accordance with its own policy and procedures provided that:

- (1) The property is of little or no monetary value and would normally be considered as trash or rubbish.
- (2) The property is a small sample or specimen collected as evidence and is no longer needed as evidence.
- (3) The property is a dangerous ordnance, explosive or incendiary device, volatile fluid, chemical agent, biological or nuclear material, or any other unsafe material that by its nature threatens the public safety and needs to be destroyed or disposed of in order to provide for the safety of the public or public safety officials.

(g) The proceeds from property disposed of pursuant to Section (e)(5) of this ordinance shall be dispersed as follows:

- (1) 25% of the net proceeds shall be used for funding of citizen reward program pursuant to Section 2933.41(E) of the Revised Code.
- (2) 75% of the net proceeds shall be placed in the general fund of the municipality.

(h) This ordinance does not apply to the collection, storage or disposal of abandoned junk motor vehicles.

(i) For the purposes of this ordinance, a reasonable effort by the Police Department to locate the persons entitled to possession of property within the Department's custody may include one or more of the following:

- (1) A phone call to the last known phone number of the suspected owner of the property;
- (2) A letter to the last known address of the suspected owner of the property.
- (3) An advertisement in a newspaper of general circulation in the municipality or county briefly describing the nature of the property in custody and inviting persons to view and establish their right to it;
- (4) A brief investigation or inquiry by employees of the Department for the purpose of locating or identifying the owner of the property. (Ord. 3206-86. Passed 2-11-86)

SECTION 606.27 This Section Reserved.

SECTION 606.28 EMERGENCY POWERS OF MAYOR

(a) The Mayor may, in times of public emergency or when existing circumstances or the state of facts present imminent and substantial danger of bodily harm to large numbers of people and/or widespread destruction of property, such as, but not limited to, natural disorders caused by an act of God, explosions, fires, tumult, diffusing explosive vapors, diffusing dangerous chemicals or liquids, civil emergency, power failures or aircraft accidents, proclaim in writing a state of emergency. Coincident with the proclamation, the Mayor shall issue notice of a special meeting of Council to be held within twelve hours of the time of the proclamation.

(b) As part of such proclamation or by subsequent written order after such proclamation is issued, the Mayor may, in his discretion as he deems necessary to the public safety:

- (1) Delineate the boundaries of any area threatened by emergency condition and restrict or prohibit persons from entering such area except when carrying on necessary and legitimate pursuits, and control and regulate movement within and from such area;
- (2) Establish a curfew within such area under regulations set by the Mayor or Council and prohibit persons from being out-of-doors during such curfew; and
- (3) Prohibit the sale, offering for sale, dispensing, and regulate or control the transportation of firearms and other deadly weapons, ammunition, dynamite and other dangerous explosives, incendiary devices and any necessary ingredient thereof.

(c) When the danger has passed, the Mayor or Council shall forthwith make a proclamation that the emergency has ended and any proclamation, order or regulation issued pursuant to this section shall then become void.

(d) The powers conferred by this section are in addition to any other power which may be conferred by law and nothing in this section shall be construed to modify or limit such authority, powers, duties and responsibilities of any officer or public official as may be provided by law. Nothing in this section shall be construed to permit suspension of the privilege to a writ of habeas corpus. (Ord. 1934-69. Passed 3-11-69).

(e) Whoever violates any of the provisions of, or knowingly fails to perform any duty required by, a proclamation, order or regulation issued and in effect pursuant to this section is guilty of a misdemeanor of the fourth degree. Punishment shall be provided in Section 698.02.

SECTION 606.29 MAINTENANCE EXPENSE

Every person convicted of an offense other than a minor misdemeanor and who is confined to a county or city jail or workhouse shall reimburse the City for its expenses incurred by reason of confinement. Reimbursable expenses shall include, but are not limited to, the expenses relating to the provision of food, clothing, shelter and medical expenses during confinement and during any time that the person is incarcerated before sentencing that is credited against the term of confinement. (Ord. 3146-84. Passed 11-20-84.)

Legislative history: Ord. 617-58; passed 10/28/58. Ord. 1934-69; passed 3/11/69. Ord. 2057-69; passed 11/25/69. Ord. 2437-72; passed 12/12/72. Ord. 2591-74; passed 9/24/74. Ord. 2805-78; passed 6/13/78. Ord. 2844-79 passed 5/8/79. Ord. 3049-83; passed 3/16/83. Ord. 3146-84; passed 11/20/84. Ord. 3206-86; passed 2/11/86. Ord. 3565-92; passed 8/25/92. Ord. 3621-93; passed 10/12/93. Ord. 3850-00; passed 10/10/00.

**CHAPTER 608
AIR POLLUTION**

608.01	Adoption of County Regulations	608.02	File and Distribution Copies
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CROSS REFERENCES

Power to prevent dense smoke – see Ohio Revised Code 715.44

Noxious or offensive odors – see General Office 660.03

Performance standards – smoke and air pollution – see P. & Z. 1135.10, 1135.12

Burning wastes – see Fire Prevention 1501.08 (FPC Sec. 28.1)

SECTION 608.01 ADOPTION OF COUNTY REGULATIONS.

There is hereby adopted by reference as the air conservation and air pollution regulations of the City Regulations 121 through 147 of the Dayton-Montgomery County Combined Health District, which provides a program for air conservation and control of air pollution, save and except such portions as are hereinafter added, modified or deleted. (Ord. 2159-70. Passed 9-8-70.)

SECTION 608.02 FILE AND DISTRIBUTION COPIES.

One copy of the air conservation and pollution regulations adopted in Section 608.01 shall be filed as a part of the ordinance records of the City. One copy shall also be on file in the Montgomery County Law Library. In addition, the Municipal Clerk shall have copies available for distribution to the public at cost. (Ord. 2437-72. Passed 12-12-72.)

CHAPTER 612
Alcoholic Beverages

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| 612.01 Liquor consumption in motor vehicle. | 612.04 Disorderly persons on premises. |
| 612.02 Hours of sale or consumption generally. | 612.05 Consumption in parks. |
| 612.03 Unobstructed view of interior. | |

CROSS REFERENCES

- See section histories for similar State law
- Liquor Control Law - see Ohio R.C. Ch. 4301
- Suspension of beer and liquor sales by Ohio Director of Liquor Control during emergency - see Ohio R.C. 4301.251
- Liquor permits - see Ohio R.C. Ch. 4303
- Local option - see Ohio R.C. 4303.29
- Driving while intoxicated - see TRAF. 434.01
- Definitions generally - see GEN. OFF. 606.01
- Disorderly conduct while voluntarily intoxicated - see GEN. OFF. 648.04(b)
- Peace disturbance by intoxication - see GEN. OFF. 648.05
- Using weapons while intoxicated - see GEN. OFF. 672.03
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612.01 LIQUOR CONSUMPTION IN MOTOR VEHICLE.

(a) No person, being the operator of a motor vehicle, shall consume any beer or intoxicating liquor while said motor vehicle is on a public street, highway, alley or on private property open to the public for the purpose of vehicular travel. (Ord. 3185-85. Passed 10/8/85.)

(b) Whoever violates this section shall be guilty of a misdemeanor of the fourth degree. (Ord. 2805-78. Passed 6-13-78.)

612.02 HOURS OF SALE OR CONSUMPTION GENERALLY.

(a) No beer or other malt beverages shall be sold by or be permitted to be consumed on weekdays upon the premises of a Class C-1, C-2, D-1, D-2 or D-4 permit holder between the hours of 1:00 a.m. and 5:30 a.m.

No wine, prepared highballs, cocktails or other mixed drinks, as defined in the Liquor Control Act, shall be sold or be permitted to be consumed on weekdays upon the premises of a Class A-2, C-2, D-2 or D-4 permit holder between the hours of 1:00 a.m. and 5:30 a.m.

No beer or intoxicating liquor shall be sold or be permitted to be consumed on weekdays on the premises of a Class D-3a or D-5 permit holder between the hours of 2:30 a.m. and 5:30 a.m., and no intoxicating liquor shall be sold or be permitted to be consumed on weekdays on the premises of a Class D-3 permit holder between the hours of 1:00 a.m. and 5:30 a.m.

No beer or intoxicating liquor shall be sold or be permitted to be consumed on weekdays on the premises of a Class D-4 permit holder between the hours of 1:00 a.m. and 5:30 a.m.

(b) Whoever violates any of the provisions of this section shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 2437-72. Passed 12-12-72.)

612.03 UNOBSTRUCTED VIEW OF INTERIOR.

(a) The premises of a retail permit holder shall be arranged so as to provide a clear and unobstructed view of the interior after the legal hours of sale provided for in the Liquor Control Act of the State of Ohio. (Ord. 617-58. Passed 10-28-58.)

(b) Whoever violates any of the provisions of this section shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 2437-72. Passed 12-12-72.)

612.04 DISORDERLY PERSONS ON PREMISES.

(a) No person owning or operating a restaurant, hotel, club, nightclub or any other place where beer, wine or spirituous liquor are permitted to be sold under the authority of the Liquor Control Act within the City, or other person representing such owner or operator, shall permit or allow any riotous, noisy or disorderly person to frequent such restaurant, hotel, club, nightclub, or other such place, or resort thereto, or allow any boisterous, noisy or disorderly conduct therein or thereabouts at any time. (Ord. 617-58. Passed 10-28-58.)

(b) Whoever violates any of the provisions of this section shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 2437-72. Passed 12-12-72.)

612.05 CONSUMPTION IN PARKS.

(a) No person shall consume or possess with intent to consume, any beer or intoxicating liquor in a City park.

This ordinance shall not apply to the Polen Farm rental areas, Ice Arena, City of Kettering Government Center grounds, Civic Commons, or parks hosting community-wide special events when an application for beer and/or wine to be served or sold has been granted by the Director of Parks and Recreation.

(b) Whoever violates this section is guilty of a fourth degree misdemeanor and shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 3307-87. Passed 11/24/87).

**CHAPTER 618
ANIMALS**

618.01	Definitions	618.09	Nuisance Conditions Prohibited
618.02	Control of Dogs	618.10	Registration of Dogs; Tags to be Worn
618.03	Animals Running at Large	618.11	Hindering Capture of Unlicensed Dog
618.04	Abandoning Animals	618.12	Rabies Immunization and Quarantine
618.05	Killing or Injuring Animals	618.13	Hunting and Trapping
618.06	Poisoning Animals	618.14	Wild or Exotic Animals
618.07	Cruelty to Animals	618.15	Disposition of Animals; Animal Control Officer
618.08	Coloring Rabbits and Baby Poultry; Sale or Display of Poultry		

CROSS REFERENCES

See section histories for similar State law

Power to restrain and impound animals – see Ohio Revised Code 715.23

Driving animals upon roadway – see TRAF. 404.04, 404.05

Definitions generally – see GEN. OFF. 606.01

Offensive odors from places where animals are kept or fed – see GEN. OFF. 606.03

Rat proofing – see GEN. OFF. 660.19

SECTION 618.01 DEFINITIONS

(a) As used in this chapter:

- (1) “Animal” means any live, vertebrate creature, domestic or wild.
- (2) “Domesticated” means any animal which is accepted by the general public as tamable and bred as a tamed animal for the purposes of man.
- (3) “Exotic” means any animal which is foreign and generally not indigenous to the local community.
- (4) “Owner”, as used in this chapter, shall mean any person, firm, corporation, business entity, or any unaffiliated group of persons owning, keeping, harboring, or having care, custody or control of one

or more animals. Any entity shall be presumed to be the owner, keeper or harbinger of an animal for purposes of this chapter if such entity causes or does any of the following:

- (i) knowingly allows any animal to remain upon his or her property for more than twenty-four hours;
 - (ii) knowingly or recklessly feeds such animal food or water on a regular basis for more than twenty-four hours;
 - (iii) knowingly restrains such animal from leaving his or her property for more than twenty-four hours; or
 - (iv) knowingly accepts responsibility to care for or control another person's animal.
- (5) "Wild" means any animal which generally lives in its original, natural state, and is not normally domesticated.
- (6) The term "In-Leash", as used in this chapter, shall mean the animal is securely attached to a leash of a size, type and strength necessary to control the behavior of the animal to which the leash is attached, and the leash is securely attached to a physical restraint of a size and strength to maintain the animal within the restrained physical area of the leash, or the leash is securely held at all times in the hand of a person with reasonable judgment and the physical size to control the behavior of the leashed animal. The leash shall be no longer than six feet (6 ft.) in length.
- (7) "Vicious Dog" means a dog that has been labeled as a vicious dog pursuant to Ohio Revised Code Chapter 955 or pursuant to a similar local ordinance.

SECTION 618.02 CONTROL OF DOGS.

- (a) No Owner, as defined in section 618.01, shall suffer or permit a dog to:
- (1) Be at large within the city unless securely attached upon a leash held in the hand of a person in a manner which continuously controls the dog.
 - (2) Be unsecured while on the premises of the owner.

- (3) Aggressively snap at or attempt to bite or attempt to cause physical harm to any other person, domestic animal, or feline.
- (4) Cause physical harm to the property of another.
- (5) Bite or otherwise cause physical harm to any other person, domestic animal, or feline.

(b) No person shall own, keep, possess, harbor, maintain, or have the care, custody, or control of a vicious dog, as defined in Section 618.01, within the city.

(c) No person who has been previously convicted of violating 618.02 (a)(5), or 618.02 (b), shall own, keep, possess, harbor, maintain, or have the care, custody, or control of any dog for a period of five years following the date of said previous conviction.

(d) Defenses.

- (1) It shall be an affirmative defense to a violation of 618.02 (a)(1) and (2) that the dog was:
 - (i) Securely confined in an automobile or cage which was adequately ventilated.
 - (ii) Being used for lawful hunting purposes.
 - (iii) Being exhibited at a public dog show, zoo, museum, or public institution.
- (2) It shall be an affirmative defense to a violation of 618.02 (a)(3), (4), and (5) that at the time of the occurrence, the dog was secured and such other person, domestic animal, or feline was: (i) unlawfully on the property owned or controlled by the owner of such dog; or (ii) tormenting or abusing such dog on the owner's property.
- (3) No public law enforcement agency or member thereof, or a licensed private law enforcement agency or member thereof, shall be convicted of any violation of this section where the dog is owned by the agency and being utilized for law enforcement purposes.
- (4) Lack of intent or knowledge is not a defense to a violation of this Section 618.02.

(e) Penalties

- (1) Except as provided in (e)(2) below, whoever violates division (a)(1) or (a)(2) of this section shall be guilty of a minor misdemeanor.
- (2) Any person who, within two years of the date of the offense, has been convicted of a prior violation of any division of section 618.02, shall be guilty of a misdemeanor of the fourth degree.
- (3) Whoever violates division (a)(3) of this section shall be guilty of a misdemeanor of the fourth degree.
- (4) Whoever violates division (a)(4) of this section shall be guilty of a misdemeanor of the third degree.
- (5) Whoever violates division (a)(5) or (b) of this section shall be guilty of a misdemeanor of the first degree.
- (6) Whoever violates division (c) of this section shall be guilty of a misdemeanor of the second degree.

SECTION 618.03 ANIMALS RUNNING AT LARGE.

(a) No person being the owner of or having charge of horses, mules, cattle, sheep, goats, swine, geese or other fowl or animals shall permit them to run at large upon any public way or upon land of another.

(b) The running at large of any such animal in or upon any of the places mentioned in this Section is prima facie evidence that it is running at large in violation of this Section.

- (c)
 - (1) Whoever violates any provision of this Section is guilty of a minor misdemeanor for a first offense. Punishment shall be as provided in Section 698.02.
 - (2) Whoever violates any provision of this Section in a second or subsequent offense shall be guilty of a fourth degree misdemeanor. Punishment shall be as provided in Section 698.02.
 - (3) For a second conviction of any provision of this Section which involves an occurrence where a person has been attacked or caused personal injury by an animal running at large, the owner or person in charge of such animal shall be guilty of a first degree misdemeanor. Punishment shall be as provided in Section 698.02. Such animal shall

be impounded and placed in a county designated animal shelter or with a licensed veterinarian and such animal shall thereafter be destroyed by a licensed veterinarian. Such impounding, maintenance and destruction expense shall be at the cost to the owner or other person having charge or control of the animal.

- (4) In any hearing under this Section, testimony that the records of the County Auditor shows that the dog license was issued to the defendant shall be prima facie evidence of ownership.
- (5) Any animal whether licensed or unlicensed found running at large in any street, public place or upon land of another person, in violation of any of the provisions of this chapter, may be impounded on sight and disposed of by being placed in a county designated animal shelter or any other agency selected by the City, such impounding and the maintenance fees and other charges of the shelter or agency to be the expense of the owner or other person having charge or control of the animal. The City may enter into a contract with the animal shelter or other agency regarding the terms and conditions of such procedures. (Ord. 3494-91; passed May 14, 1991.)

SECTION 618.04 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal.

(b) Whoever violates this Section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

SECTION 618.05 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, kill or injure any animal that is the property of another. This Section does not apply to a licensed veterinarian or a public official acting in his official capacity.

(b) Whoever violates any provision of this Section is guilty of a misdemeanor of the second degree if the value of the animal killed or the injury done amounts to less than three hundred dollars (\$300.00). If the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, such person is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.

SECTION 618.06 POISONING ANIMALS.

(a) No person shall maliciously, or willfully and without consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to any animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by children or any such animals, either upon his own lands or the lands of another.

(b) Whoever violates any provisions of this Section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.

SECTION 618.07 CRUELTY TO ANIMALS.

(a) No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill an animal, nor impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;
- (2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow, excessive direct sunlight or excessive heat or cold if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer; (Ord. 3515-92; passed 9/24/91.)
- (3) Carry or convey an animal in a cruel or inhumane manner; or
- (4) Keep animals, other than cattle, poultry or fowl, swine, sheep or goats, in an enclosure without wholesome exercise and change of air, or feed cows on food that produces impure or unwholesome milk.

(b) Whoever violates any provisions of this Section is guilty of a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02.

SECTION 618.08 COLORING RABBITS AND BABY POULTRY; SALE OR DISPLAY OF POULTRY.

(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No persons shall sell, offer for sale, expose for sale, raffle or give away any rabbit or baby poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry

for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times.

(b) Whoever violates this Section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for any subsequent offense. Punishment shall be as provided in Section 698.02.

SECTION 618.09 NUISANCE CONDITIONS PROHIBITED.

(a) No owner shall allow his dog, cat or other domestic animal to become a public nuisance. Excessive barking, whining or howling, molesting passersby, chasing vehicles, attacking other domestic animals and damaging property shall be considered a nuisance under this Section.

(b) Any animal which scratches, digs, urinates or defecates upon any lawn, tree, shrub, plant, building or any other public or private property, other than the property of the owner or person in charge or control of such animal, is hereby declared to be a public nuisance. Where the owner or person in charge or control of such animal immediately removes all feces deposited by such animal and disposes of same in a sanitary manner, such nuisance shall be considered abated.

(c) Whoever violates any of the provisions of this Section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

SECTION 618.10 REGISTRATION OF DOGS; TAGS TO BE WORN.

(a) Excluding guide dogs registered under Ohio Revised Code 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio Revised Code 955.16, no owner, keeper or harbinger or person in charge or control of any dog over three months of age after January 31st of any year, or brought from outside the state at any time during the year, shall fail to register such dog with the Montgomery County Auditor as required by Ohio Revised Code 955.01. Any dog at any time not wearing or having securely affixed to a collar or other attire worn by the dog, a valid registration tag shall be prima facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio Revised Code 955.16. Whoever violates this Subsection is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

(b) Failure to display the tag issued in connection with the registration required by Ohio Revised Code 955.01 on a dog's collar, harness, leash or similar device, shall be prima facie evidence of a violation of Subsection (a) hereof.

(c) Whoever violates this Section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

SECTION 618.11 HINDERING CAPTURE OF UNLICENSED DOG.

(a) No person shall obstruct or interfere with anyone lawfully engaged in capturing an unlicensed dog or making an examination of a dog wearing a tag.

(b) Whoever violates this Section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

SECTION 618.12 RABIES IMMUNIZATION AND QUARANTINE.

(a) All dogs in the City over six months of age shall be properly immunized against rabies by their owners, keepers or harborers. The current rabies immunization tag must be displayed on the dog whenever the animal leaves the property of the owner. In connection with immunization of animals to protect against rabies, vaccinations and procedures related thereto, the Kettering Animal Control Officer shall have in all areas located within the then current municipal boundaries of the City of Kettering the authority and power the same as provided pursuant to Regulation 810 of the Public Health – Dayton and Montgomery County (fka Montgomery County Combined General Health District) Sanitary Regulations.

(b) Whoever violates this Section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

SECTION 618.13 HUNTING AND TRAPPING.

No person shall, except as hereinafter provided, hunt or trap any fur bearing animal within the municipality.

(a) Fur bearing means any animal, the pelt or hide of which has any commercial value including, but not limited to, minks, weasels, raccoons, skunks, opossums, rabbits, squirrels, woodchucks, muskrats, fox, deer and beaver.

(b) In the event the existence of fur bearing animals shall constitute a nuisance on any property, the owner or occupant shall notify the City Animal Control Officer of such condition. If, in the opinion of the Animal Control Officer, a nuisance condition is found to exist, said officer or the designated animal trapper licensed by the State of Ohio may engage in trapping of said animal(s).

(c) Whoever violates any of the provisions of this Section is guilty of a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02.

SECTION 618.14 WILD OR EXOTIC ANIMALS.

(a) No person shall market, wholesale or retail any wild or exotic animal or fur bearing quadruped. Exceptions to this prohibition include those animals native to the farm and sold at auction or by private sale, such as horses, cattle, swine and poultry, and those animals sold by pet dealers or by private sale, such as domestic cats, domestic dogs, domestic rabbits, guinea pigs, chinchilla, mice, hamsters, gerbils, psittacine birds and non-poisonous, non-carnivorous fish.

(b) No person shall own or harbor any wild or exotic animal. Exceptions to this prohibition are touring animal exhibitions, circuses, veterinarians (for the purpose of medical treatment), educational research facilities, aid for handicapped persons or persons licensed or permitted by the State.

Animals which may be owned or harbored are those animals native to the farm, such as horses, cattle, swine and poultry, as well as domestic cats, domestic dogs, domestic rabbits, guinea pigs, chinchilla, mice, hamsters, gerbils, psittacine birds and non-carnivorous fish.

Persons who presently own or harbor an exotic or wild animal may keep the animal until the animal's death or until its ownership is transferred outside of this municipality. However, no such person shall keep any such animal unless he registers the same with the City Manager or his designate.

Permission may be given by the City Manager, or his designate, for a person to temporarily keep, care or protect a wild animal native to Ohio which has been deemed to be homeless, provided it is under the care of a licensed veterinarian.

(c) Any animal found to be in violation of this Section may be impounded by the Animal Control Officer and placed in a designated shelter or licensed veterinarian, such impounding, maintenance and destruction expenses shall be at the cost of the owner or other person having charge or control of such animal.

(d) Whoever violates any of the provisions of this Section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. Punishment shall be as provided in Section 698.02.

SECTION 618.15 DISPOSITION OF ANIMALS; ANIMAL CONTROL OFFICER.

(a) The City of Kettering Animal Control Officer and any Kettering Police Officer shall have the authority, within the purview of this Chapter 618, to remove any animal from any property in a safe and humane fashion.

(b) The City of Kettering Animal Control Officer shall have the authority to process and/or dispose of any animal as directed by the Kettering Chief of Police, the Kettering City Manager, the Kettering Law Director or by order of any court of proper jurisdiction.

(c) The Kettering Animal Control Officer shall have the authority to hold any animal at any agency designated for such animal holding for a period of three days, after which time said designated agency may dispose of the animal at its discretion. The Kettering Animal Control Officer may order any animal to be quarantined in a manner and for a length of time determined by the Animal Control Officer so as to protect the health, safety and general welfare of the City.

(d) The authority and power provided under Regulation 810 of the Public Health – Dayton and Montgomery County (fka Montgomery County Combined General Health District) Sanitary Regulations shall be the same as the authority and power provided to the Kettering Animal Control Officer by this City and such authority and power may be exercised in all areas located within the then current municipal boundaries of the City of Kettering, regardless of County.

Legislative history: Ord. 3132-84; passed 9/25/84. Ord. 3494-91; passed 5/14/91. Ord. 3515-91; passed 9/24/91. Ord. 4174-11; passed 6/28/2011. Ord.4251-15; passed 6/23/15.

CHAPTER 628
Human Relations

628.01 Definitions.

628.02 Prohibited acts.

CROSS REFERENCES

Fair employment practices - see Ohio R.C. Ch. 4112
 Board of Community Relations - see ADM. Ch. 169
 Interfering with civil rights - see GEN. OFF. 606.20
 Offenses relating to persons - see GEN. OFF. Ch. 636
 Organizational liability and penalties - see GEN. OFF. 606.08, 698.04

628.01 DEFINITIONS.

As used in this chapter:

- (a) "Person selling real property" means individuals, partnerships, associations, organizations, trustees, corporations, agents, legal representatives, receivers and other organized groups of persons that:
- (1) Sell real property whether improved or unimproved;
 - (2) Lease or rent real property in a single building consisting of one or more housing units.
- (b) "Purchaser" means any occupant, prospective occupant, lessee or tenant, prospective lessee or tenant, buyer or prospective buyer.
- (c) "Financial institution" means any individual or individuals, partnership, association, organization, trustee, corporation, agent, legal representative, receiver or other organized group of persons regularly engaged in the business of lending money or guaranteeing loans on real property.
- (d) "Insurer" means any individual or individuals, partnership, association, organization, trustee, corporation, agent, legal representative, receiver or other organized groups of persons regularly engaged in the business of issuing casualty insurance policies or title insurance policies on real property.
- (e) "Housing unit" means any building, structure or part thereof which is used or occupied or is intended, arranged or designed to be used or occupied as the residence or sleeping place of one family as defined in Part Eleven -Planning and Zoning, Section 1133.02.
- (f) "Discriminate" or "discrimination" means any distinction or difference in treatment of a person based on the religion, creed, color, sex, race, handicap, familial status, national origin or ancestry of such person.

(Ord. No. 3495-91, passed 5-14-91)

Revision 203

628.02 PROHIBITED ACTS.

(a) No person selling real property shall, solely because of religion, creed, color, race, sex, handicap, familial status, national origin or ancestry of any person:

- (1) Refuse to sell, lease or rent any real property to a purchaser;
- (2) Evict or deny occupancy to a purchaser of any real property;
- (3) Make any distinction, discrimination or restriction against a purchaser in the sale, rental, price, terms, conditions or privileges relating to the sale, rental, lease, occupancy of real property, or in the furnishing of any facilities or services in connection therewith;
- (4) Refuse to show any real property or otherwise attempt to prevent the sale, rental or lease of any real property to a purchaser.

(b) No person selling real property shall publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing of real property which indicates any preference, limitation, specification or discrimination based on religion, creed, color, sex, race, handicap, familial status, national origin or ancestry of a person.

(c) No financial institution shall discriminate in the granting, withholding, extending or renewing or in the fixing of the rates, terms or conditions of any financial assistance sought by an applicant or applicants for the purchase, construction, rehabilitation, repair or maintenance of any real property or improvements thereon because of the religion, creed, color, sex, race, handicap, familial status, national origin or ancestry of the applicant or applicants or their family.

(d) No person shall conspire with any other person or assist, induce, incite or coerce another person to commit an act or engage in a practice that violates this section nor engage in economic or other reprisals against a person or business firm for complying with this act.

(e) No insurer shall discriminate in the issuance, insuring, extending, granting or renewing or in the fixing of rates, premiums, terms or conditions of any casualty insurance policy or title insurance policy for the sale, purchase, rental, leasing or construction of any real property or improvement thereon.

(f) It shall be unlawful:

- (1) For a labor union because of race, creed, color, handicap, familial status, national origin or ancestry to:
 - A. Deny full and equal membership rights to a member or to an applicant for membership;
 - B. Expel a member from membership;
 - C. Discriminate against a member or applicant with respect to hire, tenure, referral, apprenticeship, compensation, terms, upgrading or other conditions or privileges of employment;
 - D. Do or commit any other act with respect to a member or applicant which arises out of, or is activated by, consideration of race, creed, color, handicap, familial status, national origin or ancestry.

- (2) For an employer, because of race, creed, color, handicap, familial status, national origin or ancestry to:
 - A. Refuse to hire an applicant for employment;
 - B. Discharge an employee;
 - C. Discriminate against an employee with respect to hire, tenure, apprenticeship, compensation, terms, upgrading, or other conditions or privileges of employment;
 - D. Do or commit any other act with respect to an employee or applicant which arises out of or is activated by considerations of race, creed, color, handicap, familial status, national origin or ancestry.
- (3) For an employment agency, because of race, creed, color, handicap, familial status, national origin or ancestry to:
 - A. Refuse or fail to accept, register, properly classify or refer for employment any person;
 - B. Comply with any request by any employer for referral of applicants if the request indicates directly or indirectly that the employer desires any limitation of applicants to persons of particular racial, religious or national characteristics or in any other way fails to comply with the requirements of this chapter;
 - C. Do or commit any other act with respect to an applicant for referral or employment which arises out of or is activated by considerations of race, creed, color, handicap, familial status, national origin or ancestry.
- (4) For any labor union, employer, employment agency or other person to require any applicant or employee to furnish information respecting his race, creed, color, handicap, familial status, national origin or ancestry, except where required by a governmental agency.
- (5) For any person to circulate or publish any notice or advertisement relating to employment or membership in a labor union which indicates directly or indirectly any preference, limitation, specification or discrimination based upon race, creed, color, handicap, familial status, national origin or ancestry.

The provisions of this section shall apply to a joint labor-industry apprenticeship committee or board and to each individual member thereof notwithstanding the employer members of such committee or board are not in fact the employer of an apprentice against whom an act of discrimination has been committed, to the extent the members of such committee or board participate in the act of discrimination.

(g) No person shall discriminate on grounds of race, creed, color, handicap, familial status, national origin or ancestry, with respect to, access to, use of or benefit from, any institution of education of public services and facilities or public recreation rendered in connection therewith, except that a school operated by a religious denomination may require membership in such denomination as a condition for enrollment, provided such requirement is placed upon all applicants.

(h) No person shall induce or attempt to induce the sale or listing for sale of a housing accommodation by representing that a change has occurred or will or may occur with respect to the racial, religious, or ethnic composition of the block, neighborhood or area in which the property is located.

(i) No person shall induce or attempt to induce the sale or listing for sale of a housing accommodation by representing that the presence or anticipated presence of persons of any particular race, handicap, familial status, religion or national origin in the area will or may result in:

- (1) The lowering of property values;
- (2) A change in the racial, religious or ethnic composition of the block, neighborhood or area in which the property is located;
- (3) An increase in criminal or antisocial behavior in the area; or
- (4) A decline in the quality of the schools serving the area.

(j) No person shall make any representation to any prospective purchaser that any block, neighborhood or area has, will or might undergo a change with respect to the religious, racial or nationality composition of the block, neighborhood or area for the purpose of discouraging the purchase of a housing accommodation in a particular area.

(k) No person shall engage in, or hire or conspire with another person to commit acts or activities of any nature, the purpose of which is to harass, degrade, embarrass or cause economic loss:

- (1) To an owner who offers to provide housing accommodations, facilities or services to any purchaser regardless of race, color, religion, handicap, ancestry or national origin or the purchaser, or
- (2) To an owner because such owner has provided housing accommodations, facilities or services to a purchaser of a particular race, color, religion, handicap, ancestry or national origin.

(l) No person shall engage in any economic reprisal against any person because that person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing under the terms of this chapter.

(m) No person shall intentionally aid, abet, incite, compel or coerce any person to engage in any of the discriminatory practices as defined by this chapter.

(n) No person shall willfully obstruct or prevent any person from complying with the provisions of this chapter, or resist, prevent, impede or interfere with the Board of Community Relations, or any of its members or representatives in the performance of duty under this chapter.

(o) If a real estate broker, salesman or employee thereof has been found to have committed an unlawful practice under this chapter, the Real Estate Commission of Ohio and the Dayton Area Board of Realtors shall be notified.

(p) Nothing in this chapter shall require an order to offer property to the public at large before selling, renting or leasing it, nor shall this chapter be deemed to prohibit owners from giving preference to prospective tenants, lessees or buyers for any reason other than religion, race, color, handicap, familial status, national origin or ancestry.

(q) This chapter shall not apply to the rental of any rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(r) Nothing in this chapter shall require an order to offer property for sale, lease or rental to any person if the owner has any reason to believe that such person is not negotiating for the purchase, rental or lease of such property in good faith.

(s) This chapter shall not apply to the rental or lease of any rooming units in a housing unit, if the owner or a member of his family resides in the housing unit.

(t) This chapter shall not apply to the rental or lease of any rooming units in a house in which the owner of the entire house or a member of his family resides.

(u) No person shall knowingly and intentionally induce and entrap another to commit a violation of any of the provisions of this chapter not contemplated by him for the purpose of instituting a criminal prosecution against him.
(Ord. 2028-69. Passed 9-23-69.)

(v) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor for the first offense and a misdemeanor of the third degree for any subsequent offense. Punishment shall be as provided in Section 698.02.

CHAPTER 630
Minors

- 630.01 Endangering children.
630.02 Interference with custody.
- 630.03 Abusing or contributing to delinquency of a child.

CROSS REFERENCES

- See section histories for similar State law
Juvenile Court - see Ohio R.C. Ch. 2151
Parents' liability for destructive acts of their children - see Ohio R.C. 3109.09
Definitions generally - see GEN. OFF. 606.01
Sales of alcoholic beverages to minors; prohibitions and misrepresentations - see GEN. OFF. 612.02
Posting liquor age warning signs - see GEN. OFF. 612.06
Poisoning children - see GEN. OFF. 618.04
Child stealing - see GEN. OFF. 636.07
Materials or performances harmful to juveniles - see GEN. OFF. 666.01(e), 666.11, 666.13
Juvenile defined - see GEN. OFF. 666.01(i)
Corruption of a minor - see GEN. OFF. 666.02
Sexual imposition - see GEN. OFF. 666.03
Importuning - see GEN. OFF. 666.04
Improperly furnishing firearms to a minor - see GEN. OFF. 672.10
Sale of explosives to minors - see GEN. OFF. 672.11

630.01 ENDANGERING CHILDREN.

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

(b) No person shall do any of the following to a child under eighteen or a mentally or physically handicapped child under twenty-one:

- (1) Torture or cruelly abuse the child;
- (2) Administer corporal punishment or other physical disciplinary measure or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child;

- (3) Repeatedly administer unwarranted disciplinary measures to the child when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development.

(c) Whoever violates this section is guilty of endangering children, a misdemeanor of the first degree, provided violation of this section does not result in serious physical harm to the child involved, and provided the offender has not previously been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child. Punishment shall be as provided in Section 698.02. (ORC 2919.22)

630.02 INTERFERENCE WITH CUSTODY.

(a) No person, knowing he is without privilege to do so or being reckless in that regard, shall entice, take, keep or harbor any of the following persons from his parent, guardian or custodian:

- (1) A child under the age of eighteen or a mentally or physically handicapped child under the age of twenty-one;
- (2) A person committed by law to an institution for delinquent, unruly, neglected or dependent children;
- (3) A person committed by law to an institution for the mentally ill or mentally deficient.

(b) It is an affirmative defense to a charge of enticing or taking under subsection (a)(1) hereof that the actor reasonably believed that his conduct was necessary to preserve the child's health or safety. It is an affirmative defense to a charge of keeping or harboring under subsection (a) hereof that the actor in good faith gave notice to law enforcement or judicial authorities within a reasonable time after the child or committed person came under his shelter, protection or influence.

(c) Whoever violates this section is guilty of interference with custody, a misdemeanor of the third degree. Punishment shall be as provided in Section 698.02. (ORC 2919.23)

630.03 ABUSING OR CONTRIBUTING TO DELINQUENCY OF A CHILD.

(a) No person shall abuse a child or aid, abet, induce, cause, encourage or contribute to the dependency, neglect, unruliness or delinquency of a child or a ward of the Juvenile Court, or act in a way tending to cause delinquency or unruliness in such child. No person shall aid, abet, induce, cause or encourage a child or a ward of the Court, committed to the custody of any person, department, public or private institution, to leave the custody of such person, department, public or private institution, without legal consent. Each day of such contribution to such dependency, neglect, unruliness or delinquency is a separate offense. (ORC 2151.41)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 2151.99(A))

CHAPTER 636
Offenses Relating to Persons

636.01	Negligent homicide.	636.09	Abuse of a corpse.
636.02	Assault.	636.10	Party lines to be yielded emergencies.
636.03	Negligent assault.	636.11	Threatening or harrass- ing telephone calls.
636.04	Aggravated menacing.	636.12	Placing harmful substance or objects in food or con- fection.
636.05	Menacing.	636.13	Abuse of family.
636.06	Unlawful restraint.		
636.07	Child stealing.		
636.08	Coercion.		

CROSS REFERENCES

See section histories for similar State law
 Vehicular homicide - see TRAF. 434.08
 Definitions generally - see GEN. OFF. 606.01
 "Physical harm to persons" defined - see GEN. OFF. 606.01(c)
 "Serious physical harm to persons" defined - see GEN. OFF. 606.01(e)
 Personal accountability for organizational conduct - see GEN. OFF. 606.09
 Minors - see GEN. OFF. Ch. 630
 Disorderly conduct - see GEN. OFF. 648.04
 Drug offenses - see GEN. OFF. 660.06 et seq.
 Sex related offenses - see GEN. OFF. Ch. 666
 Discrimination by lending institutions and insurers - see GEN. OFF.
 628.02(c) through (e)
 Discrimination in employment - see GEN. OFF. 628.02(f)
 Loitering - see GEN. OFF. 648.10
 Molesting or insulting persons - see GEN. OFF. 666.17

636.01 NEGLIGENT HOMICIDE.

(a) No person shall negligently cause the death of another by means of a deadly weapon or dangerous ordnance as defined in Section 672.01.

(b) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 2903.05)

636.02 ASSAULT.

(a) No person shall knowingly cause or attempt to cause physical harm to another.

(b) No person shall recklessly cause serious physical harm to another.

(c) No person shall recklessly cause physical harm to another. (Ord. No. 3163-85. Passed 5-28-85.)

(d) Whoever violates section (a) or (b) of this section is guilty of assault, a misdemeanor of the first degree. Whoever violates section (c) of this section is guilty of reckless assault, a misdemeanor of the fourth degree. (Ord. No. 3163-85. Passed 5-28-85)

636.03 NEGLIGENT ASSAULT.

(a) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in Section 672.01, cause physical harm to another.

(b) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree. Punishment shall be as provided in Section 698.02.
(ORC 2903.14)

✓ 636.04 AGGRAVATED MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of such other person or member of his immediate family.

(b) Whoever violates this section is guilty of aggravated menacing, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.
(ORC 2903.21)

636.05 MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of such other person or member of his immediate family.

(b) Whoever violates this section is guilty of menacing, a misdemeanor of the fourth degree. Punishment shall be provided in Section 698.02.
(ORC 2903.22)

636.06 UNLAWFUL RESTRAINT.

(a) No person, without privilege to do so, shall knowingly restrain another of his liberty.

(b) Whoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree. Punishment shall be as provided in Section 698.02.
(ORC 2905.03)

636.07 CHILD STEALING.

(a) No person, by any means, and with purpose to withhold a child under the age of fourteen or mentally incompetent from the legal custody of his parent, guardian or custodian, shall remove such child from the place where he is found.

(b) It is an affirmative defense to a charge under this section that the actor reasonably believed that his conduct was necessary to preserve the child's health or welfare.

(c) Whoever violates this section is guilty of child stealing, a misdemeanor of the first degree, provided the offender is a natural or adoptive parent or a step-parent of the child, but not entitled to legal custody of the child when the offense is committed, and provided the violator has not removed the child from the State. Punishment shall be as provided in Section 698.02. (ORC 2905.04)

636.08 COERCION.

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

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

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

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

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

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

(d) As used in this section, "threat" includes a direct threat and a threat by innuendo.

(e) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02.

636.09 ABUSE OF A CORPSE.

(a) No person, except as authorized by law, shall treat a human corpse in a way that he knows would outrage reasonable family sensibilities.

(b) Whoever violates this section is guilty of abuse of a corpse, a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02.
(ORC 2927.01)

636.10 PARTY LINES TO BE YIELDED IN EMERGENCIES.

(a) No person shall willfully refuse immediately to yield or relinquish the use of a party line to another person for the purpose of permitting such other person to report a fire or summon law enforcement agencies, ambulance service, medical or other aid in case of emergency.

No person shall ask for or request the use of a party line on the pretext that an emergency exists, knowing that no emergency exists.

As used in this section:

- (1) "Party line" means a subscriber's line telephone circuit to which two or more main telephone stations are connected, each station having a distinctive ring or telephone number.
- (2) "Emergency" means a situation in which property or human life is in jeopardy and in which prompt summoning of aid is essential.
(ORC 4931.30; Ord. 2437-72. Passed 12-12-72.)

(b) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or imprisoned not less than thirty days nor more than three months, or both. (ORC 4931.99(G))

636.11 THREATENING OR HARASSING TELEPHONE CALLS.

(a) No person shall, while communicating with any other person over a telephone, threaten to do bodily harm or use or address to such other person any words or language of a lewd, lascivious or indecent character, nature or connotation for the sole purpose of annoying such other person. (ORC 4931.31)

(b) No person shall knowingly make repeated telephone calls to another in any of the following ways:

- (1) Anonymously;
- (2) At extremely inconvenient hours;
- (3) In offensively coarse language;
- (4) After reasonable request to desist.

(c) No person, with purpose to harass another, shall make a telephone call to such other person without purpose of legitimate communication. (ORC 2917.21)

(d) Any use, communication or act prohibited by this section may be deemed to have occurred or to have been committed at either the place at which the telephone call was made or was received. (ORC 4931.31)

(e) Whoever violates subsection (a) hereof shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both.
(ORC 4931.99(H))

(f) Whoever violates subsection (b) or (c) hereof is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.
(ORC 2917.21)

636.12 PLACING HARMFUL SUBSTANCE OR OBJECTS IN FOOD OR CONFECTION.

(a) No person shall do either of the following, knowing or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:

- (1) Place a pin, needle, razor blade, glass, laxative, drug of abuse or other harmful or hazardous object or substance in any food or confection;
- (2) Furnish to any person any food or confection which has been adulterated in violation of subparagraph (1) hereof.
(ORC 3716.11)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.
(ORC 3716.99(C))

636.13 ABUSE OF FAMILY.

(a) No person shall abuse his family. For the purpose of enforcing this section, it shall be lawful for the police to enter any dwelling or other structure to arrest any person violating the same. (Ord. 2437-72. Passed 12-12-72.)

(b) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

CHAPTER 642
Offenses Relating to Property

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CROSS REFERENCES

See section histories for similar State law
 Value of written instrument or evidence of debt - see Ohio R.C. 1.07
 Determining property value or amount of physical harm in arson - see Ohio R.C. 2909.11
 Value of stolen property - see Ohio R.C. 2913.61
 Parents' liability for destructive acts of their children - see Ohio R.C. 3109.09
 Alteration, injury, removal of traffic control devices - see TRAF. 414.08
 Offenses relating to theft of motor vehicles - see TRAF. Ch. 444
 Definitions generally - see GEN. OFF. 606.01
 "Physical harm to property" defined - see GEN. OFF. 606.01(d)
 "Serious physical harm to property" defined - see GEN. OFF. 606.01(f)
 "Property" defined - see GEN. OFF. 606.01(j)
 Detention of shoplifters - see GEN. OFF. 606.24
 Disposition of property held by Police Department - see GEN. OFF. 606.25
 Discrimination in the sale or rental of real property - see GEN. OFF. 628.02(a), (b)

642.01 DEFINITIONS.

As used in this chapter:

- (a) "Deception" means knowingly deceiving another or causing another to be deceived, by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission which creates, confirms or perpetuates a false impression as to law, value, state of mind or other objective or subject fact.
- (b) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.
- (c) "Deprive" means to:
 - (1) Withhold property of another permanently, or for such period as to appropriate a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
 - (2) Dispose of property so as to make it unlikely that the owner will recover it;
 - (3) Accept, use or appropriate money, property or services, with the purpose not to give proper consideration in return therefor, and without reasonable justification or excuse for not giving proper consideration.
- (d) "Owner" means any person, other than the actor, who is the owner of, or who has possession or control of, or any license or interest in, property or services, even though such ownership, possession, control, license or interest in unlawful.
- (e) "Services" include labor, personal services, professional services, public utility services, common carrier services, food, drink, transportation and entertainment.
- (f) "Writing" means any computer program, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, typewritten or printed matter, and also means any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.
- (g) "Forge" means to fabricate or create, in whole or in part and by any means, any purious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when such writing in fact is not authenticated thereby.
- (h) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.
- (i) "Coin machine" means any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin or bill or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.
- (j) "Slug" means an object which, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.

- (k) "Theft offense" means any of the following:
- (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.03(B), 2913.31, 2913.32, 2915.06 or 2921.41, or a felony offense under Ohio R.C. 2911.32, 2913.02, 2913.03(A), 2913.11, 2913.21, 2913.41, 2913.42, 2913.43, 2913.51, or 2915.05 or Section 642.05, 642.02, 642.04, 642.05, 642.13, 642.14, 642.15, 642.16, 642.17, 642.18, 642.19, 642.20, 642.21 or 642.22 of this General Offenses Code;
 - (2) A violation of an existing or former ordinance of this or any other municipality or law of this or any other state or the United States substantially equivalent to any section listed in subparagraph (1) hereof;
 - (3) An offense under an existing or former ordinance of this or any other municipality or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud;
 - (4) A conspiracy or attempt to commit, or complicity in committing, any offense under subparagraph (1), (2) or (3) hereof.
- (l) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is contained within a computer system or network.
- (m) "Computer" means an electronic device that performs logical, arithmetic and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program or communication facilities that are connected or related in a computer system or network to such an electronic device.
- (n) "Computer system" means a set of related computers, whether connected or unconnected, and the equipment that is necessary to operate the computers.
- (o) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.
- (p) "Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, cause the computer to process data.
- (q) "Data" means a representation of information, knowledge, facts, concepts or instructions that are prepared in a formalized manner and that are intended for use in a computer system or network. (ORC 2913.01) (Ord. No. 3049-83.)
- Effective 2-22-83.)

642.02 THEFT.

- (a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:
- (1) Without the consent of the owner or person authorized to give consent;
 - (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
 - (3) By deception;
 - (4) By threat.
- (b) Whoever violates this section is guilty of petty theft, a misdemeanor of the first degree, provided the value of the property or services stolen is less than three hundred dollars (\$300) and provided the property stolen is not any of the property listed in Section 642.03 and provided the offender has not previously been convicted of a theft offense and provided the property stolen is not a motor vehicle as defined in Ohio R.C. 4501.01. Punishment shall be as provided in Section 698.02. (ORC 2913.02) (Ord. No. 3049-83. Effective 2-22-83.)

642.03 DEGREE OF OFFENSE WHEN CERTAIN PROPERTY INVOLVED.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, a violation of Section 642.02 or 642.20 is not a misdemeanor if the property involved is any of the following:

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, which on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and which has not been executed by the drawer or maker or on which the amount is blank;
- (c) A firearm or dangerous ordnance, as defined in Section 672.01;
- (d) A motor vehicle, as defined in Ohio R.C. 4501.01;
- (e) A motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22 or as prescribed by the applicable law of another state or the United States;
- (f) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;
- (g) A blank form for any license listed in Ohio R.C. 4507.01 (ORC 2913.71)

642.04 UNAUTHORIZED USE OF A VEHICLE.

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

- (b) The following are affirmative defenses to a charge under this section:
- (1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that he was authorized to use or operate the property.
 - (2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(c) Whoever violates this section is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree, provided the offender has not previously been convicted of a violation of this section or of any other theft offense. Punishment shall be as provided in Section 698.02 (ORC 2913.03)

642.05 UNAUTHORIZED USE OF PROPERTY.

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

(b) The affirmative defenses contained in Section 642.04(b) are affirmative defenses to a charge under this section.

(c) Whoever violates this section is guilty of unauthorized use of property, a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (ORC 2913.04)

642.06 INJURING VINES, BUSHES, TREES OR CROPS.

(a) No person, without privilege to do so, shall recklessly cut down, destroy, girdle or otherwise injure a vine, bush, shrub, sapling, tree or crop standing or growing on the land of another or upon public land.

In addition to the penalty provided in subsection (b) hereof, whoever violates this section is liable in treble damages for the injury caused. (ORC 901.51)

(b) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02 (ORC 901.99)

642.07 ARSON.

(a) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any property of another without his consent.

(b) Whoever violates this section is guilty of arson, a misdemeanor of the first degree, provided the value of the property or the amount of physical harm involved is less than three hundred dollars (\$300.00) and provided the offender's purpose is not to defraud and provided the property involved is not a courthouse, school building or other structure owned or controlled by the State or any of its political subdivision, or any department, agency or instrumentality of either, and used for public purposes. Punishment shall be as provided in Section 698.02. (Ord. No. 3049-83. Effective 2-22-83.)
(ORC 2909.03)

642.08 CRIMINAL DAMAGING OR ENDANGERING.

(a) No person shall cause or create a substantial risk of physical harm to any property of another without his consent:

- (1) Knowingly, by any means;
- (2) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material or other inherently dangerous agency or substance.

(b) Whoever violates this section is guilty of criminal damaging or endangering, a misdemeanor of the second degree. If violation of this section creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.

(ORC 2909.06)

642.09 CRIMINAL MISCHIEF.

(a) No person shall:

- (1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with the property of another.
- (2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator or other device releasing a substance which is harmful or offensive to persons exposed, or which tends to cause public alarm;
- (3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation, station, boundary marker or other survey station, monument or marker;
- (4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose.

(b) As used in this section, "safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equipment, or any other device, apparatus or equipment intended for protecting or preserving the safety of persons or property.

(c) Whoever violates this section is guilty of criminal mischief, a misdemeanor of the third degree. If violation of this section creates a risk of physical harm to any person, criminal mischief is a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 2909.07)

642.10 CRIMINAL TRESPASS.

- (a) No person without privilege to do so, shall do any of the following:
- (1) Knowingly enter or remain on the land or premises of another;
 - (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes or hours, when the offender knows he is in violation of such restrictions or is reckless in that regard;
 - (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
 - (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified to do so by the owner or occupant or the agent or servant of either.

(b) A police officer is authorized to close any public grounds owned or under the control of the City of Kettering, Kettering City School District or other municipal corporations from further public access after 11:00 p.m. or where the public safety requires.

No person shall knowingly enter or remain on closed public grounds in violation of this section. (Ord. No. 2712-76, passed 9-14-76)

(c) It is no defense to a charge under this section that the land or premises involved was owned, controlled or in custody of a public agency.

(d) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when such authorization was secured by deception.

(e) As used in this section, "land or premises" includes any land, building, structure or place belonging to, controlled by, or in custody of, another, and any separate enclosures or room, or portion thereof.

(f) Whoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (ORC 2911.21)

642.11 TAMPERING WITH COIN MACHINES.

(a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.

(b) Whoever violates this is guilty of tampering with coin machines, a misdemeanor of the first degree, provided the offender has not previously been convicted of a violation of this section or of any theft offense. Punishment shall be as provided in Section 698.02. (ORC 2911.32)

642.12 PASSING BAD CHECKS.

(a) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored.

(b) No person shall recklessly issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored.

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

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

(d) Whoever violates Paragraph (a) of this section is guilty of passing bad checks, a misdemeanor of the first degree, provided the check or other negotiable instrument is for payment of less than three hundred dollars (\$300) and provided the offender has not previously been convicted of a theft offense. Punishment shall be as provided in section 698.02.

Whoever violates Paragraph (b) of this section is guilty of passing bad checks, a misdemeanor of the fourth degree, provided the check or other negotiable instrument is for payment of less than three hundred dollars (\$300) and provided the offender has not previously been convicted of a theft offense. Punishment shall be as provided in section 698.02. (Ord. No. 3163-85. Passed 5-28-85)

642.13 MISUSE OF CREDIT CARDS.

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

- (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
- (2) Knowingly buy or sell a credit card from or to a person other than the issuer.

(b) No person, with purpose to defraud, shall do any the following:

- (1) Obtain control over a credit card as security for a debt;
- (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that such card has expired or been revoked, or was obtained, is retained, or is being used, in violation of law;
- (3) Furnish property or services upon presentation of a credit card, knowing that such card is being used in violation of law;
- (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that such representation is false.

(c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.

(d) Whoever violates any of the provisions of this section is guilty of misuse of credit cards, a misdemeanor of the first degree, provided the cumulative retail value of the property and services involved in one or more violations of paragraphs (b)(2), (3) or (4) hereof, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is less than three hundred dollars (\$300.00) and provided the offender has not previously been convicted of a theft offense. Punishment shall be as provided in Section 698.02. (Ord. No. 3049-83. Effective 2-22-83.)

(ORC 2913.21)

642.14 MAKING OR USING SLUGS.

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

- (1) Insert or deposit a slug in a coin machine, with purpose to defraud;
- (2) Make, possess or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.

(b) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02.

(ORC 2913.33)

642.15 DEFRAUDING A LIVERY OR HOSTELRY.

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

- (1) Hire an aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse or buggy, or keep or operate any of the same which has been hired.
- (2) Engage accommodations at a hotel, motel, inn, campground or other hostelry.

(b) It is prima facie evidence of purpose to defraud if the offender does any of the following:

- (1) Uses deception to induce the rental agency to furnish the offender with any of the property listed in subsection (a)(1) hereof or uses deception to induce the hostelry to furnish him with accommodations;
- (2) Hires any of the property named in subsection (a)(1) hereof or engages accommodations, knowing he is without sufficient means to pay the hire or rental;
- (3) Absconds without paying the hire or rental;
- (4) Knowingly fails to pay the hire or rental as required by the contract of hire or rental, without reasonable excuse for such failure;
- (5) Knowingly fails to return hired property as required by the contract of hire or rental, without reasonable excuse for such failure.

(c) Whoever violates this section is guilty of defrauding a livery or hostelry, a misdemeanor of the first degree, provided the offender has not previously been convicted of an offense under this section or of any other theft offense. Punishment shall be as provided in Section 698.02. (ORC 2913.41)

642.16 TAMPERING WITH RECORDS.

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

- (1) Falsify, destroy, remove, conceal, alter, deface or mutilate any writing or record;

- (2) Utter any writing or record, knowing it to have been tampered with as provided in subparagraph (1) hereof.

(b) Whoever violates this section is guilty of tampering with records, a misdemeanor of the first degree, provided the writing or record is not a will unrevoked at the time of the offense, or a record kept by or belonging to a governmental agency. Punishment shall be as provided in Section 698.02. (ORC 2913.42)

642.17 SECURING WRITINGS BY DECEPTION.

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

(b) Whoever violates this section is guilty of securing writings by deception, a misdemeanor of the first degree, provided the value of the property or the obligation involved is less than three hundred dollars (\$300). Punishment shall be as provided in Section 698.02. (ORC 2913.43) (Ord. No. 3049-83. Effective 2-22-83.)

642.18 PERSONATING AN OFFICER.

(a) No person, with purpose to defraud or knowing that he is facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator or agent of any governmental agency. (ORC 2913.44; Adopting Ordinance)

(b) No person shall falsely represent himself to be an officer of the Municipality, or exercise or attempt to exercise any of duties, functions or powers of a Municipal officer or member of the Police Department. (Ord. 2437-72. Passed 12-12-72.)

(c) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 2913.44)

642.19 DEFRAUDING CREDITORS.

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

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

(b) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 2913.45)

642.20 RECEIVING STOLEN PROPERTY.

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

(b) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree, provided the value of the property involved is less than three hundred dollars (\$300) and provided the property involved is not any of the property listed in Section 642.03 and provided the offender has not previously been convicted of a theft offense and provided the property involved is not a motor vehicle as defined in Ohio R.C. 4501.01. Punishment shall be as provided in Section 698.02. (ORC 2913.51) (Ord. No. 3049-83. Effective 2-22-83.)

642.21 DESECRATION.

(a) No person, without privilege to do so, shall purposely deface, damage, pollute or otherwise physically mistreat any of the following:

- (1) The flag of the United States or of this State;
- (2) Any public monument;
- (3) Any historical or commemorative marker, or any structure, thing or site of great historical interest;
- (4) A place of worship or its furnishings;
- (5) A place of burial or a burial marker;
- (6) A work of art or museum piece;
- (7) Any other object of reverence or sacred devotion.

(b) Whoever violates this section is guilty of desecration, a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02. (ORC 2927.11)

642.22 REMOVAL OF IMPROVEMENTS FROM REAL PROPERTY.

(a) No person having an interest in real property, buyer, lessee, tenant or occupant of real property, knowing that such real property is mortgaged or the subject of a land contract, shall remove, or cause or permit the removal of any improvement or fixture from such real property without the consent of the mortgagee, vendor under the land contract or other person authorized to give such consent. (ORC 5301.61)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 5301.99)

642.23 ADVERTISING ON PRIVATE PROPERTY.

(a) No person shall stick or post any advertisement, poster, sign, handbill or placard of any description upon any building, vehicle or upon any tree, post, fence, billboard or any other structure or thing whatever, the private property of another, without permission of the occupant or owner of the same, nor paint, mark, write, print, impress or in any manner attach any notice or advertisement or the name of any commodity or thing or any trade mark, symbol or figure of any kind upon anything whatever, the property of another without first obtaining permission of the owner of such thing on which he desires to place such notice, advertisement, name, mark or figure. (Ord. 617-58. Passed 10-28-58.)

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for any subsequent offense. Punishment shall be as provided in Section 698.02.

642.24 AGGRAVATED CRIMINAL TRESPASS

(a) No person without privilege to do so, shall, being on the land or premises of another, negligently fail or refuse to leave upon being notified to do so by a law enforcement officer acting on behalf of the owner or occupant or the agent or servant of either.

(b) No person, without privilege to do so, shall knowingly enter or remain on property which has been declared a "Dangerous Structure" and is the subject of an Order to Vacate by the Building Inspector.

(c) It is no defense to a charge under this section that the land or premises involved was owned, controlled or in custody of a public agency.

(d) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when such authorization was secured by deception.

(e) As used in this section, "land or premises" includes any land, building, structure or place belonging to, controlled by, or in custody of, another, and any separate enclosures or room, or portion thereof.

(f) Whoever violates this section is guilty of aggravated criminal trespass, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 2911.21) (Ord. 3443-90. Passed 5-8-90)

CHAPTER 648
Peace Disturbances

- | | |
|---|-------------------------------------|
| 648.01 Riot. | 648.06 Disturbing a lawful meeting. |
| 648.02 Failure to disperse. | 648.07 Misconduct at an emergency. |
| 648.03 Justifiable use of force to suppress riot. | 648.08 Inducing panic. |
| 648.04 Disorderly conduct. | 648.09 Making false alarms. |
| 648.05 Disturbing the peace. | 648.10 Loitering. |

CROSS REFERENCES

- See section histories for similar State law.
- Power to regulate peace disturbances - see Ohio R.C. 715.49, 715.55 et seq.
- Cordoning off riot areas; prohibiting sales of firearms and explosives - see Ohio R.C. 3761.16
- Suspension of beer and liquor sales by Ohio Director of Liquor Control during emergency - see Ohio R.C. 4301.251
- Riot and civil disorder assistance by State Highway Patrol - see Ohio R.C. 5503.02(B)
- Sirens, whistles and bells on motor vehicles - see TRAF. 438.19
- Noisy mufflers - see TRAF. 438.20
- Definitions generally - see GEN. OFF. 606.01
- "Force" defined - see GEN. OFF. 606.01(a)
- "Deadly force" defined - see GEN. OFF. 606.01(b)
- Resisting arrest - see GEN. OFF. 606.16
- Interfering with civil rights - see GEN. OFF. 606.20
- Liquor sale to intoxicated person - see GEN. OFF. 612.03
- Assault - see GEN. OFF. 636.02, 636.03
- Menacing - see GEN. OFF. 636.04, 636.05
- Arson - see GEN. OFF. 642.07
- Criminal trespass - see GEN. OFF. 642.10
- Desecration - see GEN. OFF. 642.21
- Fireworks - see GEN. OFF. 672.12, 672.13
- Emergency powers of Mayor - see GEN. OFF. 606.27
- Disorderly persons on premises where alcoholic beverages are sold - see GEN. OFF. 612.11

648.01 RIOT.

(a) No person shall participate with four or more others in a course of disorderly conduct in violation of Section 648.04:

- (1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;

- (2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede or obstruct a function of government;
- (3) With purpose to hinder, impede or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at such institution.

(b) No person shall participate with four or more others with purpose to do an act with unlawful force or violence, even though such act might otherwise be lawful.

(c) Whoever violates this section is guilty of riot, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.
(ORC 2917.03)

648.02 FAILURE TO DISPERSE.

(a) Where five or more persons are participating in a course of disorderly conduct in violation of Section 648.04, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance or alarm, a law enforcement officer or other public official may order the participants and such other persons to disperse. No person shall knowingly fail to obey such order.

(b) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (Ord. 2844-79. Passed 5-8-79.)

648.03 JUSTIFIABLE USE OF FORCE TO SUPPRESS RIOT.

A law enforcement officer or fireman engaged in suppressing riot or in protecting persons or property during riot:

- (a) Is justified in using force, other than deadly force, when and to the extent he has probable cause to believe such force is necessary to disperse or apprehend rioters;
- (b) Is justified in using force, including deadly force, when and to the extent he has probable cause to believe such force is necessary to disperse or apprehend rioters whose conduct is creating a substantial risk of serious physical harm to persons. (ORC 2917.05)

648.04 DISORDERLY CONDUCT.

(a) No person shall recklessly cause inconvenience, annoyance or alarm to another, by doing any of the following:

- (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
- (2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person;

- (3) Insulting, taunting or challenging another under circumstances in which such conduct is likely to provoke a violent response;
 - (4) Hindering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others and by any act which serves no lawful and reasonable purpose of the offender;
 - (5) Creating a condition which is physically offensive to persons or which presents a risk of physical harm to persons or property by any act which serves no lawful and reasonable purpose of the offender.
- (b) No person, while voluntarily intoxicated shall do either of the following:
- (1) In a public place or in the presence of two or more persons engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if he were not intoxicated, should know is likely to have such effect on others;
 - (2) Engage in conduct or create a condition which presents a risk of physical harm to himself or another, or to the property of another.
- (c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.
- (d) When to an ordinary observer a person appears to be intoxicated, it is probable cause to believe such person is voluntarily intoxicated for purposes of subsection (b) hereof.
- (e) Whoever violates this section is guilty of disorderly conduct, a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (Ord. 2699-76. Passed 7-13-76.)

648.05 DISTURBING THE PEACE.

(a) No person shall disturb the good order and quiet of the Municipality by clamors or noises, by intoxication, drunkenness, fighting, quarreling, wrangling, committing assault, assault and battery, using obscene or profane language in the streets and other public places to the annoyance of the citizens, or otherwise violate the public peace by indecent and disorderly conduct, by lewd and lascivious behavior or by making, continuing to make or causing to be made any unreasonable and unnecessary noise of such a character, intensity and duration as to disturb the peace and quiet of the community or to be detrimental to the life or health of any individual. (Ord. 2437-72. Passed 12-12-72.)



(b) The following acts are declared to be unreasonable and unnecessary noises in violation of subsection (a) hereof, but this enumeration shall not be deemed exclusive:

- (1) Horns, Signaling Devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, trolley coach or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or any other device operated by engine exhaust; and the use of any such signaling device when traffic is held up for any reason.
- (2) Radios, Phonographs, etc. The using, operating, or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p. m. and 7:00 a. m. in such a manner as to be plainly audible at a distance of fifty feet from the building, structure or vehicle in which it is located shall be prima-facie evidence of a violation of Section 648.05.
- (3) Loudspeakers, Amplifiers for Advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure except by special permission of the City Manager.
- (4) Yelling, Shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p. m. and 7:00 a. m. of the following day, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence or of any persons in the vicinity.
- (5) Animals, Birds, etc. The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort or repose of persons in the vicinity.
- (6) Steam Whistles. The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper City authorities.

- (7) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (8) Defect in Vehicle or Load. The use of any automobile, motorcycle or vehicle which is so out of repair, so loaded or used in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (9) Loading, Unloading, Opening Boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- (10) Construction or Repairing of Buildings; Permit. The erection, including excavating, demolition, alteration or repair of any building other than between the hours of sunrise until sundown on weekdays, except in case of urgent necessity in the interest of the public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the Building Inspection Superintendent determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets within the hours of sundown to sunrise, and if he further determines that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of sundown to sunrise, upon application being made at the time the permit for the work is awarded or during the progress of the work.
- (11) Schools, Courts, Churches, Hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such an institution or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- (12) Hawkers, Peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- (13) Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
- (14) Transportation of Metal Rails, Pillars and Columns. The transportation of rails, pillars or columns of iron, steel or other materials over and along streets and other public places upon carts, drays, cars, trucks or in any other manner or on conveyances so loaded as to cause loud noises or so as to disturb the peace and quiet of such streets or other public places.
- (15) Pile Drivers, Hammers, etc. The operation between the hours of 10:00 p. m. and 7:00 a. m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- (16) Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
(Ord. 156. Passed 7-13-54.)

- (17) Profanity. The utterance of any obscene, insulting, abusive, threatening or other language that is reasonably likely to provoke immediate violent response or a breach of the peace. (Ord. 2437-72. Passed 12-12-72.)

(c) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (Ord. 2699-76. Passed 7-13-76.)

648.06 DISTURBING A LAWFUL MEETING.

(a) No person, with purpose to prevent or disrupt a lawful meeting, procession or gathering; shall do either of the following:

- (1) Do any act which obstructs or interferes with the due conduct of such meeting, procession or gathering;
- (2) Make any utterance, gesture or display which outrages the sensibilities of the group.

(b) No person shall display any placard, sign, leaflet, exhibit, nor audio or visual presentation within 150 feet of or inside the Kettering Municipal Building 30 minutes before, during or 30 minutes after a meeting of Council, a Municipal Board or Commission without that body's prior consent.

(c) Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (ORC 2917.12)

648.07 MISCONDUCT AT AN EMERGENCY.

(a) No person shall knowingly:

- (1) Hamper the lawful operations of any law enforcement officer, fireman, rescuer, medical person or other authorized person, engaged in his duties at the scene of a fire, accident, disaster, riot or emergency of any kind;
- (2) Fail to obey the lawful order of any law enforcement officer engaged in his duties at the scene of or in connection with a fire, accident, disaster, riot or emergency of any kind.

(b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of his duties.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (Ord. 2844-79. Passed 5-8-79.)

648.08 INDUCING PANIC.

(a) No person shall cause the evacuation of any public place or otherwise cause serious public inconvenience or alarm by doing any of the following:

- (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;
- (2) Threatening to commit any offense of violence;
- (3) Committing any offense with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(b) Subsection (a)(1) hereof does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree, provided violation of this section does not result in physical harm to any person. Punishment shall be as provided in Section 698.02. (ORC 2917.31)

648.09 MAKING FALSE ALARMS.

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

- (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
- (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
- (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.

(b) This section does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 2917.32)

648.10 LOITERING.

(a) No person shall loiter or prowl in any public or private place at a time, in a manner or under circumstances which warrant alarm for the safety of persons or security of property in the surrounding area.

(b) Without limitation, the following circumstances may be considered in determining whether such alarm is warranted:

- (1) The flight of a person upon the appearance of a police officer;
- (2) Attempted concealment by a person upon the appearance of a police officer;
- (3) The systematic checking by a person of doors, windows or other means of access to buildings, houses or vehicles.

(c) Unless flight by the actor or other circumstances make it impracticable, a police officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and if believed by the police officer at the time, would have dispelled the alarm.

- (d) As used in this section:
- (1) "Loitering" includes the following activities: lingering, hanging around, delaying, sauntering and moving slowly about, where such conduct is not due to physical defects or conditions.
 - (2) "Private place" means and includes places privately owned but open to the public generally, such as shopping centers, retail stores, transportation terminals, movie theaters, office buildings, restaurants and all distinctly private places such as homes or private residences and apartment houses.
 - (3) "Public place" means and includes public streets and alleyways, public restrooms, public sidewalks, public parks, public buildings and Municipal airports.
 - (4) "Surrounding area" means that area easily and immediately accessible to the person under observation.

(e) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

648.11 PICKETING.

(a) Declaration. It is hereby declared that the protection and preservation of the home is the keystone of democratic government; that the public health and welfare and the good order of the community require that members of the community be able to enjoy in their homes and dwellings a feeling of well-being, tranquility, and privacy, and when absent from their homes and dwellings, carry with them the sense of security inherent in the assurance that they may return to the enjoyment of their homes and dwellings; that the practice of picketing that targets a particular individual at his residence or dwelling causes emotional disturbance and distress to the occupants, and obstructs and interferes with the free use of public sidewalks and public ways of travel; that such practice has as its object the harassing of such occupants; that without resort to such practice full opportunity exists, and under the terms and provisions of this ordinance will continue to exist, for the exercise of freedom of speech and other constitutional rights; and that the provisions of this section are necessary for the public interest to avoid the detrimental results set forth above. This section shall be enforced pursuant to the United States Supreme Court Opinion in Frisby v. Schultz, 487 U.S. 474 (1988), and the United States Court of Appeals for the Sixth Circuit opinion in Vittitow v. City of Upper Arlington, 43 F.3d 1100 (6th Cir. 1995), cert. denied, 1995 WL 231157.

(b) It is unlawful for any person to directly target an individual in the City of Kettering by engaging in picketing that takes place solely in front of the individual's residence or dwelling or in front of the residence, dwelling, or other property that abuts the individual's residence or dwelling on either side.

(c) Whoever violates this section shall be guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in §698.02 of the Codified Ordinances.

Legislative history: Ord. 156; passed 7/13/54. Ord. 2437-72; passed 12/12/72. Ord. 2699-76; passed 7/13/76. Ord. 2844-79; passed 5/8/79. Ord. 3425-90; passed 1/23/90. Ord. 3683-95; passed 6/27/95.

CHAPTER 654
Railroads

654.01 Obstructing streets by railroad companies.

654.02 Climbing upon railroad cars.

CROSS REFERENCES

See section histories for similar State law

Lighting railroads - see Ohio R.C. 723.33 et seq.

Duties of engineers - see Ohio R.C. 4999.04

Stopping at grade crossings - see TRAF. 432.32

Definitions generally - see GEN. OFF. 606.01

Organizational criminal liability - see GEN. OFF. 606.08

Personal accountability for organizational conduct - see GEN. OFF. 606.09

654.01 OBSTRUCTING STREETS BY RAILROAD COMPANIES.

(a) No railroad company shall obstruct or permit or cause to be obstructed a public street, road or highway by permitting a railroad car, locomotive or other obstruction to remain upon or across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon such street, road or highway. No railroad company shall fail, at the end of each five minute period of obstruction of a public street, road or highway, to cause such railroad car, locomotive or other obstruction to be removed for sufficient time, not less than three minutes, to allow the passage of persons and vehicles waiting to cross.

This section does not apply to obstruction of a public street, road or highway by a continuously moving through train or caused by circumstances wholly beyond the control of the railroad company, but does apply to other obstructions, including without limitation those caused by stopped trains and trains engaged in switching, loading or unloading operations.

Upon the filing of an affidavit or complaint for violation of this section, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred. (ORC 5589.21; Ord. 2437-72. Passed 12-12-72.)

(b) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.
(ORC 5589.99(B))

654.02 CLIMBING UPON RAILROAD CARS.

(a) No person shall climb, jump, step or stand upon or cling or attach himself to a locomotive, engine or car upon the track of a railroad, unless in compliance with law

or by permission under the rules and regulations of the corporation managing such railroad. (Ord. 2437-72. Passed 12-12-72.)

(b) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

CHAPTER 660
Safety, Sanitation and Health

- | | |
|---|---|
| 660.01 Reserved | 660.11 Administering general anesthetic |
| 660.02 Spreading contagion. | 660.12 Barricades and warning lights; |
| 660.03 Noxious odors; filthy accumulations; | 660.13 Sidewalk obstructions; damage or |
| 660.04 Duty to keep sidewalks in repair and
clean; notice. | injury |
| 660.05 Abandoned refrigerators and
airtight containers. | 660.14 Deposit of objectionable matter
upon streets. |
| 660.06 Reserved. | 660.15 Improper drainage |
| 660.07 Reserved. | 660.16 Fences. |
| 660.08 Reserved. | 660.17 Littering and deposit of garbage,
rubbish, junk, etc. |
| 660.09 Reserved. | 660.18 Spitting. |
| 660.10 Reserved. | 660.19 Ratproofing. |
| | 660.20 Dumping prohibited in streams
and public drains |

CROSS REFERENCES

- See section histories for similar State law
- Excavation liability - see Ohio R.C. 723.49 et seq.
- Nuisances - see Ohio R.C. Ch. 3767
- Placing injurious material or obstruction in street - see TRAF. 412.01
- Safety and equipment for motor vehicles - see TRAF. Ch. 438
- Loads dropping, leaking or shifting; tracking mud; removal required - see TRAF. 440.06
- Willfully leaving vehicles on private or public property - see TRAF. 404.12
- Placing harmful substance or objects in food or confection - see GEN. OFF. 636.12
- Riot - see GEN. OFF. 648.01 et seq.
- Inducing panic - see GEN. OFF. 648.08
- Weapons and explosives - see GEN. OFF. Ch. 672
- Air pollution - see GEN. OFF. Ch. 608
- Animal nuisances - see GEN. OFF. 618.08
- Garbage and Refuse Collection - see Streets, Utilities and Public Services Code
Chapter 943

660.01 RESERVED.

660.02 SPREADING CONTAGION.

(a) No person, knowing or having reasonable cause to believe that he is suffering from a dangerous, contagious disease, shall knowingly fail to take reasonable measures to prevent exposing himself to other persons, except when seeking medical aid.

(b) No person, having charge or care of a person whom he knows or has reasonable cause to believe is suffering from a dangerous, contagious disease, shall recklessly fail to take reasonable measures to protect others from exposure to the contagion, and to inform health authorities of the existence of the contagion.

(c) No person, having charge of a public conveyance or place of public accommodation, amusement, resort or trade, and knowing or having reasonable cause to believe

that persons using such conveyance or place have been or are being exposed to a dangerous, contagious disease, shall negligently fail to take reasonable measures to protect the public from exposure to the contagion, and to inform health authorities of the existence of the contagion. (ORC 3701.81)

(d) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02. (ORC 3701.99(D))

660.03 NOXIOUS ODORS; FILTHY ACCUMULATIONS; POLLUTING AND DIVERTING WATERCOURSES.

(a) No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public. No person shall cause or allow offal, filth or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.

No person shall unlawfully obstruct or impede the passage of a navigable river, harbor or collection of water, or corrupt or render unwholesome or impure, a watercourse, stream or water, or unlawfully divert such watercourse from its natural course or state to the injury or prejudice of others. (ORC 3767.13)

(b) Whoever violates any of the provisions of this section shall be fined not more than five hundred dollars (\$500). (ORC 3767.99(C))

660.04 DUTY TO KEEP SIDEWALKS IN REPAIR AND CLEAN; NOTICE.

(a) No owner or occupant of abutting lands shall fail to keep the sidewalks, curbs or gutters in repair and free from snow, ice or any nuisance. (ORC 723.011)

(b) No owner of any lot or land abutting upon any street shall refuse, fail or neglect to repair or keep in repair and free from nuisance and obstruction, the sidewalk in front of such lot or land after due notice of a resolution of council ordering the repair of such sidewalk, the removal of such obstruction or the abatement of such nuisance.

If the owner or person having charge of such land fails to comply with such notice, council shall cause the sidewalks to be repaired. All expenses and labor costs incurred shall, when approved by council, be paid out of city funds not otherwise appropriated. Council shall make a written return to the County Auditor of its action, with a statement of the charges for its services, the amount paid for labor, the fees of the officers serving notices and a proper description of the premises. Such amounts, when allowed, shall be entered upon the tax duplicate and be a lien upon such lands from and after the date of the entry and be collected as other taxes and returned to the city with the general fund. Such remedy shall be in addition to the penalty provided in subsection (c) hereof.

(c) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

660.05 ABANDONED REFRIGERATORS AND AIRTIGHT CONTAINERS.

(a) No person shall abandon, discard, or knowingly permit to remain on premises

equipped with a hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. This section shall not apply to an icebox, refrigerator or other airtight or semi-airtight container located in that part of a building occupied by a dealer, warehouseman or repairman.

(b) Whoever violates this section shall be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200).

660.06 RESERVED.

660.07 RESERVED.

660.08 RESERVED.

660.09 REPEALED.

660.10 RESERVED

660.11 ADMINISTERING GENERAL ANESTHETIC.

(a) No person shall knowingly administer a general anesthetic to another, unless at the time of administration a competent witness is present. (ORC 4731.81)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree for a first offense; for each subsequent offense such person is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 4731.99(B))

660.12 BARRICADES AND WARNING LIGHTS, ABANDONED EXCAVATIONS.

(a) No person shall abandon or knowingly permit to remain on public or private property, any excavation, well, cesspool or structure which is in the process of construction, reconstruction, repair or alteration unless the same is adequately protected by suitable barricades and guarded by warning devices or lights at night so that the condition will not reasonably prove dangerous to life or limb.

(b) No person shall destroy, remove, damage or extinguish any barricade or warning light that is placed for the protection of the public so as to prevent injury to life or limb.

(c) Any owner or agent in control of a premises upon which a basement, cellar, well or cistern has been abandoned due to demolition, failure to build or any other reason shall cause the same to be filled to the ground surface with rock, gravel, earth or other suitable material.

(d) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

660.13 SIDEWALK OBSTRUCTIONS; DAMAGE OR INJURY.

(a) No person shall place or knowingly drop upon any part of a sidewalk, playground or other public place any tacks, bottles, wire, glass, nails or other articles which may damage property of another or injure any person or animal traveling along or upon such sidewalk or playground.

(b) No person shall walk on, or allow any animal upon, or injure or deface in any way, any soft or newly laid sidewalk pavement.

(c) No person shall allow any cellar or trap door, coal chute or elevator or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous condition.

(d) No person shall unload any heavy material in the streets of the city by throwing or letting the same fall upon the pavement of any street, sidewalk or other public way, without first placing some sufficient protection over the pavement.

(e) In the transportation of any goods, materials or equipment across any sidewalk in the city, efficient temporary planking shall be used to protect such sidewalks from breakage and such temporary planking shall be removed at the close of each working day and the surface of the sidewalk immediately cleaned and left in a passable condition.

(f) No person shall encumber any street or sidewalk, or being the owner, occupant or person having care of any building or lot of land bordering on any street or sidewalk, permit the same to be encumbered with barrels, boxes, cans, articles or substances of any kind, so as to interfere with the free and unobstructed use thereof.

(g) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

660.14 DEPOSIT OF OBJECTIONABLE MATTER UPON STREETS.

(a) Any person depositing, placing or causing to be deposited or placed mud or similarly objectionable matter upon a public street shall remove or cause such matter to be removed on the same day that it is so deposited or placed.

(b) In cases of development of property, any mud or similarly objectionable matter deposited or placed on a public street area by any person or group of persons employed by the property owner or by his subcontractors in connection with the development of the property shall be attributable to the owner as well as the person depositing such matter, and it shall be incumbent upon the owner as well as the person depositing such matter to remove or cause the same to be removed on the same day that it is deposited or placed on the streets. The intent and purpose of this subsection is to place upon the owner of property in the city a duty to control that property and any persons employed in connection therewith so as not to allow mud or any other similarly objectionable matter from that property to be deposited on the public streets.

(c) The Building Inspection Superintendent may revoke any and all building, electrical, plumbing or other permits issued to or for the benefit of anyone violating this section relating to the property, until the objectionable matter is removed. Upon failure to comply with an order of the Superintendent to comply with this section within twenty-four hours thereof, the city may remove such objectionable matter and follow the assessment of cost procedure as established in Section 660.04(b).

(d) It shall be the duty of plat developers, excavators, haulers and their employees, representatives or agents to remove any mud, dirt, stones, trash, foul liquids, debris or any other type of objectionable matter or refuse matter deposited on the streets, sidewalks or other public

ways or grounds during any construction, removal, demolition or excavation operation.

No person shall sweep into or deposit in the gutter, street or other public place the accumulation of litter from any building or lot, or from any public or private sidewalk driveway.

(e) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

660.15 IMPROPER DRAINAGE.

(a) No owner, occupant or person in charge of any lot or parcel of ground shall, at any time, cause or permit water to accumulate thereon and become stagnant, permit culverts, drains or natural watercourses thereon to become obstructed, or cause or permit any putrid or unsanitary substances to accumulate thereon.

(b) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

660.16 FENCES.

(a) No person shall erect or maintain any fence charged with electrical current.

(b) No person shall construct or cause to be constructed a partition fence or a fence adjoining public property from barbed wire.

(c) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

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

(a) No person shall, without lawful authority, place or dispose of in any manner, upon any public property or upon the premises of another, any paper, trash, garbage, waste, rubbish, refuse, junk or any substance or material which is or may become noxious, offensive, injurious or dangerous to the public health, comfort or safety.

(b) The owner or occupant of every property in this city shall maintain his premises and the sidewalk in front thereof free from any accumulation of paper, trash or other refuse. No such person shall sweep into or deposit in any gutter or street the accumulation of such litter from his premises.

(c) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

660.18 SPITTING.

(a) No person shall spit, excrete or expectorate any saliva or sputum upon any sidewalk, or on the floor of any public conveyance, building, theater or assembly hall, except in receptacles provided for such purpose.

(b) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

660.19 RATPROOFING.

(a) Every commercial establishment and residence in this city shall be constructed and maintained in a rat-free and ratproof condition.

(b) No owner of any building or any grounds in the city shall permit conditions to exist on his property which may allow the building or grounds to become a rat harborage.

(c) The sanitarian of the Dayton-Montgomery County Combined Health District may make any inspection of any building in this city as may be necessary to determine that the building is in compliance with the provisions of this section.

(d) The sanitarian shall give notice to abate or correct any conditions found to be in violation of this chapter, specifying suitable remedies. Such notice shall allow a maximum of thirty days for corrective action to be taken. Failure to comply with this notice shall be considered a violation of this section.

(e) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

660.20 DUMPING PROHIBITED IN STREAMS AND PUBLIC DRAINS.

(a) No person shall place or cause to be placed in any stream, drainage swale, other drainage way, or public drain or catch basin any refuse, paper, leaves, earthen fill or any material whatsoever which by its nature or placement would cause an obstruction to the flow or rate of flow of water through that facility.

(b) Whoever violates subsection (a) above is guilty of a minor misdemeanor on the first offense. Each subsequent violation of subsection (a) by the same person shall constitute a third degree misdemeanor.

(c) Any person who places or causes to be placed any of the material referred to in subsection (a) in a stream, public drain or other facility described in that subsection shall remove it within five (5) days after being ordered to do so by a written notice from the city. That notice may be served in the same manner as a summons in a civil action. Such a notice shall be issued by any police officer or any property maintenance code inspector of the city or by a sanitarian or inspector of the Montgomery County Combined Health District.

(d) Whoever violates subsection (c) above is guilty of a minor misdemeanor on the first offense. Failure to remove the material within fifteen (15) days after the original notice shall constitute a separate violation which constitutes a third degree misdemeanor. Failure to remove the material within thirty (30) days after the original notice shall constitute a separate violation which constitutes a first degree misdemeanor.

(e) In any event, if the prohibited material described in subsection (a) is not removed from the stream or other facility mentioned in that subsection within five (5) days after the original notice, it shall be deemed to constitute a nuisance which the city may abate by entering onto the property and removing the material from that facility, with the cost of that work being charged against the property as a nuisance assessment through the property maintenance code. The fact that the criminal case has been filed against a defendant for violation of

or (d) shall not prohibit the city from using this nuisance removal procedure, nor shall proceeding with such a nuisance removal waive or prevent criminal cases being filed for such violations.

Legislative history: Ord. 426-56; passed 4/14/56. Ord. 617-58; passed 10/28/58. Ord. 738-60; passed 5/24/60. Ord. 834-61; passed 3/28/61. Ord. 1845-68; passed 8/27/68. Ord. 2437-72; passed 12/12/72. Ord. 2805-78; passed 6/13/78. Ord. 3663-95; passed 2/28/95.

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**CHAPTER 666
SEX RELATED OFFENSES**

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CROSS REFERENCES

- Power to restrain houses of ill fame – see Ohio Revised Code §715.52
 Examination and treatment of venereal disease – see Ohio Revised Code §2907.27
 Psychiatric examination before sentence – see Ohio Revised Code §2947.25
 Registration of sex offenders in cities and counties – see Ohio Revised Code §2950.01 et seq.
 Definitions generally – see GENERAL OFFENSES §606.01
 Abusing or contributing to delinquency of a child – see GENERAL OFFENSES §630.03
 Spreading contagion – see GENERAL OFFENSES §630.02

SECTION 666.01 DEFINITIONS.

As used in this chapter:

- (a) “Sexual conduct” means vaginal intercourse between a male and female, and anal intercourse, fellatio and cunnilingus between persons regardless of sex.
- (b) “Sexual contact” means any touching of an erogenous zone of another, including, without limitation, the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
- (c) “Sexual activity” means sexual conduct or sexual contact, or both.

(d) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

(e) Any material or performance is "harmful to juveniles", if it is offensive to prevailing standards in the adult community with respect to what is suitable for juveniles, and if any of the following applies:

- (1) It tends to appeal to the prurient interest of juveniles;
- (2) It contains a display, description or representation of sexual activity, masturbation, sexual excitement or nudity;
- (3) It contains a display, description or representation of bestiality or extreme or bizarre violence, cruelty or brutality;
- (4) It contains a display, description or representation of human bodily functions of elimination;
- (5) It makes repeated use of foul language;
- (6) It contains a display, description or representation in lurid detail of the violent physical torture, dismemberment, destruction or death of a human being;
- (7) It contains a display, description or representation of criminal activity which tends to glorify or glamorize such activity and which, with respect to juveniles, has a dominant tendency to corrupt.

(f) When considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to such group, any material or performance is "obscene" if any of the following applies:

- (1) Its dominant appeal is to prurient interest;
- (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement or nudity in a way which tends to represent human beings as mere objects of sexual appetite;
- (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality;

- (4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way which inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose;
- (5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral or artistic purpose.

(g) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(h) "Nudity" means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernible turgid state.

(i) "Juvenile" means any unmarried person under the age of eighteen.

(j) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record or tape, or other tangible thing capable of arousing interest through sight, sound or touch.

(k) "Performance" means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience. (ORC 2907.01)

SECTION 666.02 CORRUPTION OF A MINOR.

(a) No person, eighteen years of age or older, shall engage in sexual conduct with another, not the spouse of the offender, when the offender knows such other person is over twelve but not over fifteen years of age, or the offender is reckless in that regard.

(b) Whoever violates this section is guilty of corruption of a minor, a misdemeanor of the first degree, provided the offender is less than four years older than the other person. Punishment shall be as provided in Section 698.02. (ORC 2907.04)

SECTION 666.03 SEXUAL IMPOSITION.

(a) No person shall have sexual contact with another not the spouse of the offender, when any of the following applies:

- (1) The offender knows that the sexual contact is offensive to the other person, or is reckless in that regard.
- (2) The offender knows that the other person's ability to appraise the nature of or control the offender's conduct is substantially impaired.
- (3) The offender knows that the other person submits because of being unaware of the sexual contact.
- (4) The other person is over twelve but not over fifteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than the other person.

(b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. Punishment shall be as provided in Section 698.02. (ORC 2907.06)

SECTION 666.04 IMPORTUNING.

(a) No person shall solicit a person under thirteen years of age to engage in sexual activity with the offender, whether or not the offender knows the age of such person.

(b) No person shall solicit a person of the same sex to engage in sexual activity with the offender, when the offender knows such solicitation is offensive to the other person, or is reckless in that regard.

(c) No person shall solicit another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, and the other person is over twelve but not over fifteen years of age, whether or not the offender knows the age of the other person.

(d) Whoever violates this section is guilty of importuning. Violation of subsection (a) or (b) hereof is a misdemeanor of the first degree. Violation of subsection (c) hereof is a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (ORC 2907.07)

SECTION 666.05 VOYEURISM.

(a) No person, for the purpose of sexually arousing or gratifying himself or herself, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(b) Whoever violates this section is guilty of voyeurism, a misdemeanor of the third degree. Punishment shall be as provided in Section 698.02. (ORC 2907.08)

SECTION 666.06 PUBLIC INDECENCY.

(a) No person shall knowingly or intentionally in a public place:

- (1) engage in sexual conduct as defined in O.R.C. 2907.01; or
- (2) engage in conduct which to an ordinary observer would appear to be sexual conduct or masturbation; or
- (3) appear in a state of nudity; or
- (4) fondle the genitals of himself, herself or another person.

(b) "Nudity" means the showing of the human male or female genitals, pubic hair or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum-anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device gives the realistic appearance of nipples and/or areola.

(c) "Public Place" includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

(d) The prohibition set forth in subsection (a)(3) shall not apply to:

- (1) Any child under ten (10) years of age; or
- (2) Any individual exposing a breast in the process of breastfeeding an infant under three (3) years of age.

(e) Whoever violates this section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.

SECTION 666.07 PROCURING.

(a) No person, knowingly and for gain, shall do either of the following:

- (1) Entice or solicit another to patronize a prostitute or brothel;
- (2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.

(b) No person, having authority or responsibility over the use of premises shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire.

(c) Whoever violates this section is guilty of procuring, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.

SECTION 666.08 SOLICITING.

(a) No person shall solicit another to engage with such other person in sexual activity for hire.

(b) Whoever violates this section is guilty of soliciting, a misdemeanor of the third degree. Punishment shall be as provided in Section 698.02. (O.R.C. 2907.24)

SECTION 666.09 PROSTITUTION.

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

(b) Whoever violates this section is guilty of prostitution, a misdemeanor of the third degree. Punishment shall be as provided in Section 698.02. (ORC 2907.25)

SECTION 666.10 RULES OF EVIDENCE.

(a) In any case in which it is necessary to prove that a place is a brothel, evidence as to the reputation of such place and as to the reputation of the persons who inhabit or frequent it, is admissible on the question of whether such place is or is not a brothel.

(b) In any case in which it is necessary to prove that a person is a prostitute, evidence as to the reputation of such person is admissible on the question of whether such person is or is not a prostitute.

(c) In any prosecution for a violation of Sections 666.07 to 666.09, proof of a prior conviction of the accused of any such offense or substantially equivalent offense is admissible in support of the charge.

(d) The prohibition contained in Ohio Revised Code 2917.02(C) against testimony by a husband or wife concerning communications between them does not apply, and the accused's spouse may testify concerning any such communication in any of the following cases:

- (1) When the husband or wife is charged with a violation of Section 666.07 and the spouse testifying was the prostitute involved in the offense or the person who used the offender's premises to engage in sexual activity for hire;
- (2) When the husband or wife is charged with a violation of Section 666.08 or 666.09. (O.R.C. 2907.26)

SECTION 666.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.

(a) No person, with knowledge of its character, shall recklessly furnish or present to a juvenile any material or performance which is obscene or harmful to juveniles.

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

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

reasonable cause to believe that such juvenile was under the age of eighteen and unmarried.

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

(d) Whoever violates this section is guilty of disseminating matter harmful to juveniles, a misdemeanor of the first degree, provided the material or performance involved is harmful to juveniles, but not obscene. Punishment shall be as provided in Section 698.02. (O.R.C. 2907.31)

SECTION 666.12 PANDERING OBSCENITY.

(a) No person, with knowledge of the character of the material or performance involved, shall do any of the following:

- (1) Create, reproduce or publish any obscene material, when the offender knows that such material is to be used for commercial exploitation or will be publicly disseminated or displayed, or when he is reckless in that regard;
- (2) Exhibit or advertise for sale or dissemination, or sell or publicly disseminate or display any obscene material;
- (3) Create, direct or produce an obscene performance, when the offender knows that it is to be used for commercial exploitation or will be publicly presented, or when he is reckless in that regard;
- (4) Advertise an obscene performance for presentation, or present or participate in presenting an obscene performance, when such performance is presented publicly, or when admission is charged;
- (5) Possess or control any obscene material with purpose to violate subparagraph (2) or (4) hereof.

(b) It is an affirmative defense to a charge under this section that the material or performance involved was disseminated or presented for a bona fide medical, scientific, educational, religious, governmental, judicial or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge or other person having a proper interest in such material or performance.

(c) Whoever violates this section is guilty of pandering obscenity, a misdemeanor of the first degree, provided the offender has not previously been convicted of a violation of this section or of Section 666.11. Punishment shall be as provided in Section 698.02. (O.R.C. 2907.32)

SECTION 666.13 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.

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

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

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

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

(c) Whoever violates this section is guilty of deception to obtain matter harmful to juveniles, a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02. A juvenile who violates subsection (b) hereof shall be adjudged an unruly child, with such disposition of the case as may be appropriate under Ohio Revised Code Chapter 2151. (O.R.C. 2907.33)

SECTION 666.14 PRESUMPTIONS; NOTICE.

(a) An owner or manager, or his agent or employee, of a bookstore, newsstand, theater or other commercial establishment engaged in selling materials or exhibiting performances, who, in the course of business:

- (1) Possesses five or more identical or substantially similar obscene articles, having knowledge of their character, is presumed to possess them in violation of Section 666.12(a).

- (2) Does any of the acts prohibited by Section 666.11 or 666.12, is presumed to have knowledge of the character of the material or performance involved if he has actual notice of the nature of such material or performance whether or not he has precise knowledge of its contents.

(b) Without limitation on the manner in which such notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the municipality. Such notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles, and bear the date of such notice.

(c) Sections 666.11 and 666.12 do not apply to a motion picture operator or projectionist acting within the scope of his employment as an employee of the owner or manager of a theater or other place for the showing of motion pictures to the general public and having no managerial responsibility or financial interest in his place of employment, other than wages. (O.R.C. 2907.35)

SECTION 666.15 DECLARATORY JUDGMENT.

(a) Without limitation on the persons otherwise entitled to bring an action for a declaratory judgment pursuant to Ohio Revised Code 2721.01 to 2721.15, involving the same issue, the following persons have standing to bring such an action to determine whether particular materials or performances are obscene or harmful to juveniles:

- (1) The chief legal officer of the municipality if and when there is reasonable cause to believe that Section 666.11 or 666.12 is being or is about to be violated.
- (2) Any person who, pursuant to Section 666.14(b) has received notice in writing from the chief legal officer stating that particular materials or performances are obscene or harmful to juveniles.

(b) Any party to an action for a declaratory judgment pursuant to subsection (a) hereof is entitled, upon his request, to trial on the merits within five days after joinder of the issues, and the court shall render judgment within five days after trial is concluded.

(c) An action for a declaratory judgment pursuant to subsection (a) hereof shall not be brought during the pendency of any civil action or criminal prosecution when the character of the particular materials or performances involved is at issue in the pending case, and either of the following applies:

- (1) Either of the parties to the action for a declaratory judgment is a party to the pending case;

(2) A judgment in the pending case will necessarily constitute res judicata as to the character of the materials or performances involved

(d) A civil action or criminal prosecution in which the character of particular materials or performances is at issue, brought during the pendency of an action for a declaratory judgment involving the same issue, shall be stayed during the pendency of the action for a declaratory judgment.

(e) The fact that a violation of Section 666.11 or 666.12 occurs prior to a judicial determination of the character of the material or performance involved in the violation, does not relieve the offender of criminal liability for the violation, even though prosecution may be stayed pending the judicial determination. (O.R.C. 2907.36)

SECTION 666.16 INJUNCTION; ABATEMENT OF NUISANCE.

(a) Where it appears that Section 666.11 or 666.12 is being or about to be violated, the chief legal officer of the municipality, when the violation is taking place or is about to take place, may bring an action to enjoin the violation. The defendant, upon his request, is entitled to trial on the merits within five days after joinder of the issues, and the court shall render judgment within five days after trial is concluded.

(b) Premises used or occupied for repeated violations of Section 666.11 or 666.12 constitute a nuisance subject to abatement pursuant to Ohio Revised Code 3767.01 to 3767.99. (O.R.C. 2907.37)

Legislative History: Ord. 2437-72; passed 12/12/72. Ord. 2699-76; passed 7/13/76. Ord. 2805-78; passed 6/13/78. Ord. 3965-04; passed 2/24/04.

CHAPTER 668
Trees, Weeds and Grass

668.01	Trimming of trees, shrubbery.	668.03	Removal of trees, weeds, grasses by City.
668.02	Removal of weeds by owner or occupant; five days notice.	668.04	Assessment of costs by City.

CROSS REFERENCES

Power to abate nuisances – see Ohio R.C. 715.44
Municipal weed control procedure – see Ohio R.C. 731.51 et seq.
Destruction of weeds – see Ohio R.C. 971.33 et seq.
Injuring vines, bushes, trees or crops – see GEN OFF. 642.06
Tree planting program – see S.U. & P.S. Ch. 907

SECTION 668.01 TRIMMING OF TREES, SHRUBBERY.

(a) The owner of every lot or parcel of land within the corporate limits upon which a tree, plant or shrubbery stands with any part thereof upon or overhanging a public street or sidewalk shall conform to the regulations herein provided; otherwise, the City shall cause such trees to be trimmed or cut down and removed in accordance with these regulations and assess the cost thereof against the owner of such lot or parcel of land.

- (1) The owner shall trim or cause the tree, plant or shrubbery to be trimmed so that a clear height of eight feet between the lowest branches of the same and the street or sidewalk is maintained.
- (2) The owner shall trim or remove, as the case may require, every dead, decayed or broken tree, plant or shrubbery, or part thereof, so that the same shall not fall to the street or sidewalk.
- (3) The owner shall cut down and remove any tree, plant or shrubbery, or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection, or to abate any nuisance necessary to protect life, limb or property of persons, drivers of any vehicles, or pedestrians using the street or sidewalk. (Ord. 617-58. Passed 10-25-58.)

(b) Whoever violates or fails to comply with any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. Punishment shall be as provided in Section 698.02.

SECTION 668.02 REMOVAL OF WEEDS BY OWNER OR OCCUPANT; TEN DAYS NOTICE.

(a) The owner of any lot or parcel of land situated within the corporate limits, whether the same is improved or unimproved, vacant or occupied, within ten (10) days written notice to do so, shall cut weeds, grass or deleterious growths upon such lot or parcel or upon any street, public place or tree lawn abutting such lot or parcel. (Ord. 3810-99. Passed 6-8-99.)

(b) Whoever violates or fails to comply with this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. Punishment shall be as provided in Section 698.02.

(c) Notice to cut such weeds, grass or deleterious growths shall be in writing and shall be served upon the owner of the lot or parcel of land by personal service or by certified U.S. mail. If service of such notice is not perfected after ten (10) days of the date of the initial notice, then a second notice shall be made by posting a copy of the second notice in a conspicuous place upon the lot or parcel of land and by one (1) publication in a newspaper of general circulation within the City. (Ord. 3810-99. Passed 6-8-99.)

SECTION 668.03 REMOVAL OF TREES, WEEDS, GRASSES BY CITY.

In the event the owner does not comply with the provisions of this chapter, then the City Manager is authorized to enforce the provisions of this chapter, and to cause to be trimmed or removed such tree, plant or shrubbery, or part thereof, and cut and remove all grass and weeds.

SECTION 668.04 ASSESSMENT OF COSTS BY CITY.

(a) Whenever any tree, plant or shrubbery or part thereof, or weeds or grass growing in any street, public place or tree lawn or upon private property is trimmed or removed by the City pursuant to this chapter, then the City shall provide notice to the owner of such lot or parcel of land, in the same manner as in Subsection (c) of Section 668.02 of this Chapter, to pay the cost of such trimming or removal, which notice shall be accompanied by a statement of the amount of cost incurred including such administrative costs established by schedule of the City Manager. In the event the same is not paid

within thirty (30) days after the date of such notice, such amount shall be certified to the County Auditor for collection the same as other taxes and assessments are collected. Such remedy shall be in addition to the penalties provided in Sections 668.01(b) and 668.02(b). (Ord. 3810-99. Passed 6-8-99.)

(b) In addition to all other penalties and remedies contained in this chapter, if the owner fails to comply with the provisions of this chapter, the City may, by private contract, enforce the provisions of this chapter and cause to be trimmed or removed such tree, plant or shrubbery, or part thereof, and cut and remove all grass and weeds. All costs for contractual services and ordinance enforcement incurred by the City shall be recovered in the following manner: (Ord. 3810-99. Passed 6-8-99.)

- (1) The owners shall be billed directly by regular U.S. mail or one (1) publication in a newspaper of general circulation within the City for the cost of such contractual services and ordinance enforcement. The bill for the cost thereof shall be paid within thirty (30) days after the mailing or publication of the bill.
- (2) If the costs are not so recovered, the City may collect the cost by either of the following methods:

(a) The City may cause the costs to be levied as an assessment and recovered in accordance with § 715.261 of the Ohio Revised Code. (Ord. 3810-99. Passed 6-8-99.)

(b) The City may commence a civil suit to recover the total costs, including attorney fees, from the owners as provided in § 715.261 of the Ohio Revised Code." (Ord. 3337-88. Passed 6-28-88.)

Legislative History: Ord. 617-58; passed 10-25-58. Ord. 3337-88; passed 6-28-88. Ord. 3810-99; passed 6-8-99

CHAPTER 672
Weapons and Explosives

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| 672.01 Definitions. | 672.08 Failure to secure dangerous ordnance. |
| 672.02 Carrying concealed weapons. | 672.09 Unlawful transactions in weapons. |
| 672.03 Using weapons while intoxicated. | 672.10 Improperly furnishing firearms to a minor. |
| 672.04 Improperly handling firearms in a motor vehicle. | 672.11 Sale of explosive to minors. |
| 672.05 Unlawful possession of dangerous ordnance. | 672.12 Sale of fireworks. |
| 672.06 Immunity from prosecution. | 672.13 Fireworks display permits. |
| 672.07 License or permit to possess dangerous ordnance. | 672.14 Pointing and discharging firearms. |

CROSS REFERENCES

See section histories for similar State law
 Prohibiting sales of firearms and explosives in riot areas - see Ohio R.C. 3761.16
 Vehicles transporting explosives - see TRAF. 440.04
 Definitions generally - see GEN. OFF. 606.01
 Reporting gunshot wounds - see GEN. OFF. 606.12(b)
 Arson - see GEN. OFF. 642.07

672.01 DEFINITIONS.

As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon. "Deadly weapon" shall also mean any pistol, bowie knife, dirk, brass knuckles, billy, blackjack, gravity blade knife, switch blade knife, or any knife with a blade fitted with a mechanical device for automatic release of the blade, or similar weapon. (Ord. 2805-78. Passed 6-13-78.)

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.
- (g) "Zip-gun" means any of the following:
- (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including, without limitation, a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;
 - (3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes, without limitation, any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb and any device designed or specially adapted to cause physical harm to persons or property by means of fire and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:
- (1) Any automatic or sawed-off firearm, or zip-gun;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives, amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.
- (k) "Dangerous ordnance" does not include any of the following:
- (1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;
 - (3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

- (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subparagraph (3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
- (5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece;
- (6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921 (A)(4), and any amendments or additions thereto or re-enactment thereof, and regulations issued thereunder.
(ORC 2923.11)

672.02 CARRYING CONCEALED WEAPONS.

- (a) No person shall knowingly carry or have concealed on his person or concealed ready at hand, any deadly weapon.
- (b) This section does not apply to officers, agents or employees of this or any other state or the United States, or to law enforcement officers, authorized to carry concealed weapons or dangerous ordnance, and acting within the scope of their duties.
- (c) It is an affirmative defense to a charge under this section of carrying or having control of a weapon other than dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:
 - (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while he was engaged in or was going to or from his lawful business or occupation, which business or occupation was of such character or was necessarily carried on in such manner or at such a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent man in going armed.
 - (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while he was engaged in a lawful activity, and had reasonable cause to fear a criminal attack upon himself or a member of his family, or upon his home, such as would justify a prudent man in going armed.
 - (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in his own home.
 - (4) The weapon was being transported in a motor vehicle for any lawful purpose, and was not on the actor's person, and, if the weapon was a firearm, was carried in compliance with the applicable requirements of Section 672.04(c).
- (d) Whoever violates this section is guilty of carrying concealed weapons, a misdemeanor of the first degree, provided the offender has not previously been convicted of a violation of this section or of any offense of violence and provided the weapon involved

is not a firearm which is either loaded or for which the offender has ammunition ready at hand and provided the weapon involved is not dangerous ordnance, and provided the offense is not committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved. Punishment shall be as provided in Section 698.02. (ORC 2923.12)

672.03 USING WEAPONS WHILE INTOXICATED.

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

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

672.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

(a) No person shall knowingly discharge a firearm while in or on a motor vehicle.

(b) No person shall knowingly transport or have a loaded firearm in a motor vehicle in such manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.

(c) No person shall knowingly transport or have a firearm in a motor vehicle unless it is unloaded and is carried in one of the following ways:

- (1) In a closed package, box or case;
- (2) In a compartment which can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;
- (4) In plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(d) This section does not apply to officers, agents or employees of this or any other state or the United States, or to law enforcement officers, authorized to carry or have loaded or accessible firearms in motor vehicles, and acting within the scope of their duties.

(e) The affirmative defenses contained in Section 672.02(c)(1) and (2) are affirmative defenses to a charge under subsection (b) or (c) hereof.

(f) As used in this section, "unloaded" means, with respect to a firearm employing a percussion cap, flintlock or other obsolete ignition system, when the weapon is uncapped, or when the priming charge is removed from the pan.

(g) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) or (b) hereof is a misdemeanor of the first degree. Violation of subsection (c) hereof is a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (ORC 2923.16)

672.05 UNLAWFUL POSSESSION OF DANGEROUS ORDNANCE.

- (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.
- (b) This section does not apply to:
- (1) Officers, agents or employees of this or any other state or the United States, members of the Armed Forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;
 - (2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or re-enactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;
 - (3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968" 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;
 - (4) Persons to whom surplus ordnance has been sold, loaned or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance, when lawfully possessed and used for the purposes specified in such sections;
 - (5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or re-enactments thereof, and regulations issued thereunder.
 - (6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this State and applicable Federal law;
 - (7) The holders of a license or temporary permit issued and in effect pursuant to Section 672.07, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.
- (c) Whoever violates this section is guilty of unlawful possession of dangerous ordnance, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 2923.17)

672.06 IMMUNITY FROM PROSECUTION.

(a) No person who acquires, possesses or carries a firearm or dangerous ordnance in violation of Section 672.05 shall be prosecuted for such violation if he reports his possession of firearms or dangerous ordnance to any law enforcement authority, describes the firearms or dangerous ordnance in his possession and where they may be found and voluntarily surrenders the firearms or dangerous ordnance to the law enforcement authority. A surrender is not voluntary if it occurs when the person is taken into custody or during a pursuit or attempt to take the person into custody, under circumstances indicating that the surrender is made under threat of force.

(b) Evidence obtained from or by reason of an application under Section 672.07 for a permit to possess dangerous ordnance, shall not be used in a prosecution of the applicant for any violation of Section 672.05. (ORC 2923.23)

672.07 LICENSE OR PERMIT TO POSSESS DANGEROUS ORDNANCE.

(a) Upon application to the Safety Director or Police Chief of the Municipality, and upon payment of the fee specified in subsection (b) hereof, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use dangerous ordnance, for the following purposes:

- (1) Contractors, wreckers, quarrymen, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business;
- (2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes as defined in Ohio R.C. 3743.01;
- (3) Scientists, engineers and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction;
- (4) Financial institution and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his duties;
- (5) In the discretion of the Safety Director or Police Chief, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(b) Application for a license or temporary permit under this section shall be in writing under oath to the Safety Director or Police Chief of the Municipality. The application shall be accompanied by an application fee of fifty dollars (\$50.00) when the application is for a license, and an application fee of five dollars (\$5.00) when the application is for a temporary permit. The fees shall be paid into the General Fund of the Municipality. The application shall contain the following information:

- (1) The name, age, address, occupation and business address of the applicant, if he is a natural person, or the name, address and principal place of business of the applicant, if the applicant is a corporation;

- (2) A description of the dangerous ordnance for which a permit is requested;
- (3) A description of the place or places where and the manner in which the dangerous ordnance is to be kept, carried and used;
- (4) A statement of the purposes for which the dangerous ordnance is to be acquired, possessed, carried or used;
- (5) Such other information as the Safety Director or Police Chief may require in giving effect to this section.

(c) Upon investigation, the Safety Director or Police Chief shall issue a license or temporary permit only if all of the following apply:

- (1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;
- (2) The applicant is age twenty-one or over, if he is a natural person;
- (3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;
- (4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the Safety Director or Police Chief considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance or for any nonconsumable dangerous ordnance, which license need not specify an expiration date, but the Safety Director or Police Chief may specify such expiration date, not earlier than one year from the date of issuance, as he considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the State. The holder of a license may use such dangerous ordnance anywhere in the State. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the Municipality.

(g) The Safety Director or Police Chief shall forward to the State Fire Marshal a copy of each license or temporary permit issued pursuant to this section, and a copy of each record of a transaction in dangerous ordnance and of each report of lost or stolen dangerous ordnance, given to the Police Department as required by Section 672.09(a)(2) and (3). (ORC 2923.18)

672.08 FAILURE TO SECURE DANGEROUS ORDNANCE.

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

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

(b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02. (ORC 2923.19)

672.09 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall:

- (1) Manufacture, possess for sale, sell or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, spring-blade knife, gravity knife or similar weapon;
- (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 672.05, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the County Sheriff or Safety Director or Police Chief of the Municipality;
- (3) Knowingly fail to report to the Police Department forthwith the loss or theft of any firearm or dangerous ordnance in such person's possession or under his control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsection (a)(1) or (2) hereof is a misdemeanor of the second degree. Violation of subsection (a)(3) hereof is a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (ORC 2923.20)

672.10 IMPROPERLY FURNISHING FIREARMS TO A MINOR.

(a) No person shall:

- (1) Sell any firearm to a person under the age of eighteen;
- (2) Sell any handgun to a person under the age of twenty-one;
- (3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

(b) Whoever violates this section is guilty of improperly furnishing firearms to a minor, a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02. (ORC 2923.21)

672.11 SALE OF EXPLOSIVES TO MINORS.

(a) No person shall sell, give away or otherwise dispose of or deliver to any person under twenty-one years of age any explosives, as defined in Ohio R.C. 3743.01(A), whether such person is acting for himself or for any other person.
(ORC 3743.02; Ord. 2437-72. Passed 12-12-72.)

(b) Whoever violates this section shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).
(ORC 3743.99(A))

672.12 SALE OF FIREWORKS.

(a) No person shall possess for sale at retail, or sell at retail, or discharge, ignite or explode any fireworks, as defined herein, within the Municipality, except as provided in Section 672.13.

The term "fireworks" means any combustible or explosive compositions, or any substance or combination of substances or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, but shall not mean or include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, and toy pistol paper or plastic caps which contain less than twenty hundredths grains of explosive mixture.
(ORC 3743.27, 3743.32; Ord. 2437-72. Passed 12-12-72.)

(b) Whoever violates this section shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).
(ORC 3743.99(A))

672.13 FIREWORKS DISPLAY PERMITS.

Upon written permission secured from the Fire Chief, fireworks may be used for public or private exhibitions of fireworks in connection with fairs, carnivals or other celebrations. Application for such permits shall be made to the Chief and shall be issued under such reasonable regulations to protect the safety of persons or property as the Chief may prescribe. In such cases parties in charge of such exhibitions shall be held strictly responsible for any damage to persons or property resulting from the use of fireworks so used. Fireworks being held in storage for such exhibitions must be kept in a closed wooden box or tarpaulin until they are to be used. Section 672.12 and this section do not prohibit any wholesaler, dealer or jobber from selling at wholesale such fireworks as are permitted to be used by such sections or the sale of fireworks to be shipped directly out of the State. (ORC 3743.33; Ord. 2437-72. Passed 12-12-72.)

672.14 POINTING AND DISCHARGING FIREARMS.

(a) No person shall fire any cannon, gun or other firearm within the City except in proper position for firing salutes or by command of a proper military or police officer or game warden in the performance of official duty. This prohibition shall not restrain farmers from discharging firearms to protect their crops and farm animals from attacks by predatory animals nor shall it apply to gun clubs in existence on November 26, 1957, provided the shooting activities of such clubs are confined to industrial tracts of ground. In the case of existing gun clubs, their firing ranges shall be no closer than 510 feet to any dwelling unit. (Ord. 553-57. Passed 11-26-57.)

(b) No person shall discharge within the corporate limits any air gun or air rifle loaded with shot or other solid missile. (Ord. 175. Passed 8-10-54.)

(c) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02.

**CHAPTER 698
PENALTIES AND SENTENCING**

698.01	Definitions.		698.04	Organizational Penalties.
698.02	Penalties for Misdemeanor.		698.05	Multiple Sentences.
698.03	Imposing Sentence for Misdemeanor		698.06	Modification of Sentence.

CROSS REFERENCES

See section histories for similar state law

Definition of "imprisoned" – see Ohio Revised Code §1.05

Burden and degree of proof – see Ohio Revised Code §2901.05

Criminal law prosecution – see Ohio Revised Code §2901.11

Venue – see Ohio Revised Code §2901.12

Procedure on change of venue – see Ohio Revised Code §2931.29

Transfer of prisoner on change of venue – see Ohio Revised Code §2931.30

Payment on costs and expenses on change of venue – see Ohio Revised Code §2931.31

Degree of offense; charge and verdict; prior conviction – see Ohio Revised Code §2945.75

Commitment in lieu of fine; credit for time served – see Ohio Revised Code §2947.20

Psychiatric examination before sentence – see Ohio Revised Code §2947.25

Criteria for probation; conditions for probation – see Ohio Revised Code §2951.02

Definitions generally – see GENERAL OFFENSES §606.01

Culpable mental states – see GENERAL OFFENSES §606.02

Classification of offenses – see GENERAL OFFENSES §606.03

Common law offenses abrogated – see GENERAL OFFENSES §606.04

Rule of construction – see GENERAL OFFENSES § 606.05

Limitation on prosecutions – see GENERAL OFFENSES §606.06

Requirements for criminal liability – see GENERAL OFFENSES §606.07

Organizational criminal liability – see GENERAL OFFENSES §606.08

Personal accountability for organizational conduct – see GENERAL OFFENSES §606.09

Obstructing justice – see GENERAL OFFENSES §606.15

SECTION 698.01 DEFINITIONS.

As used in this chapter:

- (a) "Repeat offender" means a person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that he

will commit another offense. It is prima-facie evidence that a person is a repeat offender if any of the following applies:

- (1) Having been convicted of one or more offenses of violence, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent offense of violence;
- (2) Having been convicted of one or more sex offenses, as defined in Ohio Revised Code §2950.01, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent sex offense;
- (3) Having been convicted of one or more theft offenses, as defined in Section 642.01(k) and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent theft offense;
- (4) Having been convicted of two or more felonies, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent offense;
- (5) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses or minor misdemeanors, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent offense.

(b) "Dangerous offender" means a person who has committed an offense, whose history, character and condition reveal a substantial risk that he will be a danger to others, and whose conduct has been characterized by a pattern of repetitive, compulsive or aggressive behavior with heedless indifference to the consequences. "Dangerous offender" includes, without limitation, psychopathic offender, as defined in Ohio Revised Code §2947.24.

SECTION 698.02 PENALTIES FOR MISDEMEANOR.

(a) Unless another penalty is otherwise expressly provided in the section of which the provision is a part, whoever violates any of the provisions of this Part Six – General Offenses Code, other than a minor misdemeanor, 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.

(b) Terms of imprisonment for misdemeanor shall be imposed as follows:

- (1) For a misdemeanor of the first degree, not more than six months.
- (2) For a misdemeanor of the second degree, not more than ninety days;

- (3) For a misdemeanor of the third degree, not more than sixty days;
 - (4) For a misdemeanor of the fourth degree, not more than thirty days.
- (c) Fines for a misdemeanor shall be imposed as follows:
- (1) For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000.00);
 - (2) For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
 - (3) For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
 - (4) For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00).
- (d) Whoever is convicted of or pleads guilty to a minor misdemeanor shall be fined not more than One Hundred Fifty Dollars (\$150.00).

SECTION 698.03 IMPOSING SENTENCE FOR MISDEMEANOR.

- (a) In determining whether to impose imprisonment or a fine, or both, for misdemeanor, and in determining the term of imprisonment and the amount and method of payment of a fine, the court shall consider the risk that the offender will commit another offense and the need for protecting the public therefrom, the nature and circumstances of the offense, the history, character and condition of the offender and his need for correctional or rehabilitative treatment, and the ability and resources of the offender and the nature of the burden that payment of a fine will impose on him.
- (b) If the offender is a repeat or dangerous offender, it does not control the court's discretion, but shall be considered in favor of imposing imprisonment for misdemeanor.
- (c) The criteria listed in Ohio Revised Code §2929.12, favoring shorter terms of imprisonment for felony, do not control the court's discretion, but shall be considered against imposing imprisonment for misdemeanor.
- (d) The criteria listed in subsections (b) and (c) hereof shall not be construed to limit the matters which may be considered in determining whether to impose imprisonment for misdemeanor.

(e) The court shall not impose a fine in addition to imprisonment for misdemeanor, unless a fine is specially adapted to deterrence of the offense or the correction of the offender, or the offense has proximately resulted in physical harm to the person or property of another, or the offense was committed for hire or for purpose of gain.

(f) The court shall not impose a fine or fines which, in the aggregate and to the extent not suspended by the court, exceeds the amount which the offender is or will be able to pay by the method and within the time allowed without undue hardship to himself or his dependents, or will prevent him from making restitution or reparation to the victim of his offense.

SECTION 698.04 ORGANIZATIONAL PENALTIES.

(a) Regardless of the penalties provided in Section 698.02, or in any other section of these Codified Ordinances, an organization convicted of an offense pursuant to Section 606.08 shall be fined, which fine shall be fixed by the court as follows:

- (1) For a misdemeanor of the first degree, not more than five thousand dollars (\$5,000.00);
- (2) For a misdemeanor of the second degree, not more than four thousand dollars (\$4,000.00);
- (3) For a misdemeanor of the third degree, not more than three thousand dollars (\$3,000.00);
- (4) For a misdemeanor of the fourth degree, not more than two thousand dollars (\$2,000.00);
- (5) For a minor misdemeanor, not more than one thousand dollars (\$1,000.00);
- (6) For a misdemeanor not specifically classified, not more than two thousand dollars (\$2,000.00);
- (7) For a minor misdemeanor not specifically classified, not more than one thousand dollars (\$1,000.00).

(b) When an organization is convicted of an offense not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then such penalty shall be imposed in lieu of the penalty provided in this section.

(c) When an organization is convicted of an offense not specifically classified, and the penalty provided includes a higher fine than that provided in this section, then the penalty imposed shall be pursuant to the penalty provided for violation of the section defining the offense.

(d) This section does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 606.08, either in addition to or in lieu of a fine imposed pursuant to this section.

SECTION 698.05 MULTIPLE SENTENCES.

(a) Except as provided in subsection (b) hereof, a sentence of imprisonment shall be served concurrently with any other sentence of imprisonment. In any case, a sentence of imprisonment for misdemeanor shall be served concurrently with a sentence of imprisonment for felony served in a State penal or reformatory institution.

(b) A sentence of imprisonment shall be served consecutively to any other sentence of imprisonment when the trial court specifies that it is to be served consecutively.

(c) Subject to the maximum provided in subsection (d) hereof, when consecutive sentences of imprisonment are imposed for misdemeanor, the term to be served is the aggregate of the consecutive terms imposed.

(d) Consecutive terms of imprisonment imposed shall not exceed an aggregate term of eighteen months, when the consecutive terms imposed are for misdemeanors. When consecutive terms aggregating more than one year are imposed for misdemeanors under the Ohio Revised Code or these Codified Ordinances, and at least one such consecutive term is for a misdemeanor of the first degree, the trial court may order the aggregate term imposed to be served in a state penal or reformatory institution.

SECTION 698.06 MODIFICATION OF SENTENCE.

(a) At the time of sentencing and thereafter when imprisonment for misdemeanor is imposed, the court may:

- (1) Suspend the sentence and place the offender on probation pursuant to Ohio Revised Code §2951.02;
- (2) Permit the offender to serve his sentence in intermittent confinement, overnight, or on weekends, or both, or at such other time or times as will allow him to continue at his occupation or care for his family;

- (3) Require the offender to serve a portion of his sentence, which may be served in intermittent confinement, suspend the balance of the sentence and place the offender on probation pursuant to Ohio Revised Code §2951.02.
- (b) At the time of sentencing and thereafter when a fine is imposed, the court may:
 - (1) Suspend all or any portion of the fine, upon such conditions as the court imposes in the interests of justice and the correction and rehabilitation of the offender;
 - (2) Permit payment of all or any portion of the fine in installments, or by such other method and in such time and on such terms as the court considers just, except that the maximum time permitted for payment shall not exceed two years.

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