

CHAPTER 660
Safety, Sanitation and Health

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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(0))

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(8))

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 11ft 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 ILLICIT DISCHARGE INTO STORM DRAINAGE SYSTEM.

(a) No person shall negligently place or cause to be placed in any storm drainage system or part thereof any refuse, paper, plant material, earthen fill, or any other material whatsoever which by its nature or placement would cause an obstruction to the flow or rate of flow.

(b) No person shall negligently place or cause to be placed any pollutant or wastewater in any storm drainage system or part thereof or into any water body or other area that drains into the storm drainage system.

(c) No person shall negligently erect or maintain any structure over any part of the storm drainage system so as to interfere with storm water flow, or the maintenance or cleaning of the storm drainage system infrastructure.

(d) No person shall negligently uncover, make any connections with or opening into, use, alter, or disturb any part of the storm drainage system without obtaining written approval from the city of Kettering and/or its authorized agent(s).

(e) No person shall negligently install, cause to be installed, or maintain any illicit connection to the storm drainage system.

(f) No person shall negligently cause any illegal discharge to the storm drainage system.

(g) No person causing or contributing to the occurrence of any prohibition contained in subsections (a)-(f) shall negligently fail to take all reasonable actions to prevent contamination of or damage to the storm drain system.

(h) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage. The owner of any house, building, or property used for human occupancy, employment, recreation or other purposes, situated within the City and abutting any street, alley

or right-of-way in which there is now located or may in the future be located, a public sanitary sewer is required at their expense to install suitable toilet facilities therein, and to connect such facilities directly with the public sanitary sewer in accordance with applicable law within ninety days after date of official notice to do so, provided that the public sanitary sewer is within 100 feet of the property line.

(i) Whoever violates any provision of this Section 660.20 is guilty of an unclassified misdemeanor on the first offense, the penalty for which shall be a fine not more than one thousand dollars (\$1,000.00). Each subsequent violation of the same provision by the same person shall constitute a fourth degree misdemeanor. Each day that a violation continues shall be deemed a separate offense. In addition to any financial sanction or combination of financial sanctions under C.O. 698.02(c), the court shall sentence the offender to make restitution to the City of Kettering for the economic costs to the City to repair, replace and/or remediate the violation of this ordinance. The court shall only consider economic costs identified at the time of sentencing. No sanction imposed under this Section shall preclude the City or another person from bringing a civil action against the offender.

(j) The presence of any of the conditions prohibited in subsections (a)-(f) constitutes a nuisance subject to abatement by the City under C.O. Chapter 1328 and R.C. 715.44. The costs of abatement may be recovered as provided by applicable law. The fact that a criminal case has been filed against a defendant for violation of this section shall not prohibit the City from abating the nuisance, nor shall proceeding with such abatement waive or prevent criminal cases from being filed for such violations.

(k) It is an affirmative defense to a charge of unlawful discharge under division (b) or (f) of this Section that the discharge was not contaminated and was one of the following exempted types:

- (1) A discharge authorized by, and in full compliance with, a valid NPDES Permit (other than the NPDESP for discharges from the STORM DRAINAGE SYSTEM);
- (2) A discharge or flow resulting from firefighting by the fire department;
- (3) A discharge or flow of fire protection water that does not contain pollutants or materials that the Fire Code requires to be contained and treated prior to discharge, in which case treatment, adequate to remove harmful quantities of pollutants, must have occurred prior to discharge;
- (4) Agricultural storm water runoff;
- (5) A discharge or flow from water line flushing or disinfection that contains no harmful quantity of total residual chlorine (TRC) or any other chemical used in line disinfection;
- (6) A discharge or flow from lawn watering, or landscape irrigation;
- (7) A discharge or flow from a diverted stream flow or natural spring;
- (8) A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
- (9) Uncontaminated groundwater infiltration (as defined at 40 C.F.R. 35.2005(20)) to the storm drainage system;
- (10) Uncontaminated discharge or flow from a foundation drain, crawl space pump, or footing drain;

- (11) A discharge or flow from a potable water source not containing any pollutant or hazardous material;
- (12) A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
- (13) A discharge or flow from individual residential car washing;
- (14) A discharge or flow from a riparian habitat or wetland;
- (15) A discharge or flow from cold water (or hot water with prior written permission of the City) used in street washing or cosmetic cleaning that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance; or
- (16) Drainage from a private residential swimming pool containing no harmful quantities of chlorine or other chemicals. Drainage from swimming pool filter backwash is prohibited.

(l) For the purposes of this Section 660.20, the following terms, phrases, words, and their derivations shall have the meanings as set forth herein. When not inconsistent with the context, words in the present tense include the future tense, words in the plural number include the singular number, words in the singular number include the plural number, words in the feminine include the masculine, and words in the masculine include the feminine. The words "shall", "must", and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "sections" or "subsections" are, unless otherwise specified, references to sections or subsections in this section. Defined terms remain defined terms whether or not capitalized. Words used in this Section may be the same as words used in other sections of the Codified Ordinances. However, the definitions of words used in this Section may be different than those used in other sections.

Contaminated: Containing any amount of any Hazardous Material or Pollutant.

Economic Cost: All direct, incidental and consequential pecuniary harm incurred by the City of Kettering as a result of or in making a response to the violation of this section including but not limited to: all wages, salaries or other compensation lost as a result of the violation; the cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the violation; the overhead costs incurred for the time that is used to repair, replace and/or remediate the violation; the damage to tangible or intangible property; all costs incurred by the City as a result of or in making any response to the violation.

Hazardous Materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge: Any direct or indirect non-storm water discharge to the storm drainage system, except as exempted in subsection (k).

Illicit Connections: (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drainage system including but not limited to any conveyances which allow any non-storm water discharge including, without limitation, sewage, process wastewater, and wash water, to enter the storm drainage system and any connections to the storm drainage system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the city; or (2) any drain or conveyance connected from a commercial or industrial land use to the storm drainage system which has not been documented in plans, maps, or equivalent records and approved by the city.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Storm Drainage System: Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility or Premises.

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; Ord. 4401-23; passed 11/14/23