

Title 9- General Offenses

TITLE 9. GENERAL OFFENSES

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Chapter 9.01. General Provisions and Penalty.

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§9.01.01. Definitions.

Unless otherwise defined or clarified, the following words used in this title shall be defined as follows:

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 that carries a substantial risk of death;

(3) Any physical harm that involves some permanent incapacity, whether partial or total, or which involves some temporary substantial incapacity;

(4) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or which involves any degree of prolonged or intractable pain; or

(5) Any physical harm that involves some permanent disfigurement, or which involves some temporary disfigurement.

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; or

(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 or significant possibility, that a certain result may occur or that a certain circumstance 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 a certain circumstance may exist.

I. "Offense of violence" means any of the following:

(1) A violation of *Nelsonville City Code Sections 9.02.03, 9.02.05, 9.02.06, 9.05.02, 9.09.01, 9.09.07, 9.12.04*, and a violation of *Ohio Revised Code Sections 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.04, 2909.05, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, and 2923.16*;

(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; or

(4) A conspiracy or attempt to commit, or complicity in committing any offense under *subsection (I) (1), (2) or (3) hereof*.

J. "Property" means any property, real or personal, tangible or intangible, and any interest or license in such property.

K. "Law enforcement officer" means any of the following:

(1) A sheriff, deputy sheriff, constable, marshal, deputy Marshall, 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, Charter or ordinance, a duty to conserve the peace or to enforce all or certain laws imposed and the authority to arrest violators is conferred, within the limits of such statutory duty and authority;

(3) A Mayor in his/her capacity as chief conservator of the peace within his 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 Section 311.07* to aid a sheriff in keeping the peace, for the purposes and during the time when such a person is called;

(6) A person appointed by a Mayor pursuant to *Ohio Revised Code Section 737.01* 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 this State or armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence; or

(8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or 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*)

§9.01.02. Classification of offenses.

As used in this title:

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 fifty dollars (\$150.00) and community service. (*ORC §2901.02*)

§9.01.03. Common law offenses abrogated.

A. No conduct constitutes a criminal offense against the municipality unless it is defined as an offense in the *Nelsonville City Code*.

B. An offense is defined when one (1) or more sections of the *Nelsonville City 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.

C. This section does not affect the power of a Court to punish for contempt or to employ any sanction authorized by law to enforce order, civil judgment or decree. (*ORC §2901.03*)

§9.01.04. Rules of construction.

A. Sections of the *Nelsonville City Code* defining offenses or penalties shall be strictly construed against the municipality and liberally construed in favor of the accused.

B. Rules of criminal procedure and sections of the *Ohio Revised Code* providing for criminal procedure shall be construed so as to effect the fair, impartial, speedy and sure administration of justice.

C. Any provision of a section of the *Ohio Revised Code* that refers to a previous conviction of or plea of guilty a violation of a section of the *Ohio Revised Code* of a division of a section of the *Ohio Revised Code* shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing former law of this State, another State, or the United States or under an existing municipal ordinance.

D. Any provision of the *Ohio Revised Code* that refers to a section, or to a division of a section, of the *Ohio Revised Code* that defines or specifies a criminal offense shall be construed to also refer to an existing former law of this State, another State, or the United States, to an existing or former municipal ordinance, or to an existing or former division of any such existing or former law or ordinance that defines or specifies, or that defined or specified, a substantially equivalent offense. (*ORC §2901.04*)

§9.01.05. Criminal law jurisdiction.

A. A person is subject to misdemeanor prosecution and punishment in this municipality if any of the following occur:

(1) He/she commits an offense under the laws of this municipality, any element of which takes place in this municipality;

(2) While in this municipality, he/she conspires or attempt to commit, or is guilty of complicity in the commission of an offense in another jurisdiction, which offense is an offense under both the laws of this municipality and such other jurisdiction;

(3) While out of this municipality, he/she conspires or attempt to commit, or is guilty of complicity in the commission of an offense in this municipality;

(4) While out of this municipality, he/she omits to perform a legal duty imposed by the laws of this municipality, which omission affects a legitimate interest of the municipality in protecting, governing or regulating any person, property, thing, transaction or activity in this municipality;

(5) While out of this municipality, he/she unlawfully takes or retains property and subsequently brings any of such property into this municipality;

(6) While out of this municipality, he/she unlawfully takes or entices another and subsequently brings such person into this municipality; or

(7) The person, by means of a computer, computer system, computer network, telecommunications service, telecommunications device, or information service, causes or knowingly permits any writing, data, image or other telecommunications to be disseminated or transmitted into this municipality in violation of the law of this municipality

A. In homicide, the element referred to in *subsection (A) (1)* hereof is either the act which causes death, or the physical contact which causes death, or the death itself. If any part of the body of a homicide victim is found in this municipality, the death is presumed to have occurred within this municipality.

B. This municipality includes the land and water within its boundaries and the air space above such land and water, with respect to which this municipality has either exclusive or concurrent legislative jurisdiction. Where the boundary between this municipality and another jurisdiction is disputed, the disputed territory is conclusively presumed to be within this municipality for the purposes of this section.

C. The Court of Common Pleas of Adams, Athens, Belmont, Brown, Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, Meigs, Monroe, Scioto, and Washington counties have jurisdiction beyond the north or northwest shore of the Ohio River extending to the opposite shore line, between the extended boundary lines of any adjacent counties or adjacent State. Each of those Courts of Common Pleas has concurrent jurisdiction on the Ohio River with any adjacent Court of Common Pleas that borders on that river and with any court of Kentucky or of West Virginia that borders on the Ohio River and that has jurisdiction on the Ohio River under the law of Kentucky or the law of West Virginia, whichever is applicable, or under federal law.

D. When the offense is committed under the laws of this municipality, and it appears beyond a reasonable doubt that the offense or any element thereof took place either in this municipality or in another jurisdiction or jurisdictions, but it can not reasonably be determined in which it took place, such offense or element is conclusively presumed to have taken place in this municipality for the purposes of this section.

(*ORC §2901.11*)

§9.01.06. Limits of criminal prosecution.

A. Except as otherwise provided in this Section, a prosecution shall be barred unless it commenced within the following periods after an offense is committed:

(1) For a felony, six (6) years;

(2) For a misdemeanor other than a minor misdemeanor, two (2) years; or

(3) For a minor misdemeanor, six (6) 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 a fiduciary duty, within one (1) year after discovery of the offense by an aggrieved person, or by his/her legal representative who is not himself/herself 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 as defined in *Section 9.11.01*, at any time while the accused remains a public servant, or two (2) 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 information filed, or on the date lawful arrest without warrant is made, or on the date a warrant, summons, citation or other process is issued, whichever comes first. A prosecution is not commenced by the return of an indictment or the filing of 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 this municipality 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*)

§9.01.07. Requirements for criminal liability.

A. Except as provided in *subsection (B)* hereof, a person is not guilty of any offense unless both of the following apply:

(1) The person's 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) The person 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 the offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict liability for the conduct described in such section, and 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. Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

D. 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 9.01.08*.

(4) "Intoxication" includes, but it not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug. (*ORC §2901.21*)

§9.01.08. 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 certain nature. A person is negligent with respect to circumstances when, because of a substantial

lapse 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 knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element.

(*ORC §2901.22*)

§9.01.09. 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, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

C. No person who is convicted of committing a specific offense or of complicity in the commission of 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. Whosoever violates this section is guilty of an attempt to commit an offense. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense has been committed and had involved and amount or number of unit doses that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any misdemeanor is a misdemeanor of the next lesser degree than the misdemeanor 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 under *Ohio Revised Code*, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. An attempt to commit a minor misdemeanor is not an offense under this section.

(*ORC §2923.02*)

§9.01.10. 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 *Ohio Revised Code Section 2923.01*;

(4) Cause an innocent or irresponsible person to commit the offense.

B. It is no defense to a charge under this section that the 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 9.01.09*.

D. If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission or of an attempt to commit an offense, the Court, when it charges the jury, shall state substantially the following:

“The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude, or self interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.

It is for you, as jurors, in the light of all the faces presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth.”

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

F. Whosoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of the principal offense. (*ORC §2923.03*)

§9.01.11. 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 offenses 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 duties, office or employment, except that if the section defining the offenses 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 preformed 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 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 a governmental program. (*ORC §2901.23*)

§9.01.12. Personal accountability for organizational conduct.

A. An officer, agent or employee of an organization as defined in *Section 9.01.11* 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 the following apply:

(1) In the name of the organization or in its behalf, he/she engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is if a type for which he has direct responsibility;

(2) He/she 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/she is subject to the same penalty as if he/she had acted in his own behalf. (*ORC §2901.24*)

§9.01.99. Penalties for misdemeanors.

A. Whosoever is convicted of or pleads guilty to a 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.

Classification of Misdemeanor	Maximum Term of Imprisonment	Maximum Fine
First degree	6 months	\$1000.00
Second degree	90 days	\$750.00
Third degree	60 days	\$500.00
Fourth degree	30 days	\$250.00
Minor Misdemeanor	No Imprisonment	\$150.00

B. Regardless of the penalties provided in subsection (A) hereof, an organization convicted of an offense pursuant to Section 9.01.11 shall be fined, which fine shall be fixed by the Court as follows:

Type of Misdemeanor	Maximum Fine
First degree	\$5000.00
Second degree	\$4000.00
Third degree	\$3000.00
Fourth degree	\$2000.00
Minor	\$1000.00
Misdemeanor not specifically classified	\$2000.00
Minor misdemeanor not specifically classified	\$1000.00

(1) 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 organization, then such penalty shall be imposed in lieu of the penalty provided in this subsection (B).

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

(3) This subsection (B) does not prevent the imposition of valuable civil sanctions against an organization convicted of an offense pursuant to Section 9.01.11, either in addition to or in lieu of a fine imposed pursuant to this subsection (B). (ORC §2929.31)

Chapter 9.02. Homicide and Assault.

- §9.02.01. Assault.
- §9.02.02. Negligent assault.
- §9.02.03. Aggravated menacing.
- §9.02.04. Menacing.
- §9.02.99. Penalty.

§9.02.01. Assault.

A. No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.

B. No person shall recklessly cause serious physical harm to another or to another's unborn.

C. Whosoever violates this section is guilty of assault, a misdemeanor of the first degree.

(ORC §2903.13)

§9.02.02. Negligent assault.

A. No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in *General Offenses Code Section 9.10.01* cause physical harm to another or another's unborn.

B. Whosoever violates this section is guilty of negligent assault, a misdemeanor of the third degree.

(ORC §2903.14)

§9.02.03. 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, the other person's unborn, or member of the other person's immediate family.

B. Whosoever violates this section is guilty of aggravated menacing, a misdemeanor of the first degree.

(ORC §2903.21)

§9.02.04. 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, the other person's unborn, or member of the other person's immediate family.

B. Whosoever violates this section is guilty of menacing, a misdemeanor of the fourth degree.

(ORC §2903.22)

§9.02.99. Penalty.

EDITOR'S NOTE: (see Section 9.01.99 for penalties applicable to any misdemeanor classification).

Chapter 9.03. Unlawful Restraint, Child Enticement and Coercion.

- §9.03.01. Unlawful restraint.
- §9.03.02. Criminal child enticement.
- §9.03.03. Coercion.
- §9.03.99. Penalty.

§9.03.01. Unlawful restraint.

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

B. Whosoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree. (ORC §2905.03)

§9.03.02. Criminal child enticement.

A. No person by any means and without privilege to do so, shall knowingly solicit, coax, entice, or lure any child under fourteen years of age to accompany the person in any manner, including entering into any vehicle or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:

(1) The actor does not have the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity.

(2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of, any board of education, or the actor is any of such persons but, at the same time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.

B. It is an affirmative defense to a charge under *division (A)* of this section that the actor understood the activity in response to a bona fide emergency situation or that actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety, and welfare of the child.

C. Whosoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. (ORC §2905.05)

§9.03.03. 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; or

(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. *Divisions (A) (4)* and *(5)* of this section shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interests of justice:

(1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to *Ohio Revised Code Section 2945.44*;

(2) In return for a plea of guilty to one (1)

or more offenses charged or to one (1) 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; or

(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 *division (A) (3), (4), or (5)* of this section that the actor's conduct was a reasonable response to the circumstances which occasioned it, and that his 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; or

(4) Compelling another to take action which the actor reasonably believed such other person to be under a duty to take.

D. Whosoever violates this section is guilty of coercion, a misdemeanor of the second degree.

E. As used in this section,

(1) "Threat" includes a direct threat and a threat by innuendo.

(2) "Community control sanction" has the same meaning as in *Ohio Revised Code Section 2929.01*. (ORC §2905.12)

§9.03.99. Penalty.

EDITOR'S NOTE: (see *Section 9.01.99* for penalties applicable to any misdemeanor classification.)

Chapter 9.04. Public Morality.

- §9.04.01. Definitions.
- §9.04.02. Corruption of a minor.
- §9.04.03. Sexual imposition.
- §9.04.04. Importuning.
- §9.04.05. Voyeurism.
- §9.04.06. Public indecency.
- §9.04.07. Procuring.
- §9.04.08. Soliciting.
- §9.04.09. Prostitution.
- §9.04.10. Disseminating matter harmful to juveniles.
- §9.04.99. Penalty.

§9.04.01. Definitions.

As used in *General Offenses Code Chapter 9.04*

A. "Sexual Conduct" means vaginal intercourse between a male and female, and anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and without privilege to do so, insertion, however slight, of any part of the body or any instrument, apparatus or other object into the vaginal or anal cavity of another.

Penetration, however, slight is sufficient to complete vaginal or anal intercourse.

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 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. "Harmful to Juveniles" means the quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement or sado-masochistic abuse in any form to which all the following apply:

(1) The material or performance, when considered as a whole, appeals to the prurient interest in sex of juveniles.

(2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.

(3) The material or performance, when considered as whole, lacks serious literary, artistic, political, and scientific value for juveniles.

F. When considered as a whole, and judged with reference to ordinary adults, or, if it is designed for sexual deviates or other especially susceptible group, judged with reference to such group, any material or performance is "Obscene" if the following apply:

(1) Its dominant appeal is to prurient interest; and

(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; or

(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 the covered male genitals in a discernibly turgid state.

I. "Juvenile" means an unmarried person under the age of eighteen (18).

J. "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, photographic record or tape, or other tangible thing capable of arousing interest through sight, sound or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, floppy disk, compact disk, magnetic tape, or similar data storage device..

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

§9.04.02. Corruption of a minor.

A. No person, eighteen (18) years of age or older, shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows such other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

B. This section shall not apply if the offender is four (4) or more years older than the other person.

C. Whosoever violates this section is guilty of corrupting a minor, a misdemeanor of the first degree. (*ORC §2907.04*)

§9.04.03. Sexual imposition.

A. No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two (2) or more other persons to have sexual contact when any of the following apply:

(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, or one of the other person's ability to appraise the nature of or control the offender's or touching person's control conduct is substantially impaired;

(3) The offender knows that the other person or one of the other persons submits because of being unaware of the sexual contact;

(4) The other person or one of the other persons is thirteen (13) years of age or older but less than sixteen (16) years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen (18) years of age or four (4) or more years older than the other person; or

(5) The person is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

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

C. Whosoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. (ORC §2907.06)

§9.04.04. 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 another, not the spouse of the offender, to engage in sexual activity with the offender, when the offender is eighteen (18) years of age or older and four (4) or more years older than the other person, and the other person is thirteen (13) years of age or older but less than sixteen (16) years of age, whether or not the offender knows the age of the other person.

C. No person shall solicit another, by means of telecommunications device, as defined in *Ohio Revised Code Section 2913.01*, to engage in sexual activity with the offender when the offender is eighteen (18) years of age or older and either of the following applies:

(1) The other person is less than thirteen (13) years of age, and the offender knows that the other person is less than thirteen (13) years of age or is reckless in that regard; or

(2) The other person is a law enforcement officer posing as a person who is less than thirteen (13) years of age, and the offender believes that the other person is less than thirteen (13) years of age or reckless in that regard.

D. No person shall solicit another by means of a telecommunications device, as defined in *Ohio Revised Code Section 2913.01*, to engage in sexual activity with the offender when the offender is eighteen (18) years of age or older and either of the following applies:

(1) The other person is thirteen (13) years of age or older but less than sixteen (16) years of age, the offender knows that the other person is thirteen (13) years of age or older but less than sixteen (16) years of age or is reckless in that regard, and the offender is four (4) or more years older than the other person.

(2) The other person is a law enforcement officer posing as a person who is thirteen (13) years of age or older but less than sixteen (16) years of age, the offender believes that the other person is thirteen (13) years of age or older but less than sixteen (16) years of age or is reckless in that regard, and the offender is four (4) or more years older than the age the law enforcement officer assumes in posing as the person who is thirteen (13) years of age or older but less than sixteen (16) years of age.

E. *Divisions (C) and (D)* of this section apply to any solicitation that is contained in a transmission via a telecommunications device that either originates in this State or is received in this State.

F. Whosoever violates this section is guilty of importuning, violation of *division (A) or (C)* of this section is a felony in the fourth degree and a felony in the third degree for each subsequent offense. Violation of *division (B) or (D)* of this section is a felony in the fifth degree and a felony in the fourth degree for each subsequent offense. (ORC §2907.07)

§9.04.05. 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. No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to photograph the other person in a state of nudity.

C. No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to photograph the other person in a state of nudity if the other person is a minor.

D. No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to photograph the other person in a state of nudity if the person is a minor and any of the following apply:

(1) The offender is the minor's natural or adoptive parent, stepparent, guardian, or custodian, or person in loco parentis or the minor;

(2) The minor is in custody of law or is a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the minor;

(3) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the State board of education prescribes minimum standards pursuant to *division (D)* of *Ohio Revised Code Section 3301.07*, the minor is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school;

(4) he offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the minor is enrolled in or attends that institution;

(5) The offender is a caregiver, administrator, or other person in authority employed by or serving in a Child Day-care Center, Type "A" Family Day-care Home or center, or Type "B" Day-care Home, and the minor is enrolled in or attends that center or home; or

(6) The offender is the minor's athletic or other type of coach, is the minor's instructor, is the leader of a scouting troop of which the minor is a member, provides babysitting care for the minor, or is a person with temporary or occasional disciplinary control over the minor.

E. No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person under or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.

F. Whosoever violates this section is guilty of voyeurism.

(1) A violation of *division (A)* of this section is a misdemeanor of the third degree.

(2) A violation of *division (B)* of this section is a misdemeanor of the second degree.

(3) A violation of *division (C)* or *(E)* of this section is a misdemeanor of the first degree.

(4) A violation of *division (D)* of this section is a felony of the fifth degree. (*ORC §2907.08*)

§9.04.06. Public indecency.

A. No person shall recklessly do any of the following, under circumstances in which his or her conduct is likely to be viewed by and affront others, and who are not members of his or her household:

(1) Expose his or her private parts, or engage in masturbation;

(2) Engage in sexual conduct or masturbation;

(3) Engage in conduct which to an ordinary observer would appear to be sexual conduct or masturbation.

B. No person shall knowingly do any of the following under circumstances in which the person's conduct is likely to be viewed by and affront another person who is a minor, who is not the spouse of the offender, and who resides in the person's household:

(1) Engage in masturbation;

(2) Engage in sexual conduct;

(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;

(4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

C. Whosoever violates:

(1) *Section (A) (1)* is guilty of public indecency, a misdemeanor of the fourth degree.

(2) *Section (A) (2)* and *(3)* is guilty of a misdemeanor in the third degree.

(3) *Section (B) (1)*, *(2)* or *(3)* of this section is guilty of a misdemeanor of the third degree.

(4) *Section (B) (4)* of this section is guilty of a misdemeanor of the first degree.

(*ORC §2907.09*)

§9.04.07. 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. Whosoever violates this section is guilty of procuring, a misdemeanor of the first degree.

(*ORC §2907.23*)

§9.04.08. Soliciting.

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

B. Whosoever violates this section is guilty of soliciting, a misdemeanor of the third degree.

(*ORC §2907.24*)

§9.04.09. Prostitution.

A. No person shall engage in sexual activity for hire.

B. Whosoever violates this section is guilty of prostitution, a misdemeanor of the third degree.

(*ORC §2907.25*)

§9.04.10. Disseminating matter harmful to juveniles.

A. No person, with knowledge of its character or content, shall recklessly do any of the following:

(1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;

(2) Directly offer or agree to sell deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles; or

(3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is 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 the juvenile was accompanied by the juvenile's 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 to the defendant's 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 (18) 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 (18) and unmarried.

C.

(1) It is an affirmative defense to a charge under this section, involving material or a performance which is 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.

(2) Except as provided in *division (B) (3)* of this section, mistake of age is not a defense to a charge under this section.

D.

(1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile of the group of persons receiving the information are juveniles.

(2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:

(a) The person has inadequate information to know or to have reason to believe that a particular recipient of the information or offer is a juvenile or

(b) The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.

E. Violation of this section is a misdemeanor of the first degree unless stated otherwise in *Ohio Revised Code Section 2907.31. (ORC §2907.31)*

§9.04.99. Penalty.

EDITOR'S NOTE: (see *Section 9.01.99* for penalties applicable to any misdemeanor classification.)

Chapter 9.05. Offenses Pertaining to Property and Public Peace.

- §9.05.01. Definitions.
- §9.05.02. Criminal damaging or endangering.
- §9.05.03. Criminal mischief.
- §9.05.04. Valuation of stolen property.
- §9.05.05. Criminal trespass.

- §9.05.06. Tampering with a coin machine.
- §9.05.07. Petty Theft.
- §9.05.08. Unauthorized use of a vehicle.
- §9.05.09. Unauthorized use of property.
- §9.05.10. Passing bad checks.
- §9.05.11. Misuse of credit cards.
- §9.05.12. Making or using slugs.
- §9.05.13. Defrauding a livery or hostelry.
- §9.05.14. Tampering with records.
- §9.05.15. Defrauding creditors.
- §9.05.16. Receiving stolen property.
- §9.05.17. Impersonating an officer.
- §9.05.18. Filing a false report.
- §9.05.19. Exclusions.
- §9.05.99. Penalty.

§9.05.01. Definitions.

As used in this chapter of the *Nelsonville City Code*:

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 in another, including a false impression as to law, value, state of mind, or other objective or subjective 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 purpose not to give proper consideration in return therefore, 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, who has possession or control of, or any license or interest in property or services, even though such ownership, possession, control, license, or interest is 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 software, document, letter, memorandum, note, paper, plate, 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 spurious 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 Revised Code Sections 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42 to 2913.45, 2913.47, 2913.48, 2913.51, 2915.05, 2915.06 or 2921.41.*

(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 *division (K) (1)* hereof or violation of *Ohio Revised Code Sections 2913.41, 2913.81 or 2915.06* as it existed prior to July 1, 1996.

(3) An offense under an existing or former municipal ordinance or law of this or any other State or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;

(4) Any conspiracy or attempt to commit, or complicity in committing any offense *under division (K) (1), (2), or (3)* hereof. (*ORC §2913.01*)

§9.05.02. 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. Whosoever 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 unless otherwise stated in *Ohio Revised Code Section 2909.06*. (*ORC §2909.06*)

§9.05.03. 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, knowingly move, deface, destroy, or otherwise tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;

(4) Without privilege to do so, knowingly, move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land; or

(6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, knowingly do any of the following:

(a) In any manner or by any means, including but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained on a computer, computer system, computer network, computer software, or computer program;

(b) Introduce containment into a computer, computer system, computer network, computer software, or a computer program.

B. Whosoever violates *Section (A) (1), (2), (3), (4) or (5)* is guilty of criminal mischief, a misdemeanor of the third degree or otherwise provided in *Ohio Revised Code Section 2909.07*. If violation of the sections mentioned above creates a risk of physical harm to any person, criminal mischief is a misdemeanor of the first degree. Violation of *Section (A) (6)* is a misdemeanor of the first degree unless otherwise stated in *Ohio Revised Code Section 2909.07*. (*ORC §2909.07*)

§9.05.04. Valuation of stolen property.

A. When a person is charged with a theft offense, or with a violation of *Ohio Revised Code Division (A) (1), Section 1716.14* involving a victim who is an elderly person or disabled adult that involves property or services valued at five hundred dollars (\$500.00) or more and less than five thousand dollars (\$5,000.00), property or services valued at five thousand dollars (\$5,000.00) or more and less than twenty-five thousand dollars (\$25,000.00), property or services valued at twenty-five thousand dollars (\$25,000.00) or more and less than one hundred thousand

dollars (\$100,000.00), or property or services valued at one hundred thousand dollars (\$100,000.00) or more, the jury or Court trying the accused shall determine the value of the property or services as of the time the offense and, if a guilty verdict is returned, shall return the finding of value as part of the verdict. In any such case in which the jury or Court determines that the value of the property or services at the time of the offense was five hundred dollars or more, it is unnecessary to find and return exact value, it is sufficient if the finding and return is to the effect that the value of the property or services involved was five hundred dollars (\$500.00) or more and less than five thousand dollars (\$5,000.00), property or services valued at five thousand dollars (\$5,000.00) or more and less than twenty-five thousand dollars (\$25,000.00), property or services valued at twenty-five thousand dollars (\$25,000.00) or more and less than one hundred thousand dollars (\$100,000.00), or property or services valued at one hundred thousand dollars (\$100,000.00) or more.

B. Where more than one (1) item of property or services is involved in a theft offense, or involving a victim who is an elderly person or disabled adult, the value of the property or services involved for the purpose of determining the value as required by *division (A)* of this section, is the aggregate value of all property or services involved in the offense.

C. When a series of offenses under *Section 9.05.07* of the *General Offense Code* is committed by the offender in his same employment, capacity, or relationship to another, all such offenses shall be tried as a single offense, and the value of the property or services involved for the purpose of determining the value as required by *division (A)* of this section, is the aggregate value of all property and services involved in all offenses in the series. In prosecuting a single offense under this division, it is not necessary to separately allege and prove each offense in the series. It is sufficient to allege and prove that the offender, within a given span of time committed one or more theft offenses in his same employment, capacity, or relationship to another.

D. The following criteria shall be used in determining the value of property or services involved in a theft offense:

(1) The value of a heirloom, memento, collector's item, antique, museum piece, manuscript, document, record, or other thing which has intrinsic worth to its owner and which is either irreplaceable only on the expenditure of substantial time, effort, or money, is the amount which would compensate the owner for its loss.

(2) The value of personal effects and household goods and of materials, supplies, equipment, and fixtures used in the profession, business, trade, occupation, or avocation of its owner, which property is not covered under *division (D) (1)* of this section, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing such property with new property of like kind and quality.

(3) The value of any property, real or personal, not covered under *division (D) (1)* or (2) of this

section, and the value of the services, is the fair market value of such property or services. As used in this section, "Fair market value" is the money consideration which a buyer would give a seller would accept for property or services, assuming that the buyer is willing to buy and seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

E. Without limitation on the evidence which may be used to establish the value of property or services involved in a theft offense:

(1) When the property involved is personal property held for sale at wholesale or retail, the price at which such property was held for sale is prima-facie evidence of its value;

(2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of such security or commodity;

(3) When the property involved is livestock, poultry, or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of such livestock, poultry, or products;

(4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of such instrument.

(5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check, or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument;

(6) When the property involved is a ticket of admission, ticket for transportation, coupon, token, or other instrument entitling the holder or the bearer to receive property or services, the face value or, if there is no face value, the value of the property or services which may be received thereby, is prima-facie evidence of the value of such instrument;

(7) When the services involved are gas, electricity, water, telephone, transportation, shipping, or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of such services; or

(8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for such services, either in writing, or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in such notice is prima-facie evidence of the value of such services. (*ORC §2913.61*)

§9.05.05. 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 in which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows he is violation of any such restriction or is reckless in that regard;

(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to attention of potential intruders, or by fencing or other enclosure manifestly design 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. It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.

C. 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.

D. Whosoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

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 enclosure or room, or portion thereof. (ORC §2911.21)

§9.05.06. Tampering with a coin machine.

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. Whosoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. (ORC §2911.32)

§9.05.07. Petty Theft.

A. No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either:

(1) Without the consent of the owner or person authorized to give consent;

(2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;

(3) By deception;

(4) By threat;

(5) By intimidation.

B. This section shall not apply if the value of the property involved is one hundred fifty dollars (\$150.00) or more, or is any of the property listed in *Section 9.05.20*.

C. Whosoever violates this section is guilty of petty theft, a misdemeanor of the first degree. (ORC §2913.02)

§9.05.08. Unauthorized use of a vehicle.

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

B. No person shall knowingly use or operate an aircraft, motor vehicle, motorboat, or other motor propelled vehicle without the consent, and either remove it from this State or municipality or keep possession of it for more than forty-eight hours.

C. 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, though mistaken, reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

D. This section shall not apply if the offender removes the vehicle from this State or retains possession of it for more than forty-eight (48) hours.

E. Whosoever violates this section is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree except otherwise provided in *Ohio Revised Code Section 2913.03*. (ORC §2913.03)

§9.05.09. 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. No person, in any manner and by any means, including, but not limited to, computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.

C. No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from the access to the law enforcement automated database system created pursuant to *Ohio Revised Code Section 5503.10* without consent of, or beyond the scope of, the chair of the law enforcement automated data system steering committee.

D. The affirmative defenses contained in *division (C)* of *Section 9.05.09* of the *General Offenses Code* are affirmative defenses to a charge under this section.

E. Whosoever violates *division (A)* of this section is guilty of unauthorized use of property, a misdemeanor of the fourth degree unless otherwise provided in *Ohio Revised Code Section §2913.04*.

F. Whosoever violates *division (B)* of this section is guilty of unauthorized use of a computer, cable, or

telecommunication property, a felony of the fifth degree unless otherwise stated in *Ohio Revised Code Section 2913.04*.

G. Whosoever violates *division (C)* of this section is guilty of unauthorized use of the law enforcement database system, a felony of the fifth degree. (*ORC §2913.04*)

§9.05.10. Passing bad checks.

A. No person, with purpose to defraud, shall issue or transfer or cause to be issued or transfer a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.

B. For purpose 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 on the stated date, whichever is later;

(2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty (30) days after issue or the state 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 (10) days after receiving notice of dishonor.

C. Whosoever violates this section is guilty of passing bad checks, a misdemeanor of the first degree unless otherwise stated in *Ohio Revised Code Section 2913.11*. (*ORC §2913.11*)

§9.05.11. 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; or

(2) Knowingly buy or sell a credit card from or to a person other than the issuer.

B. No person with purpose to defraud shall do any of the following:

(1) Obtain control over a credit card as security for a debt;

(2) Obtain property or services by use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained, or is being used in violation of the law;

(3) Furnish property or services upon presentation of a credit card, knowing that such card is being used in violation of law; or

(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. Whosoever violates this section is guilty of misuse of credit cards, a misdemeanor of the first degree unless otherwise provided in *Ohio Revised Code Section 2913.21*. (*ORC §2913.21*)

§9.05.12. 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. Whosoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree. (*ORC §2913.33*)

§9.05.13. Defrauding a livery or hostelry.

In a prosecution of a person for a theft offense that alleges that the person, with purpose to defraud or knowing that the person was facilitating a fraud, hired, or rented an aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy, or other property or equipment, kept or operated any of the same that has been hired, rented, or engaged accommodations at a hotel, motel, inn, campground, or other holstery, it is prima-facie evidence of purpose to defraud if the person did any of the following:

A. Used deception to induce the rental agency to furnish the person with the aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy, or other property or equipment, or used deception to induce the holstery to furnish the person with accommodations;

B. Hired or rented any aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy, or other property or equipment, or engaged in accommodations, knowing the person was without sufficient means to pay the hire or rental;

C. Absconded without paying the hire or rental;

D. Knowingly failed to pay the hire or rental as required by contract of hire or rental, without reasonable excuse for such failure;

E. Knowingly failed to return hired or rented property as required by the contract of hire or rental, without reasonable excuse for the failure. (*ORC §2913.41*)

§9.05.14. 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, computer software, data or record.

(2) Utter any writing or record, knowing it to have been tampered with as provided in *division (A) (1)* of this section.

B. This section shall not apply if the writing or record is a Will unrevoked at the time of the offense, or a record kept by or belonging to a governmental agency.

C. Whosoever violates this section is guilty of tampering with records, a misdemeanor of the first degree unless otherwise provided in *Ohio Revised Code Section 2913.42*. (ORC §2913.42)

§9.05.15. Defrauding creditors.

A. No person, with purpose to defraud one or more of the person's creditors, shall do any of the following:

(1) Remove, conceal, destroy, convey, or otherwise deal with any of his property;

(2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage the person's affairs or estate, the existence, amount, or location of any of the person's property, or any other information regarding such property which the person is legally required to furnish to the fiduciary.

B. Whosoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree except otherwise provided in *Ohio Revised Code Section 2913.45*. (ORC §2913.45)

§9.05.16. 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. It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

C. Whosoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree unless otherwise stated in *Ohio Revised Code Section 2913.51*. (ORC §2913.51)

§9.05.17. Impersonating 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.

(B) Whosoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. (ORC 2913.44)

§9.05.18. Filing a false report.

A. No person shall willfully give false information or false report in the calling, telephoning, summoning, or in any way directing the policeman or fireman or the City of Nelsonville in the performance of his duty.

B. Whosoever violates *section (A)* hereof shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding fifty dollars (\$50.00).

§9.05.20. Exclusions.

Regardless of the value of property involved and regardless of whether the offender previously has been convicted of a theft offense, a violation of *Sections 9.05.08* and *9.05.17* of this chapter is a felony in the fifth degree 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 to 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 motor vehicle identification license plate as prescribed by *Ohio Revised Code Section 4503.22*, a temporary license placard or windshield sticker as prescribe by *Ohio Revised Code Section 4503.182*, or any comparable license plate, placard, or sticker as prescribed by the applicable law of another State or the United States;

D. A blank form for a certificate of title or a manufacturers or importers certificate to a motor vehicle, as prescribed by *Ohio Revised Code Section 4505.07*; or

E. A blank form for any license listed in *Ohio Revised Code Division (A), Section 4507.01*. (ORC §2913.71)

§9.05.99. Penalty.

EDITORS NOTE: (see *Section 9.01.99* for penalties applicable to any misdemeanor classification).

Chapter 9.06. Gambling Offenses.

§9.06.01. Definitions.

§9.06.02. Application of provisions.

§9.06.03. Gambling.

§9.06.04. Operating a gambling house.

§9.06.05. Public gaming.

§9.06.06. Cheating.

§9.06.99. Penalty.

§9.06.01. Definitions.

As used in *General Offenses Code Chapter 9.06*:

A. "Bookmaking" means the business of receiving or paying off bets.

B. "Bets" means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.

C. "Scheme of chance" means a lottery, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skilled-based amusement machine, or a pool not conducted for profit.

D. "Game of chance" means poker, craps, roulette, a slot machine, a punch board, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely or wholly by chance, but does not include bingo.

E. "Scheme or game of chance conducted for profit" means any scheme or game of chance designed to produce income for its backer, promoter, or operator, but

does not include any scheme or game of chance designed to produce income solely for charitable purposes when the entire net income after deduction of necessary expenses is applied to such purposes.

F. "Gambling device" means:

(1) A book, totalizer, or other equipment for recording bets;

(2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance, or evidencing a bet;

(3) A deck of cards, dice, gaming table, roulette wheel, slot machine, punch board, or other apparatus designed for use in connection with a game of chance;

(4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes; or

(5) Bingo supplies sold or otherwise provided, or used in violation of this chapter.

G. "Gambling offense" means any of the following:

(1) A violation of *Sections 9.06.03, 9.06.04, 9.06.05, 9.06.06* of the *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 *division (G) (1)* of this section;

(3) An offense under an existing or former municipal ordinance or law of this or any other State or the United States, of which gambling is an element;

(4) A conspiracy or an attempt to commit, or complicity in committing an offense under *division (G) (1), (2), or (3)* of this section. (*ORC §2915.01*)

H. "Skilled-based amusement machine" means a device as defined in *Ohio Revised Code §2915.01 (UU) (1)*.

§9.06.02. Application of provisions.

A. Any person having previously been convicted of a gambling offense under this code or the *Ohio Revised Code*, shall, on a subsequent offense, be prosecuted pursuant to the provisions of *Ohio Revised Code Title 29*.

B. This section shall not apply to *Section 9.06.05* of this code.

§9.06.03. Gambling.

A. No person shall:

(1) Engage in bookmaking, or knowingly engage in conduct which facilitates bookmaking;

(2) Establish, promote, or operate, or knowingly engage in conduct which facilitates any scheme or game of chance conducted for profit;

(3) Knowingly procure, transmit, exchange, or engage in conduct which facilitates the procurement, transmission, or exchange of, information for use in establishing odds or determining winners in connection with bookmaking or with any scheme or game of chance conducted for profit;

(4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood;

(5) With purpose to violate *division (A) (1), (2), (3), or (4)* of this section, acquire, possess, control, or operate any gambling device.

B. For purposes of *division (A) (1)* of this section, a person facilitates bookmaking if he in any way knowingly aids in illegal bookmaking operation, including without limitation placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of *division (A) (2)* of this section, a person facilitates a scheme or game of chance conducted for profit if he in any way knowingly aids the conduct or operation of any such scheme or game, including without limitation playing any such scheme or game.

C. This section does not prohibit conduct in connection with gambling expressly licensed under *Ohio Revised Code Section 2915.08*, operation of skilled-based amusement arcades permitted under *Nelsonville City Code Title 27, Zoning Code* or other activities otherwise permitted by law.

D. Whosoever violates this section is guilty of gambling, a misdemeanor of the first degree unless otherwise stated in *Ohio Revised Code Section 2915.02*.

§9.06.04. Operating a gambling house.

A. No person, being the owner or lessee, or having custody, control, or supervision of premises, shall:

(1) Use or occupy such premises for gambling in violation of *Section 9.06.03* of the *General Offenses Code*.

(2) Recklessly permit such premises to be used or occupied for gambling in violation of *Section 9.06.03* of the *General Offenses Code*.

B. Whosoever violates this section is guilty of operating a gambling house, a misdemeanor of the first degree.

C. Premises used or occupied in violation of this section constitute a nuisance subject to abatement pursuant to *Sections 3767.01 and 3767.99* of the *Ohio Revised Code*. (*ORC §2915.03*)

§9.06.05. Public gaming.

A. No person, while at a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall make a bet or play any game of chance or scheme of chance.

B. No person, being the owner or lessee, or having custody, control, or supervision of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit such premises to be used or occupied in violation of *division (A)* of this section.

C. This section does not prohibit conduct in connection with gambling expressly permitted by law.

D. Whosoever violates this section is guilty of public gaming a minor misdemeanor. If the offender has previously been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

E. Premises used or occupied in violation of *division (B)* of this section constitute a nuisance subject to

abatement under *Chapter 3767* of the *Ohio Revised Code*. (ORC §2915.04)

§9.06.06. Cheating.

A. No person, with purpose to defraud or knowing that he is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of:

- (1) The subject of a bet;
- (2) A contest of knowledge, skill, speed, strength, or endurance;
- (3) A scheme or game of chance; or
- (4) Bingo.

B. No person shall do any of the following:

- (1) Offer, give, solicit, or accept anything of value to corrupt the outcome of an athletic or sporting event;
- (2) Engage in conduct designed to corrupt the outcome of an athletic or sporting event.

C.

(1) Whosoever violates this section is guilty of cheating, a misdemeanor of the first degree unless otherwise provided in *Section 2915.05* of the *Ohio Revised Code*.

(2) Whosoever violates *division (B)* is guilty of corrupting sports, a felony in the fifth degree. (ORC§2915.05)

§9.06.99. Penalty.

Editor's note: (see *Section 9.01.99* for penalties applicable to any misdemeanor classification).

Chapter 9.07. Offenses Against the Public Peace.

- §9.07.01. Riot.
- §9.07.02. Failure to disperse.
- §9.07.03. Disorderly conduct.
- §9.07.04. Disturbing a lawful meeting.
- §9.07.05. Misconduct at an emergency.
- §9.07.06. Telephone harassment.
- §9.07.07. Inducing panic.
- §9.07.08. False alarms.
- §9.07.09. Open container.
- §9.07.99. Penalty.

§9.07.01. Riot.

A. No person shall participate with four or more others in a course of disorderly conduct in violation of *Section 9.07.03* of the *General Offenses Code*:

- (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; or
- (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. Whosoever violates this section is guilty of riot, a misdemeanor of the first degree. (ORC §2917.03)

§9.07.02. Failure to disperse.

A. Where five (5) or more persons are participating in a course of disorderly conduct in violation of *Section 9.07.03* of the *General Offenses Code* 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 peacefully assembled for a lawful purpose.

C. Whosoever violates this section is guilty of failure to disperse, a minor misdemeanor unless otherwise provided in *Section 2917.04* of the *Ohio Revised Code*. (ORC §2917.04)

§9.07.03. 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 offensive 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; or
- (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
- (2) or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance, or alarm to persons of ordinary sensibilities, which conduct the offender, if he 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, water craft, aircraft, or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of *division (B)* of this section.

D. 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 *division (B)* of this section.

E. Whosoever violates this section is guilty of disorderly conduct, a minor misdemeanor. If the offender persists in disorderly conduct after reasonable warning or request to desist, disorderly conduct is a misdemeanor of the fourth degree. (*ORC §2917.11*)

§9.07.04. 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. Whosoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree. (*ORC §2917.12*)

§9.07.05. 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 the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;

(2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;

(3) Fail to obey the lawful order of any law enforcement officer engaged in the person's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.

B. Whosoever violates this section is guilty of misconduct at emergency, a misdemeanor of the fourth degree. If violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree. (*ORC §2917.13*)

§9.07.06. Telephone harassment.

A. No person shall knowingly make or cause to be made a telecommunications, or knowingly permit a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

(1) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass or abuse any person at the premises to which the telecommunication is

made, whether or not actual communication takes place between the caller and a recipient;

(2) Describes, suggests, requests, or purposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or other person at the premises to which the telecommunication is made has requested, in a previous telecommunication, or in an immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;

(3) During the telecommunication violates *Section 2903.21* of the *Ohio Revised Code*;

(4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in will at the time of the destruction or damaging be near or in, has the responsibility or protecting, or insure the property that will be destroyed or damaged; or

(5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, on those premises, and the recipient or another person at those premises previously has told the caller not to make telecommunications to those premises or to any persons at those premises.

B. No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunication device under the person's control, with purpose to abuse, threaten, or harass another person.

C.

(1) Whosoever violates this section is guilty of telecommunications harassment.

(2) A violation of *division (A) (1), (2), (3), (4), (5)* or *(B)* of this section is a misdemeanor of the first degree unless otherwise provided in *Section 2917.21* of the *Ohio Revised Code*. (*ORC §2917.21*)

§9.07.07. 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; or

(3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

B. *Division (A) (1)* of this section does not apply to any person conducting an authorized fire or emergency drill.

C. Whosoever violates this section is guilty of inducing panic, a misdemeanor of the first degree except otherwise provided by *Section 2917.31* of the *Ohio Revised Code*. (ORC §2917.31)

§9.07.08. False alarms.

A. No person shall do either 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; or

(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. Whosoever violates this section is guilty of making false alarms, a misdemeanor of the first degree except otherwise provide in *Section 2917.32* of the *Ohio Revised Code*. (ORC §2917.32)

§9.07.09. Open container.

A. No person shall knowingly have in their presence an open container of intoxicating liquor or beer in any of the following circumstances:

(1) In a state liquor store;

(2) Except as provided in *division (B)* of this section on the premises of the holder of any permit issued by the Division of Liquor Control;

(3) In any other public place;

(4) Except as provided in *division (C)* of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking; or

(5) Except as provided in *division (C)* of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

B.

(1) A person may have in the person's possession an opened container of any of the following:

(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from a holder provided under *Section 4301.62* of the *Ohio Revised Code*;

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of a F-4 or F-6 permit;

(c) Beer or intoxicating liquor consumes on the premises of a convention facility as provided in *Section 4303.201* of the *Ohio Revised Code*;

(d) Beer or intoxicating liquor to be consumed during tasting and samplings approved by rule of the liquor control commission.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued for a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued.

C. This section does not apply to a person who pays for all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of the person, when all of the following apply:

(1) The person or guest is a passenger in the limousine;

(2) The person or guest is located in the limousine but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;

(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

D. Whosoever violates this section is guilty of having an open container, a minor misdemeanor. (ORC §4301.62)

§9.07.99. Penalty.

Editor's note: (see *Section 9.01.99* for penalties applicable to any misdemeanor classification).

Chapter 9.08. Offenses Against the Family.

§9.08.01. Endangering children.

§9.08.02. Interference with custody.

§9.08.03. Domestic violence.

§9.08.99. Penalty.

§9.08.01. 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 (18) or a mentally or physically handicapped child under twenty-one (21) 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 division 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) Abuse the child;

(2) Torture or cruelly abuse the child;

(3) 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;

(4) 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;

(5) Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter; or

(6) Allow the child to be on the same parcel or real property and within one hundred feet of, or in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within one hundred feet of, any act in violation of *Section 2925.04* or *2925.041* of the *Ohio Revised Code* when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of *Section 2925.04* or *2925.041* of the *Ohio Revised Code* that is the basis for the violation of this division.

C. This section shall not apply if violation of this section results in serious physical harm to the child involved, or if the offender has 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.

D. Whosoever violates this section is guilty of endangering children, a misdemeanor of the first degree except otherwise provided by *Section 2919.22* of the *Ohio Revised Code*. (*ORC §2919.22*)

§9.08.02. Interference with custody.

A. No person, knowing the person 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 (21);

(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. No person shall aid, abet, induce, cause, or encourage a child or a ward of the juvenile court who has been committed to the custody of any person, department, or public or private institution to leave the custody of that person, department, or institution without legal consent.

C. It is an affirmative defense to a charge of enticing or taking under *division (A) (1)* of this section, that the actor reasonably believed that actor's conduct was necessary to preserve the child's health and safety. It is an

affirmative defense to charge of keeping or harboring under *division (A)* of this section 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 the actor's shelter, protection, or influence.

D. Whosoever violates this section is guilty of interference with custody, a misdemeanor of the first degree except otherwise provided by *Section 2919.23* of the *Ohio Revised Code*. (*ORC §2919.23*)

§9.08.03. Domestic violence.

A. No person shall knowingly cause or attempt to cause physical harm to a family or household member.

B. No person shall recklessly cause serious physical harm to a family or household member.

C. No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

D. Whosoever violates this section is guilty of Domestic Violence, a misdemeanor of the first degree.

E. As used in this section and in *Section 2919.25* of the *Ohio Revised Code* "Family or household member" means a spouse, person living as a spouse, parent, child or other person related by consanguinity or affinity who is residing or has resided with the offender.

§9.08.99. Penalty.

Editor's note: (see *Section 9.01.99* for penalties applicable to any misdemeanor classification).

Chapter 9.09. Offenses Against Justice And Public Administration.

- §9.09.01. Definitions.
- §9.09.02. Compounding a crime.
- §9.09.03. Failure to report a crime.
- §9.09.04. Failure to aid a law enforcement officer.
- §9.09.05. Obstructing justice.
- §9.09.06. Resisting arrest.
- §9.09.07. Falsification.
- §9.09.08. Dereliction of duty.
- §9.09.99. Penalty.

§9.09.01. Definitions.

As used in *General Offenses Code Chapter 9.09*:

A. "Public official" means any elected or appointed officer or employee, or agent of the State or any political subdivision thereof, whether in a temporary or permanent capacity, and including without limitation legislators, judges, and law enforcement officers.

B. "Public servant" means any of the following:

- (1) Any public official;
- (2) Any person performing ad hoc governmental function, including without limitation a juror, member of the temporary commission, master, arbitrator, advisor or consultant; or

(3) A candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this division if he has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have his name placed on the ballot in a primary, general, or special election, or if the person campaigns as a write-in candidate in any primary, general, or special election.

C. "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 the person directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

D. "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 taking testimony or a deposition in connection with an official proceeding.

E. "Detention" means arrest, or confinement in any facility subsequent to an arrest: confinement in any public or private 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.

F. "Detention facility" means any public or private 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*)

§9.09.02. 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 violation of *Sections 9.05.08, 9.05.10 or division (B) (2) of Section 9.05.11* of the *General Offenses Code* of which the actor under this section was the victim; or

(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 *division (B)* of this section, such abandonment or agreement in no way binds the State of abandoning the prosecution.

D. Whosoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree. (*ORC §2921.21*)

§9.09.03. 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, or 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 the physician, limited practitioner, nurse, or person, or any serious physical harm to persons which he knows or has reasonable cause to believe resulted from an offense of violence.

C. No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained.

D. No person shall fail to provide upon request of the person to whom a report required by *division (C)* of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.

E. *Division (A)* and *(D)* of this section do 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, rabbi, husband and wife or communications assistant and those who are a party to a telecommunications relay service;

(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 *Section 2739.04 or 2739.12* of the *Ohio Revised Code*;

(4) Disclosure of the information would amount to disclosure by an ordained clergyman of an organized religious body confidential communication made to him in his capacity as such by a person seeking his aid or counsel; or

(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 *Section 5122.51* of the *Ohio Revised Code*.

F. No disclosure of information pursuant to *division (A)* or *(B)* of this section shall give rise to any

liability or recrimination for a breach of privilege or confidence.

G. Whosoever violates this section is guilty of failure to report a crime. Violation of *division (A), (C) or (D)* of this section is a misdemeanor of the fourth degree. Violation of *division (B)* of this section is a misdemeanor of the second degree. (ORC §2921.22)

§9.09.04. Failure to aid law enforcement officer.

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 substantial risk or physical harm to the person giving it.

B. Whosoever violates this section is guilty of failure to aid a law enforcement officer, a minor misdemeanor. (ORC §2921.23)

§9.09.05. Obstructing justice.

A. A person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for crime or to assist another to benefit from the commission of a crime, and no person, with purpose to hinder the discovery, apprehension, prosecution. Adjudication as a delinquent child or disposition of a child for an act that if committed by an adult would be a crime or to assist a child to benefit from the commission of an act that if committed by an adult would be a crime, shall do any of the following:

- (1) Harbor or conceal the other person or child;
- (2) Provide the other person or child with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension;
- (3) Warn the other person or child of impending discovery or apprehension;
- (4) Destroy or conceal physical evidence of the crime, or 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; or
- (6) Prevent or obstruct any person, by means of force, intimidation, or deception, from performing any act to aid in the discovery, apprehension, or prosecution of the other person or child.

B. Whosoever violates this section is guilty of obstructing justice, a misdemeanor of the first degree except otherwise provided in *Section 2921.32* of the *Ohio Revised Code*. (ORC §2921.32)

§9.09.06. Resisting arrest.

A. No person, recklessly or by force, shall resist or interfere with a lawful arrest of himself or another.

B. No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the

resistance or interference, cause physical harm to a law enforcement officer.

C. No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person if either of the following applies:

(1) The offender, during the course of or as a result of the resistance or interference, recklessly causes physical harm to a law enforcement officer by means of a deadly weapon; or

(2) The offender, during the course of the resistance or interference, brandishes a deadly weapon.

D. Whosoever violates *division (A)* of this section is guilty of resisting arrest, a misdemeanor of the second degree.

E. Whosoever violates *division (B)* of this section is guilty of a misdemeanor of the first degree.

F. Whosoever violates *division (C)* of this section is guilty of a felony of the fourth degree. (ORC §2921.33)

§9.09.07. 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 apply:

(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 permanently and totally disabled, aid to dependent children, general relief, retirement benefits, or other benefits, or other benefits administered by a government 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 or to employ the offender or to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend or to 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;

(9) The statement is made with purpose to commit or facilitate the commission of a theft offense;

(10) The statement is knowingly made to probate court in connection with any action, proceeding, or other matter within its jurisdiction, either orally or in a

written document, including, but not limited to, an application, petition, complaint, or other pleading or an inventory, account, or report; or

(11) The statement is made on an account, form, record, stamp, label, or other writing that is required by law.

B. It is no defense to a charge under *division (A) (6)* of this section that the 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. Whosoever violates this section is guilty of falsification, a misdemeanor of the first degree except otherwise provided by *Section 2921.13* of the *Ohio Revised Code*. (*ORC §2921.13*)

§9.09.08. Dereliction of duty.

A. No law enforcement officer shall negligently do any of the following:

(1) Fail to serve a lawful warrant without delay; or

(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; or

(5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.

D. No public official of the State shall recklessly create a deficiency, incur a liability, or expand a greater sum than is appropriated by the General Assembly for the use in any one (1) year of the department, agency, or institution of the State with which the public official is connected.

E. No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.

F. Whosoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree. (*ORC §2921.44*)

§9.09.99. Penalty.

Editor's note: (see *Section 9.01.99* for penalties applicable to any misdemeanor classification).

Chapter 9.10. Weapons and Explosives.

§9.10.01. Definitions.

§9.10.02. Carrying a concealed weapon.

§9.10.03. Using weapons while intoxicated.

§9.10.04. Improperly handling firearms in a motor vehicle.

§9.10.05. Unlawful possession of dangerous ordnance.

§9.10.06. Failure to secure dangerous ordnance.

§9.10.07. Unlawful transactions in weapons.

§9.10.08. Improperly furnishing firearms to a minor.

§9.10.09. Sale of explosives to minors.

§9.10.10. Sale to residents; purchaser's form.

§9.10.11. Restrictions on possession, sale and use.

§9.10.12. Fireworks display permits.

§9.10.13. Discharging firearms, crossbows, bows, and sling shots.

§9.10.99. Penalty.

§9.10.01. 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 the use as a weapon, or possessed, carried or used as a weapon.

B. (1) "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.

(2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including but not limited to, the representations and actions of the individual exercising control over the firearm.

C. "Handgun" means any of the following:

(1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;

(2) Any combination of parts from which a firearm of a type described by *division (C) (1)* of this section can be assembled.

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 a 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, signaling 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, consisting of an incendiary substance or agency any 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, nitro starch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, teravolt, pentolite, pectretol, 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, any the ammunition therefore.

(5) Any firearm muffler or silencer; or

(6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into dangerous ordnance.

K. "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefore, regardless of its actual age, which employs 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 therefore 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 *subsection (K) (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 a small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece; or

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968", *Stat. 1213.18 U.S.(C) 921 (A) (4)*, and any amendments or additions thereto or reenactments thereof, and regulations issued there under. (*ORC §2923.11*)

§9.10.02. Carrying a concealed weapon.

A. No person shall knowingly carry or have, concealed on his person or concealed ready at hand, any of the following:

(1) A deadly weapon other than a handgun;

(2) A handgun other than a dangerous ordnance; or

(3) A dangerous ordnance.

B. No person who has been issued a license or temporary emergency license to carry a concealed handgun under *Sections 2923.125 or 2923.1213* of the *Ohio Revised Code* or a license to carry a concealed handgun that was issued by another State with which the Attorney General has entered into a reciprocity agreement under *Section 109.69* of the *Ohio Revised Code*, who is stopped for a law enforcement purpose, and who is carrying a concealed handgun shall fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then is carrying a concealed handgun.

C. This section does not apply to officers, agents or employees of this or any other State or the United States, or law enforcement officers, authorized to carry concealed weapons or dangerous ordnance, and acting within the scope of their duties.

D. 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 the following apply:

(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 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 is a firearm, was carried in compliance with the applicable requirements of *Nelsonville City Code Section 9.10.04 (C)*.

E. Whosoever violates this section is guilty of carrying a concealed weapons, a misdemeanor of the first degree, if the offender has not been previously convicted of a violation of this section, of *Ohio Revised Code Section 2923.12* or of any offense of violence, or if the weapon involved is not a firearm, which is either loaded or which the offender has ammunition ready at hand, or if the weapon involved is not a dangerous ordnance, or the offense is not committed aboard an aircraft, nor with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involve(D) Other penalties are provided under *Section 2923.12* of the *Ohio Revised Code*. (*ORC §2923.12*)

§9.10.03. 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. Whosoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree. (*ORC §2923.15*)

§9.10.04. 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 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. No person shall knowingly transport or have a loaded handgun in a motor vehicle if, at the time of that transportation or possession, any of the following applies:

(1) The person is under the influence of alcohol, a drug of abuse, or a combination of them;

(2) The person's whole blood, blood serum, or plasma, breath, or urine contains a concentration of alcohol prohibited for persons operating a vehicle specified in *division (A)* of *Section 4511.19* of the *Ohio Revised Code*, regardless of whether the person at the time of the transportation or possession as described in this division is the operator or passenger in the motor vehicle.

E. 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.

F. The affirmative defenses contained in *Section 9.10.02 (D) (1)* and *(2)* are affirmative defenses to a charge under *subsection (B)* or *(C)* hereof.

G. Whosoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of *subsection (A)* or *(B)* hereof is a felony of the fourth degree. Violation of *subsection (C)* hereof is a misdemeanor of the fourth degree unless otherwise provided in *Section 2931.16* of the *Ohio Revised Code*.

H. 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. (*ORC §2931.16*)

§9.10.05. Unlawful possession of dangerous ordnance.

A. No person shall knowingly acquire, have, carry or use any dangerous ordnance.

B. No person shall manufacture or process an explosive at any location in this State or municipality unless it first has been issued a license, certificate, of registration, or permit to do so from a fire official of a political subdivision of this State or from the office of the fire marshal.

C. *Division (A)* of 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 the law enforcement officers, to the extent that any such person is authorized to acquire, have, carry, or use dangerous ordnance and 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 reenactments 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 reenactments 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 reenactments 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 reenactments thereof and regulations issued there under.

(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; or

(7) The holders of a license or temporary permit issued and in effect pursuant to Section 2923.18 of the Ohio Revised Code, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

D. Whosoever violates *division (A)* of this section is guilty of unlawful possession of dangerous ordnance, a felony of the fifth degree.

E. Whosoever violates *division (B)* of this section is guilty of illegally manufacturing or processing explosives, a felony of the second degree. (ORC §2923.17)

§9.10.06. 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; and

(2) To insure the safety of persons and property.

B. Whosoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree. (ORC §2923.19)

§9.10.07. Unlawful transactions in weapons.

A. No person shall:

(1) Recklessly sell, lend, give, or furnish any firearm to any person prohibited by Section 2923.13 or 2923.15 of the Ohio Revised Code from acquiring or using any firearm, or recklessly sell, lend, give or furnish any dangerous ordnance to any person prohibited by Sections 2923.03, 2923.15, or 2923.17 of the Ohio Revised Code from acquiring or using any dangerous ordnance;

(2) Possess any firearm or dangerous ordnance with the purpose to dispose of it in violation of *division (A)* of this section;

(3) 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;

(4) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 9.10.05, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place; or

(5) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in such person's possession or under his control.

B. Whosoever violates this section is guilty of unlawful transactions in weapons. Violation of *subsections (A) (1)* or *(2)* hereof is a felony of the fourth degree. Violation of *subsection (A) (3)* or *(4)* hereof is a misdemeanor of the second degree. A violation of *division (A) (5)* of this section is a misdemeanor of the fourth degree. (ORC §2923.20)

§9.10.08. Improperly furnishing firearms to a minor.

A. No person shall:

(1) Sell any firearm to a person under age eighteen (18);

(2) Sell any handgun to a person under the age of twenty-one (21);

(3) Furnish any firearm to a person under age eighteen (18), subject to *division (B)* of this section furnish any handgun to a person who is under twenty-one (21) years of age, except for the 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;

(4) Sell or furnish a firearm to a person who is eighteen years of age or older if the seller or furnisher knows, or has reason to know, that the person is purchasing or receiving the firearm for the purpose of selling the firearm in violation of *division (A)(1)* of this section to a person who is eighteen(18) years of age or for the purpose of furnishing the firearm in violation of *division (A) (3)* of this section to a person who is under eighteen (18) years of age;

(5) Sell or furnish a handgun to a person who is twenty-one (21) years of age or older if the seller or furnisher knows, or has reason to know, that the person is purchasing or receiving the handgun for the purpose of selling the handgun in violation of *division (A) (2)* of this section to a person who is under twenty-one (21) years of age or for the purpose of furnishing the handgun in violation of *division (A) (3)* of this section to a person who is under twenty-one (21) years of age;

(6) Purchase or attempt to purchase any firearm with the intent to sell the firearm in violation of *division (A) (1)* of this section to a person who is under eighteen (18) years of age with the intent to furnish the firearm in violation of *division (A) (3)* of this section to a person who is under eighteen (18) years of age; or

(7) Purchase or attempt to purchase any handgun with the intent to sell the handgun in violation of *division (A) (2)* of this section to a person who is under twenty-one years of age or with the intent to furnish the handgun in violation of *division (A) (3)* of this section to a person who is under twenty-one (21) years of age.

B. *Divisions (A) (1)* and *(2)* of this section do not apply to the sale or furnishing of a handgun to a person eighteen (18) years of age or older and under twenty-one (21) years of age is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.

C. Whosoever violates this section is guilty of improperly furnishing firearms to a minor, a felony of the fifth degree. (*ORC §2923.21*)

§9.10.09. Sale of explosives to minors.

A. No person shall sell, give away or otherwise dispose of or deliver to any person under eighteen (18) years of age any explosives, as defined in *Ohio Revised Code Section §3743.01 (A)*, whether such person is acting for himself or for any other person (*ORC 3743.02*)

B. Whosoever violates this section is guilty of sale of explosives to minors, a misdemeanor of the third degree.

§9.10.10. Sale to residents; purchaser's form.

A. Any person who resides in this State and who intends to obtain possession in this State of 1.4G fireworks purchased in this State shall obtain possession of the 1.4G fireworks only from a license manufacturer or licensed wholesaler.

B. A licensed manufacturer or licensed wholesaler selling 1.4G fireworks under this section shall require the purchaser to complete a purchaser's form. The fire marshal shall prescribe the form, and the licensed manufacturer or licensed wholesaler shall furnish the form. On this form the purchaser shall include the purchaser's name and address; the date of purchase; the destination to which the fireworks will be transported; the number of the purchaser's license or permit authorizing the purchaser to manufacture, sell at wholesale, or sell at retail fireworks or

to conduct firework exhibitions, or the number of the purchaser's motor vehicle operator's license or other identification card, as applicable; such other information the fire marshal may require; and the purchaser's signature. Each purchaser's form shall contain a statement printed in bold letters indicating that knowingly making a false statement on the form is falsification under *Section 2921.13* of the *Ohio Revised Code* and is misdemeanor of the first degree.

Each licensed manufacturer and licensed wholesaler shall keep each purchaser's form for a period of three years after the date of the purchase, and such form shall be open to inspection by the fire marshal or the fire marshal's designated authority

Each purchaser of 1.4G fireworks under this division shall transport the fireworks so purchased directly out of this State within forty-eight hours after the time of their purchase.

This division does not apply to a person who resides in this State and who is also a licensed manufacturer, licensed wholesaler, or licensed exhibitor of fireworks in this State.

C. No licensed manufacturer or licensed wholesaler shall sell 1.3G fireworks to a person who resides in this State unless that person is a licensed manufacturer, a licensed wholesaler, or licensed exhibitor of fireworks in this State. (*ORC §3743.45*)

§9.10.11. Restrictions on possession, sale and use.

A. No person shall possess fireworks in this State or shall possess for sale or sell fireworks in this State, except a licensed manufacturer of fireworks as authorized by *Sections 3743.02 to 3743.08* of the *Ohio Revised Code*, a licensed wholesaler of fireworks as authorized by *Sections 3743.15 to 3743.21* of the *Ohio Revised Code*, a shipping permit holder authorized by *Section 3743.40* of the *Ohio Revised Code*, an out-of-state resident authorized by *Section 3743.44* of the *Ohio Revised Code*, a resident of this State as authorized by *Section 3743.45* of the *Ohio Revised Code*, or a licensed exhibitor of fireworks as authorized by *Sections 3743.50 to 3743.50* of the *Ohio Revised Code*, and except as provided in *Section 3743.80* of the *Ohio Revised Code*.

B. Except as provided in *Section 3743.80* of the *Ohio Revised Code* and except for licensed exhibitors of fireworks authorized to conduct fireworks exhibition pursuant to *Sections 3743.50 to 3743.55* of the *Ohio Revised Code*, no person shall discharge, ignite, or explode any fireworks in this State.

C. No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulfur.

D. No person shall sell fireworks of any kind to a person less than eighteen (18) years of age.

E. No person shall advertise 1.4G fireworks for sale. A sign located on a seller's premises identifying the sell as a seller of fireworks is not the advertising of fireworks for sale.

F. Whosoever violates this section is guilty of illegal possession, sale and use which is a misdemeanor of the first degree unless otherwise provided in *Section 3743.65 of the Ohio Revised Code.* (ORC §3743.65)

§9.10.12. Fireworks display permits.

A. A licensed exhibitor of fireworks may acquire fireworks for the use at a public fireworks exhibition only from a licensed manufacturer of fireworks or licensed wholesaler of fireworks, and only in accordance with the procedures specified in this section and *Section 3743.55 of the Ohio Revised Code.* A licensed exhibitor shall not acquire, for any purpose, 1.4G fireworks as designated by the fire marshal in rules adopted pursuant to *division (A) of Section 3743.05 of the Ohio Revised Code.*

B. A licensed exhibitor of fireworks who wishes to conduct a public exhibition shall apply for approval to conduct the exhibition.

C. If the exhibition will take place in a municipal corporation; the approval shall be obtained from the Fire Chief, and from the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer, of the City of Nelsonville, Athens County, Ohio.

D. If the legislative authorities of their political subdivisions have prescribed a fee for the issuance of a permit for a public fireworks exhibition, Fire Chiefs or the Fire Prevention Officers, and Police Chiefs, other similar chief law enforcement officers, or their designee shall not issue a permit until the exhibitor pays the requisite fee.

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars (\$1,000,000.00) with surety satisfactory to the Fire Chief or Fire Prevention Officer and to the Police Chief or other similar chief law enforcement officers, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars (\$1,000,000.00) for liability arising from the fireworks exhibition. The legislative authority of a political subdivision in which a public fireworks exhibition will take place may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those require by this division. Fire Chiefs or Fire Prevention Officers or Police Chiefs or other similar chief law enforcement officers, or their designee, shall not issue a permit until the exhibitor provides the bond or proof of insurance coverage required by this division or by the political subdivision in which the fireworks exhibitions will take place.

E.

(1) Each permit for a fireworks exhibition issued by a Fire Chief or Fire Prevention Officer, and by the Police Chief or other similar chief law enforcement officer, or the designee, shall contain a distinct number, designate the municipal corporation, township, or township fire or police district of the Fire Chief or Fire Prevention

Officer, and by the Police Chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, and identify the certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer, who will be present before, during, and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the Fire Chief or Fire Prevention Officer, and by the Police Chief or similar chief law enforcement officers, or the designee of the Police Chief or other similar law enforcement officer, issuing it to the Fire Marshal, who shall keep a record of the permit received. A permit is not transferable or assignable.

(2) Each Fire Chief or Fire Prevention Officer, and by the Police Chief or similar chief law enforcement officers, or the designee of the Police Chief or other similar law enforcement officer shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, Fire Prevention Officer, Police Chief, or other similar chief law enforcement officer, and designee of a Police Chief or other similar law enforcement officer shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued to the exhibitor for the exhibition.

F. The governing authority having jurisdiction in the location where an exhibition is to take place shall require that a certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer be present before, during, and after the exhibition, and shall require the certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter. (ORC §3743.54)

§9.10.13. Discharging firearms, crossbows, bows and sling shots.

A. No person shall discharge any crossbow, bow, sling shot, air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the municipality.

B. This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

C. Whosoever violates this section is guilty of a misdemeanor of the fourth degree.

§9.10.99. Penalty.

(see *Section 9.01.99* for penalties applicable to any misdemeanor classification).

Chapter 9.11. Drug Abuse.

- §9.11.01. Definitions.
- §9.11.02. Drug abuse.
- §9.11.03. Possessing drug paraphernalia.
- §9.11.04. Permitting drug abuse.
- §9.11.05. Abusing harmful intoxicants.
- §9.11.06. Possession of marijuana.
- §9.11.99. Penalty.

§9.11.01. Definitions.

As used in *Chapter 9.13 of the General Offenses Code* of the City of Nelsonville.

A. “Administer”, “controlled substance”, “dispense”, “hypodermic”, “manufacture”, “marijuana”, “official written order”, “pharmacist”, “pharmacy”, “practitioner”, “prescription”, “sale”, “Schedule I”, “Schedule II”, “Schedule III”, “Schedule IV”, “Schedule V”, and “wholesaler” have the same meaning as provided in *Section 3719.01 of the Ohio Revised Code*.

B. “Drug dependent person” and “drug abuse” have the same meaning as provided in *Section 3719.011 of the Ohio Revised Code*.

C. “Drug”, “dangerous drug,” “licensed health professional authorized to prescribe drugs” and “prescription” have the same meaning as provided in *Section 4729.02 of the Ohio Revised Code*.

D. “Bulk amount” of a controlled substance means any of the following:

(1) For any compound, mixture, preparation, or substance included in schedule I, schedule II, or schedule III with the exception of marijuana, cocaine, L.S.(D) , heroin, and hashish and except otherwise provided in *division (D) (2) or (5)* of this section, whichever of the following is applicable:

(a) An amount equal to or exceeding ten (10) grams or twenty-five (25) unit doses of a compound, mixture, preparation, or substance which is, or which contains any amount of, a Schedule I opiate or opium derivative;

(b) An amount equal to or exceeding ten (10) grams of a compound, mixture, preparation, or substance which is, or contains any amount of, raw or gum opium;

(c) An amount equal to or exceeding thirty (30) grams or ten (10) unit doses of a compound, mixture, preparation, or substance which is, or contains any amount of, a Schedule I hallucinogen other than tetrahydrocannabinol, lysergic acid diethylamide, lysergic acid amide, or marijuana;

(d) An amount equal to or exceeding twenty (20) grams or five (5) times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance which is, or contains any amount of, a Schedule II opiate or opium derivative;

(e) An amount equal to or exceeding five (5) grams or ten (10) unit doses of a compound, mixture, preparation, or substance, which is, or contains any amount of, phencyclidine;

(f) An amount equal to or exceeding one hundred twenty (120) grams or thirty (30) times the maximum daily dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance which is, or contains any amount of a Schedule II stimulant or depressant substance, or a Schedule III or IV substance;

(g) An amount equal to or exceeding three (3) grams of a compound, mixture, preparation, or

substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the federal drug abuse control laws.

(2) An amount equal to or exceeding one hundred twenty (120) grams or thirty (30) times the maximum daily dose in the usual dose range specified in standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative.

(3) An amount equal to or exceeding twenty (20) grams or five (5) times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium;

(4) An amount equal to or exceeding two hundred fifty (250) milliliters or two hundred fifty (250) grams of a compound mixture, preparation, or substance that is or contains any amount of a Schedule V substance;

(5) An amount equal to or exceeding two hundred (200) solid dosage units, sixteen (16) grams, or sixteen (16) milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III anabolic steroid.

E. “Unit dose” means an amount or unit of a compound, mixture, or preparation containing a controlled substance, such amount or unit being separately identifiable and in such form as to indicate that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

F. “Cultivate” includes planting, watering, fertilizing, or tilling.

G. “Harmful intoxicant” does not include beer or intoxicating liquor, but means any compound, mixture, preparation, or substance, the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes without limitation any of the following:

(1) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, and any other preparation containing a volatile organic solvent;

(2) Any aerosol propellant;

(3) Any fluorocarbon refrigerant; or

(4) Any anesthetic gas.

H. “Manufacture” means to plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.

I. “Possess” or “possession” means having control over a thing or substance but may not be inferred

solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

J. "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a practitioner, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

K. "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of any of the following reference works:

(1) "The National Formulary";

(2) "The United States Pharmacopoeia", prepared by authority of the United States Pharmacopoeia Convention, Inc.;

(3) Such other standard references as approved by the State Board of Pharmacy. (ORC §2925.01)

§9.11.02. Drug abuse.

A. No person shall knowingly obtain, possess, or use a controlled substance.

B.

(1) This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, other persons whose conduct was in accordance with *Chapters 3719, 4719, 4729, 4731, and 4741 of the Revised Code*. This section does not apply to any person who obtained the controlled substance pursuant to a prescription issued by a practitioner, where the drug is in the original container in which it was dispensed to such person.

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of anabolic steroid if the project has been approved by the United States food and drug administration;

(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other non human species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approve for that purpose under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.(C)(A) §301, as amended and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that act;

(4) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

C. Whosoever violates this section is guilty of drug abuse:

(1) If the drug involved is a compound, mixture, preparation, or substance included in Schedule I or II, with the exception of marijuana, cocaine, LSD, heroin, and hashish, or if the Defendant has a previous conviction for drug abuse this section does not apply.

(a) Unless otherwise provided in *Section 2925.11 of the Ohio Revised Code*, aggravated possession of drugs is a felony of the fifth degree.

(2) If the drug involved is a compound, mixture, preparation, or substance included in Schedule III, IV, or V. drug abuse is a misdemeanor of the third degree, and if the offender has previously been convicted of a drug abuse offense, drug abuse is a misdemeanor of the third degree unless otherwise provided by *Section 2925.11 of the Ohio Revised Code*.

(3) If the drug involved is marijuana, drug abuse is a misdemeanor of the fourth degree, unless the amount of marijuana involved is less than one hundred (100) grams, the amount of marijuana resin, or extraction or preparation of such resin, is less than five (5) grams, and the amount of such resin in a liquid concentrate, liquid extract, or liquid distillate form, is less than one (1) gram, in which case drug abuse is a minor misdemeanor.

D. Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained an any application for employment, license, or other right or privilege or made in connection with the person's appearance as a witness. (ORC §2925.11)

§9.11.03. Possessing drug paraphernalia.

A. No person shall knowingly make, obtain, possess, or use any instrument, article, or thing whose customary and primary purpose is for the administration or use of a dangerous drug, other than marijuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article, or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marijuana, or to prepare a dangerous drug, other than marijuana for unlawful administration or use.

B. This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with *Chapters 3719, 4715, 4729, 4731 and 4741 of the Ohio Revised Code*.

C. Whosoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender has previously been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.

D. In addition to any other sanction imposed upon an offender for a violation of this section, the Court shall suspend for not less than six (6) months or more than five (5) years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the Court immediately shall comply with *Section 2925.33 of the Ohio Revised Code*. (ORC §2925.14)

§9.11.04. Permitting drug abuse.

(A) No person, being the owner, operator, or person in charge of a locomotive, water craft, aircraft, or other vehicles as defined in *division (A) of Section 4501.01 of the Ohio Revised Code*, shall knowingly permit such

vehicle to be used for commission of a felony drug abuse offense.

B. No person, being the owner, lessee, or occupant or having custody, control, or supervision of the premises, or real estate, including vacant land, to be used for commission of a felony drug abuse offense by another person.

C. Whosoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree unless otherwise provide by *Section 2925.13* of the *Ohio Revised Code*, and if the offender has previously been convicted of a drug abuse offense, this section shall not apply. (*ORC §2925.13*)

D. Vehicles used in violation of *division (A)* of this section shall be seized and forfeited to the municipal corporation or county in which such violation occurred, upon motion to the Common Pleas Court, except that if the violation occurs in a township and the offender is lawfully arrested by a law enforcement officer employed by the township, the Court shall order the vehicle forfeited to the township. Forfeiture shall not apply to common carriers or innocent owners, nor shall they affect the rights of a holder of a valid lien.

§9.11.05. Abusing harmful intoxicants.

A. Except for lawful research, clinical, medical, dental, or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess, or use a harmful intoxicant.

B. Whosoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender has previously been convicted of a drug abuse offense, abusing harmful intoxicants is a felony of the fifth degree.

C. In addition to any other sanction imposed upon an offender for a violation of this section, the Court shall suspend for not less than six (6) months or more than five (5) years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the Court immediately shall comply with *Section 2925.38* of the *Ohio Revised Code*. (*ORC §2925.31*)

§9.11.06. Possession of marijuana.

A. No person, shall knowingly obtain, possess or use marijuana.

B. Any person convicted of violating this section shall be sentenced to not more than thirty (30) days in jail and fined not more than two hundred and fifty dollars (\$250.00), or both, unless the amount of marijuana involved is less than one hundred (100) grams, the amount of marijuana resin, or extraction or preparation of such resin, is less than five (5) grams, and the amount of such resin in a liquid concentrate, liquid extract, or liquid distillate form, is less than one (1) gram, in which case, upon conviction, shall be fined not more than one hundred dollars (\$100.00).

C. In the event arrest or conviction is for the lessor offense, violation does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any applications for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

§9.11.99. Penalty.

Editor's note: (see *Section 9.01.99* for penalties applicable to any misdemeanor classification).

Chapter 9.12. Animals.

- §9.12.01. Animals at large.
- §9.12.02. Cruelty to animals.
- §9.12.03. Birds.
- §9.12.04. Barking or howling dog.
- §9.12.05. Dog regulations.
- §9.12.06. Dogs; rabies control.
- §9.12.07. Harboring animals deemed a nuisance, when.
- §9.12.08. Poisonous substances.
- §9.12.09. Abandoning animals.
- §9.12.10. Animals, livestock, fowl, bees; control.
- §9.12.11. Reptile regulations.
- §9.12.11.01. Definition of reptiles.
- §9.12.11.02. Venomous species.
- §9.12.11.03. Registration.
- §9.12.11.04. General requirements.
- §9.12.11.05. Registration- pet shops.
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- §9.12.11.07. Exceptions.
- §9.12.11.08. Registration- changes in harboring address.
- §9.12.11.09. Lost or impounded reptiles.
- §9.12.11.10. Immediate notification.
- §9.12.11.10. Violations.
- §9.12.12. Cats.
- §9.12.99. Penalties.

§9.12.01. Animals at large.

A. No person, being the owner of any animal or fowl, or harboring or having charge or control of the same, shall permit such animal or fowl to run at large in any street, lane, alley, market space, or public ground, or shall permit such animal or fowl to go upon or enter any private yard, lot or enclosure, without consent of the owner of such yard, lot or enclosure.

B. For purposes of this section, it shall be unlawful for any owner, harbinger, or person in charge of any dog to take or allow said dog to go onto public property or in a public place without being on a leash. (Penalty: see *Section 9.12.99*)

C. No owner, harbinger, or person having charge of any dog, other than a dog used by a handicapped person, shall take or allow said dog to go onto the public grounds constituting the Aquatic Center, Nelson's Commons Park and Nelsonville Honor Roll. (Penalty: see *Section 9.12.99*)

§9.12.02. Cruelty to animals.

No person shall overwork, overdrive, overload, or drive when overloaded, or shall torture, torment, cruelly beat, mutilate, or underfeed an animal, or shall permit any such animal to be without proper protection from the weather. (Penalty: see *Section 9.12.99*)

§9.12.03. Birds.

No person shall kill or injure any wild bird, or shall throw, fire or shoot a bullet, stone, arrow, or other missile, at such bird, or shall break, tear down, or destroy any bird's nest or the eggs or other contents of such nest; or shall catch or capture any wild bird, or set traps, or spread nets or snares, with intent to catch or capture the same, or shall follow or pursue the same, with intent to catch or injure the bird (Penalty: see *Section 9.12.99*)

§9.12.04. Barking or howling dog.

No person shall harbor or keep a dog which by loud and frequent or habitual barking, howling or yelping, shall cause annoyance or disturbance to the neighborhood. (Penalty: see *Section 9.12.99*)

§9.12.05. Dog regulations.

A. No person shall allow a dog under his or her control to be upon public property or upon property of another, absent the consent of the owner or occupant of such property, without some device for the removal and the containment of the dog's feces; nor shall any person fail to remove any feces deposited by any dog under his or her control on public or private property. This regulation shall not apply to guide dogs under the control of a blind person.

B. No person shall place, deposit, or permit to be deposited any dog feces in any unsanitary manner on public or private property within this City or in any area under the jurisdiction of this City.

C. No owner, keeper, or harbinger, of any dog shall permit such dog to go beyond the premises of such owner, keeper, or harbinger unless the dog is securely on a leash or under the control of some person, or is on a conveyance for travel, such as an automobile or a truck, or is confined to a travel crate or carrying case, so as to prevent the dog from being or creating a nuisance as defined herein. No owner, keeper, or harbinger of any dog shall permit the dog to run at large within the limits of this City. As used herein, "owner, keeper, or harbinger" means a person who owner, provides shelter for or cares for a dog, or otherwise has control of or is responsible for such dog.

D. No person shall keep or harbor any dog in the City so as to create offensive odors, excessive noise or unsanitary conditions which are a menace to the health, comfort or safety of the public, or otherwise permit the commission or existence of a "nuisance" as hereinafter defined.

E. "Nuisance" as used herein means any dog which scratches, digs, or defecates upon any lawn, tree, shrub, plant, sidewalk, building, City park, public playground, school ground, or private property other than the property of the owner, keeper, or harbinger of such dog,

without the permission of the owner of such property. Where the owner, keeper, or harbinger of such dog immediately removed all feces deposited by such dog and disposes of same in a sanitary manner, such nuisance shall be considered abated.

F. "Nuisance" as used herein shall further include any dog, which by biting or frequent and/or habitual barking, howling, or yelping, or in any way or manner injures or disturbs the quiet of the community, or which disturbs or endangers the comfort, peace, or health of any person or persons.

G. No owner, keeper, or harbinger of any dog shall continue to keep or harbor within this City any dog which is or creates a nuisance as defined herein, unless such dog is confined or otherwise kept under strict control as to abate a nuisance.

H. Each violation of this section shall result in the offender being fined up to one hundred dollars (\$100.00) per violation.

§9.12.06. Dogs; rabies control.

Whenever the City Manager or the Board of Health shall deem it necessary for the protection of the public, he/she or it shall issue an order prohibiting, for a certain time therein specified, any dog from being at large in any public street or place, unless muzzled and on a leash, so as effectually to prevent it from biting any person or animal. Such order shall be posted in three (3) or more conspicuous places in the City, for the time that the City Manager shall deem necessary, and any dog found at large during the existence of such quarantine order shall be impounded and may be destroyed by City authority without notice of the owner. Whenever it is deemed necessary for the aforesaid purpose, the City Manager or Board may extend the time of expiration of such order by posting notice in the same manner as above set forth, of the period of extension. (Penalty: see *Section 9.12.99*)

§9.12.07. Harboring animals deemed a nuisance, when.

A. No person shall permit any animal or fowl to be kept in any yard, pen, sty, stationary or moving vehicle, or in any other place which is unclean, unsanitary, or productive of offensive odors.

B. No person shall permit or suffer any animal or fowl harbored by him to become noisy so as to cause disturbance of the peace and quiet of the neighborhood. (Penalty: see *Section 9.12.99*)

§9.12.08. Poisonous substances.

No person shall place or deposit any poisoned or poisonous substance anywhere within the City with intent to poison any animal. (Penalty: see *Section 9.12.99*)

§9.12.09. Abandoning animals.

No person who owns or harbors an animal shall abandon that animal within the City of Nelsonville. (Penalty: see *Section 9.12.99*)

§9.12.10. Animals, livestock, fowl, bees; control.

A. No person being the owner of or having charge of horses, mules, cattle, swine, sheep, geese, ducks, turkeys, chickens, or other fowl or animals, shall permit such animal or fowl to become a nuisance to the City or the immediate adjoining neighbors of any person by allowing said animals or fowl, to run at large on any public streets and upon any unenclosed lands within the corporate limits of the City, to suffer, or cause offensive odors, discomfort or anxiety to a resident of the City of Nelsonville, Ohio.

B. No person shall erect, use or maintain, any building, structure, or place for the exercise of any trade, employment, business or for the keeping or feeding of any animal or to occupy any dwelling, which, by occasioning noxious smells, exhalation or noise some or offensive smells, becomes injurious to the health, comfort or property of individuals or the public, or causes or suffers any offal, filth or noise some substance to be collected or remain in places to the damage or prejudice of others or to the public.

C. It is hereby declared a nuisance for any person to keep or harbor bees which cause annoyance to other persons or damage to the property of others.

D. Upon complaint being made, the City Manager is hereby authorized and directed to notify the owner or keeper of such bees to abate such nuisance and remove hives or other contrivances where such bees are kept or harbored, within ten days after being notified thereof. (Penalty: see *Section 9.12.99*)

§9.12.11. Reptile regulations.

- §9.12.11.01. Definition of reptiles.
- §9.12.11.02. Venomous species.
- §9.12.11.03. Registration.
- §9.12.11.04. General requirements.
- §9.12.11.05. Registration- pet shops.
- §9.12.11.06. Registration-others.
- §9.12.11.07. Exceptions.
- §9.12.11.08. Registration- changes in harboring address.
- §9.12.11.09. Lost or impounded reptiles.
- §9.12.11.10. Immediate notification.
- §9.12.11.11. Violations.

§9.12.11.01. Definition of reptile.

A. For the purpose of this section, the word “reptile” means snakes of any length, turtles and lizards.

B. Ownership of any crocodilians by a private resident is strictly prohibited. Any crocodilians shall be immediately turned in to Hocking College for proper care and/or removal.

§9.12.11.02. Venomous Species.

No venomous species, even if de venomized, shall be kept within the City of Nelsonville without a valid scientific/educational collectors permit for research and/or education issued by the State of Ohio. Permitted venomous species will also be registered regardless of size.

§9.12.11.03. Registration.

Owners of reptiles shall provide a photograph and description of each reptile in their possession. Additional required information shall include the owner’s name and species of each reptile registered. Registration shall take place at the Nature Center, Hocking College, Nelsonville, Ohio 45764; phone number (740) 753-3591.

§9.12.11.04. General requirements.

A. Reptiles shall be kept in enclosures of an appropriate size that precludes escape.

B. Reptiles shall be confined to the owner’s property and not be taken out into the public. Educational forums and/or other educational public displays shall be allowed.

C. Reptiles shall not be kept under any conditions considered, unsanitary, unhealthy, or dangerous, for animals or people.

D. Failure to register reptiles will be considered as harboring a potentially dangerous animal.

E. Reptiles shall be handled in a safe and careful manner by a responsible party.

§9.12.11.05. Registration- pet shops.

A. Any pet shop intending to harbor, sell, trade, or in any way distribute reptiles within the City must register with the Hocking College Department of Natural Resources in writing of such intention before any reptile may be harbored, sold, traded or distributed.

B. Any pet shop harboring, selling, trading, or in any way distributing reptiles within the City shall make available for inspection by the Hocking College Department of Natural Resources, an inventory of the number and type of reptiles received, the number and type distributed by sale, trade, death or in any other manner, and the number and type on hand.

C. Whenever any pet shop sells, trades or in any way distributes an exotic snake (not native to the United States) within the City, it shall complete a form provided by Hocking College Department of Natural Resources consisting of the type of exotic snake, the person taking possession of the snake and the address where the snake will be harbored. There will be no fee for said registration.

§9.12.11.06. Registration- others.

Any person harboring an exotic snake within the City, who acquired the snake from any source other than a registered pet shop, must register the snake with the Hocking College Department of Natural Resources. Such registration shall consist of the name of the owner and the address where the snake will be harbored. There will be no fee for said registration.

§9.12.11.07. Exceptions.

This section shall not apply to properly certified educational institutions and wildlife management officials of the State of Ohio.

§9.12.11.08. Registration- changes in harboring address.

It shall be the responsibility of each owner of an exotic snake to inform the Hocking College Department of Natural Resources whenever the address at which a snake or reptile being harbored changes for any reason. These reasons include, but are not limited to: death, loss, sale, transfer or if the owner of the snake moves.

§9.12.11.09. Lost or impounded reptiles.

Lost reptiles shall be impounded and released to the registered owner or properly disposed of, provided however, that any non-poisonous species native to Ohio shall be presumed wild and released to a natural habitat.

§9.12.11.10. Immediate notification.

Anytime a reptile defined as above escapes the local Nelsonville Police Department, the Hocking College Department of Natural Resources shall be notified immediately.

§9.12.11.11. Violations.

A. Any police officer or code enforcement officer may issue a citation for violation of this section.

B. First time offenders shall be guilty of a minor misdemeanor.

C. Subsequent offenses shall be guilty of a fourth degree misdemeanor.

D. Fines may be imposed for any of the above until the situation is remedied.

E. Violations not corrected within seventy-two (72) hours shall constitute a separate violation.

§9.12.12. Cats.

A. No person, being the owner, harbinger or having charge or control of a cat, shall permit such cat to run at large in any street, lane, alley, market space or public ground, or shall permit such cat to go upon or enter any private yard, lot or enclosure, without the consent of the owner of such yard, lot, or enclosure.

B. No person, being the owner, harbinger or having charge or control of a cat shall permit such cat to cause physical harm to any person. For purposes of this section, "physical harm" shall mean any injury or other physiological impairment regardless of its gravity or duration, provided that no person engaged in illegal activity shall be protected under this section. All people, whether the owner, harbinger or person having charge or control of a cat, shall ensure that such cat has been vaccinated against rabies, and shall produce evidence of such rabies vaccination upon request.

C. Whosoever violates this section shall, upon conviction be guilty of a minor misdemeanor as defined in Section 2929.28 of the Ohio Revised Code.

§9.12.99. Penalties.

A. A violation of Section 9.12.02 shall be a misdemeanor of the first degree.

B. A violation of Sections 9.12.01, 9.12.03, 9.12.04, 9.12.06, 9.12.07, 9.12.08, 9.12.09 or 9.12.10 shall be a minor misdemeanor.

Chapter 9.13. Liquor Control.

- §9.13.01. Definitions.
- §9.13.02. Sales to minors: prohibitions and misrepresentations.
- §9.13.03. Sales to intoxicated persons.
- §9.13.04. Liquor consumption in a motor vehicle.
- §9.13.05. Permit required.
- §9.13.06. Posting liquor age warning signs.
- §9.13.07. Open container prohibited.
- §9.13.99. Penalty.

§9.13.01. Definitions.

As used in the codified ordinances:

A. "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. Such term excludes denatured alcohol and wood alcohol.

B. "Intoxicating liquor" and "Liquor" includes all liquids and compounds, other than beer, containing one-half of one percent (0.5%), of alcohol by volume which are fit to use for beverage purposes, from whatever source and whatever process produced, by whatever name called and whether or not the same are medicated, proprietary or patented. Such phrase includes wine even if it contains less than four percent (4%) alcohol by volume, mixed beverages even if they contain less than four percent (4%) alcohol by volume, cider, alcohol, and all solids and confections which contain any alcohol.

C. "Beer" includes all beverages brewed or fermented wholly from malt products and containing one-half of one percent (1%) or more, but not more than twelve percent (12%) alcohol by volume.

D. "Person" includes firms and corporations. (ORC §4301.01)

§9.13.02. Sales to minors: prohibitions and misrepresentations.

A. No person shall sell intoxicating liquor or beer to a person under the age of twenty-one (21) years, or buy intoxicating liquor or beer for, or furnish it to, a person under the age of twenty-one (21) years, unless given by a physician in the regular line of religious practice, or by a parent or legal guardian.

In proceedings before the Ohio Liquor Control Commission, no permit holder, his employee or agent charged with a violation of this section shall, for the same offense, be charged with a violation of ORC §4301.22 (A). (ORC §4301.69)

B. No person under the age of twenty-one (21) years shall purchase intoxicating liquor or beer. (ORC §4301.63)

C. No person under the age of twenty-one (21) shall order, pay for, share the cost of, or attempt to

purchase any beer or intoxicating liquor, or consume any beer or intoxicating liquor, either from a sealed or unsealed container or by the glass or by the drink, in any public place except as provided in *subsection (A)* hereof. (ORC §4301.631)

D. No person under the age of twenty-one (21) shall order, pay for, share the cost of, or attempt to purchase any intoxicating liquor, possess or consume any intoxicating liquor, in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place, except as provided in *subsection (A)* hereof. (ORC §4301.69)

E. No person shall knowingly furnish any false information as to the name, age or other identification of any person under twenty-one (21) years of age for the purpose of obtaining or with the intent to obtain, beer or intoxicating liquor for a person under twenty-one (21) years of age, by purchase or as a gift. (ORC §4301.633)

F. No person under the age of twenty-one (21) years shall knowingly show or give false information concerning his name, age or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place in this State where beer or intoxicating liquor is sold under a permit issued by the State of Ohio Department of Liquor Control or sold by such Department. (ORC §4301.634)

G. Whosoever violates *subsection (B)* hereof is guilty of a misdemeanor. Whosoever violates any other provision of this section is guilty of a misdemeanor of the first degree, except that a juvenile offender under the age of eighteen years shall be proceeded against as may be appropriate under *ORC Chapter 2151*.

§9.13.03. Sales to intoxicated persons.

A. No person shall sell intoxicating liquor to any individual who habitually drinks intoxicating liquor to excess, or to whom the Division has, after investigation, determined to prohibit the sale of such intoxicating liquor, because of cause shown by the husband, wife, father, mother, brother, sister or other person dependent upon, or in charge of such individual, or by the Mayor of the City of Nelsonville, Athens County, Ohio. The order of the Division in such case shall remain in effect until revoked by the Division.

B. No person shall sell intoxicating liquor or beer to an intoxicated person. (ORC §4301.22)

C. Whosoever violates this section is guilty of a misdemeanor of the third degree. [ORC §4301.99 (F)]

§9.15.04. Liquor consumption in a motor vehicle.

A. No person shall consume any beer or intoxicating liquor in a motor vehicle. This does not apply to persons described in *division (D)* of *Section 4301.62* of the *Ohio Revised Code*. (ORC §4301.64)

(B) Whosoever violates this section is guilty of a misdemeanor of the fourth degree. [ORC §4301.99 (B)]

§9.13.05. Permit required.

A. No person by himself or herself or by the person's clerk, agent or employee, shall manufacture for sale, offer, keep or possess for sale, furnish or sell. Or solicit the purchase or sale of any beer or intoxicating liquor in this municipality for delivery, use or sale, unless such person has fully complied with the *Ohio Revised Code Chapters 4301 and 4303* or is the holder of a permit issued by the Ohio Department of Liquor Control and in force at the time. The superintendent of liquor control may adopt rules requiring persons acting in capacities only as sales representatives who solicit permit holders authorized to deal in beer and intoxicating liquors to be registered with the division and may cite for revocation such registrant to the Ohio Liquor Control Commission for a violation of such chapters or of the rules adopted by the commission or superintendent. (ORC §4303.25)

B. Whosoever violates this section is guilty of a misdemeanor of the first degree.

§9.13.06. Posting liquor age warning signs.

A. Every place in the municipality where beer or intoxicating liquor is sold for beverage purposes, either under permit issued by the Ohio Department of Liquor Control, or by the Ohio Department of Liquor Control, shall display at all times, in a prominent place on the premises thereof, a printed card, which shall be furnished by the department and which shall read substantially as follows:

WARNING TO PERSONS UNDER AGE
IF YOU ARE UNDER THE AGE OF 18

Under the statutes of the State of Ohio, if you order, pay for, share in the cost of, attempt to purchase or consume any type of beer or wine that contains either no alcohol or less than one-half of one percent of alcohol by volume in any public place, or furnish false information as to name, age or other identification, you are subject to a fine of up to two hundred and fifty dollars or to imprisonment up to thirty days, or both.

WARNING TO PERSONS UNDER AGE
IF YOU ARE UNDER THE AGE OF 21

Under the statutes of the State of Ohio, if you order, pay for, share in the cost of, attempt to purchase or consume any intoxicating liquor or beer, or furnish false information as to name, age or other identification, you are subject to a fine of up to one thousand dollars (\$1000.00), or imprisonment up to six (6) months, or both.

B. No person shall be subject to any criminal prosecution or any proceedings before the Ohio Department of Liquor Control Commission for failing to display this card. No permit issued by the Department shall be suspended, revoked or canceled because of failure of the permit holder to display this card. (ORC §4301.637)

§9.13.07. Open container prohibited.

A. No person shall knowingly have in their presence an open container of intoxicating liquor or beer in any of the following circumstances:

- (1) In a State liquor store;

(2) Except as provided in *division (B)* of this section on the premises of the holder of any permit issued by the Division of Liquor Control;

(3) In any other public place;

(4) Except as provided in *division (C)* of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;

(5) Except as provided in *division (C)* of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

B.

(1) A person may have in the person's possession an opened container of any of the following:

(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from a holder provided under *Ohio Revised Code Section 4301.62*;

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of a F-4 or F-6 permit;

(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in *Ohio Revised Code Section 4303.201*.

(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control commission.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued for a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued.

C. This section does not apply to a person who pays for all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of the person, when all of the following apply:

(1) The person or guest is a passenger in the limousine;

(2) The person or guest is located in the limousine but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;

(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

D. Whosoever violates this section is guilty of having an open container, a minor misdemeanor. (*ORC §4301.62*)

§9.13.99. Penalty.

EDITORS NOTE: (see *Section 9.01.99* for penalties applicable to any misdemeanor classification).

Chapter 9.14. Nuisance.

- §9.14.01. Trees, grass, weeds and litter.
- §9.14.02. Abandonment in places accessible to children.
- §9.14.03. Rubbish and objectionable materials.
- §9.14.04. Fences: barbed wire and electric.
- §9.14.05. Streets and sidewalks: repair, obstruction.
- §9.14.06. Used building materials, unlicensed motor vehicles refuse and rubbish.
- §9.14.07. Curfew of minors.
- §9.14.08. Posting of advertising.
- §9.14.09. Fires and fire inspection.
- §9.14.10. Depositing poison.
- §9.14.11. Deposit of dead animals, offal, etc., upon land or water.
- §9.14.12. Littering public ways.
- §9.14.13. Unvented heaters.
- §9.14.14. Reserved.
- §9.14.15. Excessive noise and music.
- §9.14.16. Exterior maintenance of property and premise conditions.
- §9.14.99. Penalties.

§9.14.01. Trees, grass, weeds and litter.

A. It is hereby determined that noxious weeds, vines or grasses growing a height of eight (8) inches or higher upon property, premises, lots or parcels within the City of Nelsonville after the first day of April of each year are a public nuisance and that at all times the accumulation and deposition of garbage, refuse, rubbish, special rubbish and litter on public or private lands, dead or dying trees, broken or fallen branches and plants or shrubbery blocking visibility or encumbering access, constitute a public health and safety hazard and public nuisance. Annual notice of such may be published in a newspaper of general circulation in Athens County, Ohio stating the violation, remedies, costs and penalties effective April 1 through October 31 for weeds, vines and/or grass and at any time for garbage, refuse, rubbish, special rubbish, litter, trees, branches and shrubbery.

(1) Upon finding by the City Manager or his/her designee that noxious and/or invasive weeds, vines, or grasses are growing in excess of eight (8) inches in height or are about to spread or mature seeds, the City Manager or designee shall cause written or verbal notice to be served on the owner, lessee, agent, occupant, tenant or other person, firm, corporation or entity capable of holding title and having charge of such land, notifying them that said noxious and/or invasive weeds, vines or grasses are growing on such lands that they must be cut, destroyed or properly removed from the premises within five (5) days after the service of such notice. These regulations shall include lands in platted subdivisions and un-platted areas of the City extending from the street curb line or the edge of the street pavement to the property line and to the middle of an unimproved platted alley or street. If such owner, other person or entity having charge of such lands is a non-resident whose address is known, such notice may be sent

to his address by certified mail, return receipt requested, or served personally by the City Manager or designee. If their address is unknown, it is sufficient to publish the notice once in a newspaper of general circulation in the county. If a notice has been served in accordance with this section and it is determined that a subsequent violation has occurred, the City may proceed with the remedy set forth in *subsection (E)* without further notice to the owner so long as the original certified notice included such reference. For purposes of this section, “noxious weeds” shall be defined as those identified in *Ohio Revised Code §907.10 (B) (2)*, listed in *Ohio Administrative Code §901:5-37-01* or any other vegetation of rank growth including, but not limited to, ivy, poison ivy, virginia creeper, japanese knotweed and bamboo.

(2) Upon finding by the City Manager or his/her designee that garbage, refuse, rubbish, special rubbish, litter, trees, branches or shrubbery have been placed on lands within the City in excess of seven (7) days constituting a detriment to public health, a written notice shall be served in accordance with *subsection (A)* above upon the owner, lessee, agent, occupant, tenant or other person, firm, corporation or entity capable of holding title having charge of the littered land. The notice shall state that the garbage, refuse, rubbish, special rubbish, litter, trees, branches or shrubbery shall be collected and removed within fifteen (15) days after service of the notice. “Litter” shall be defined as in *Ohio Revised Code §731.51* and “refuse”, “rubbish” or “special rubbish” as in *Nelsonville City Code §5.02.02*. Compliance for collection, storage and disposal of any items defined in *Chapter 5.02* of the *Nelsonville City Code* may also be addressed in accordance with *§5.02.03 (C)* and *§5.02.12*, disposal required within seven (7) days.

(3) Upon finding by the City Manager or his/her designee that trees, limbs, plants or shrubbery are obstructing the view of vehicular traffic on public streets, alleys or grounds, are obstructing pedestrian travel on public sidewalks, are obstructing light from a public street lamp, are so dead, decayed or broken as to pose a threat to life or property or where trees or limbs have already fallen and are causing a public nuisance, a written notice shall be served in accordance with *subsection (A)* above upon the owner, lessee, agent, occupant, tenant or other person, firm corporation or entity capable of holding title having charge of the land. The notice shall state that the trees, plants or shrubbery shall be cut, trimmed, pruned and removed within fifteen (15) days after service of the notice.

B. The City Manager, Code Enforcement Official, Police Officer or designated agent may make service and return of the notice provided for in this section.

C. If the person or entity having charge of the lands herein described fails to comply with such notice, the City Manager or designee shall cause said noxious weeds, vines or grasses to be cut and destroyed; garbage, refuse, rubbish, special rubbish, litter, trees, branches and shrubbery litter collected and removed from the premises; and/or trees, plants or shrubbery cut, trimmed, pruned and

removed. The expenses so incurred shall be approved by the City Manager and paid out of the treasury of the City.

D. When the cost approved by the City Manager plus administrative fees of twenty percent (20%) or one hundred dollars (\$100.00), whichever is less, or a cost determined by separate Council ordinance, is sent to the owner by first class mail and not paid within thirty (30) days, the City Manager shall make written return to the Athens County Auditor of his action with a statement of the charges for the services, the amount paid for the performance of such labor, the fees of the agents who made the service with the request and any other necessary expenses reasonably incurred to administer this section, that such amounts be entered upon the tax duplicate and constitute a lien upon such land from and after the date of the entry and be collected as other taxes and be returned to the general fund of the City of Nelsonville according to *Ohio Revised Code §731.54* and *§715.261*.

E. In addition to recovery of costs in accordance with *section (D)*, Whosoever violates provisions of this chapter shall be deemed guilty of a minor misdemeanor and fined as provided by *Ohio Revised Code §2929.28*. Each day’s violation shall constitute a separate offense. Any person initially convicted of a first offense and found guilty of a second and subsequent offense in the same year shall be deemed guilty of a misdemeanor of the fourth and escalating degree for each additional offense.

§9.14.02. Abandonment in places accessible to children.

A. No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an air tight door or lid, snaplock or other locking device with may not be released from the inside, without first removing said door or lid, snaplock or other locking device from said icebox, refrigerator or container.

B. Whosoever violates this section is guilty of a minor misdemeanor, and if the offender has previously been convicted of this section, the offender shall be guilty of a misdemeanor of the fourth degree.

C. Each day this section is violated shall constitute a separate offense.

§9.14.03. Rubbish and objectionable materials.

A. No person shall deposit or permit to be deposited any garbage or refuse matter which may become offensive, noxious or dangerous to the public health, on his own premises or any premises under his control, or deposit such garbage or refuse matter in any back lot, public ground, or vacant lot, park, alley, street or areaway, or in any other place within the City, except as is otherwise provided by law.

B. No person to burn or mix any substance within the corporate limits of the City so as to create an unusual volume of smoke, gas, dust or other noxious odors.

C. No person shall haul or transport, or cause to be hauled or transported, over or through any street any gravel, stone, sand, dirt, offal, manure, rubbish, lime or other loose materials or substances in any conveyance which is not so constructed as to being conveyed from dropping, sifting through, or in any other manner being strewn or deposited on any such streets.

D. Whosoever violates this section is guilty of a minor misdemeanor, and if the offender has previously been convicted of this section, the offender shall be guilty of a misdemeanor of the fourth degree.

E. Each day this section is violated shall constitute a separate offense.

§9.14.04. Fences, barbed wire and electric.

A. No person shall construct or cause to be constructed a partition fence from barbed wire unless written consent of the adjoining owner is first obtained. Such consent is not necessary to the use of one (1) or two (2) barbed wires, provided that neither is less than forty-eight (48) inches from the ground, and is placed on the top of a fence other than a barbed wire fence.

B. No person shall construct, erect, maintain, or use for any purpose, any fence charged with electrical current within the corporate limits of the City.

C. Whosoever violates this section shall be deemed guilty of a misdemeanor and shall be fined not exceeding fifty dollars (\$50.00), and the costs of prosecution. Each day this section is violated shall constitute a separate offense.

§9.14.05. Streets and sidewalks.

A. It shall be unlawful for the owner of any lot or land abutting upon any street to 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.

B. It shall be unlawful for any person as owner, tenant, agent, or employee to construct any new sidewalk, curb, gutter, catch basin or driveway apron or remove, repair, or reconstruct any existing sidewalk, curb, gutter, catch basin or driveway apron without having first obtained a permit issued by the City Manager for such construction, removal, repair or reconstruction. Construction shall be in accordance with Ohio Department of Transportation 2013 *Construction and Material Specifications, Item 608, Walks, Curb Ramps and Steps* or latest edition thereof or to the satisfaction of the City Manager and conforming to construction standards and specifications promulgated by the City Manager for site specific situations.

C. It shall be unlawful for the owner, lessee or occupant of any real estate within the corporate limits of the City, fronting or abutting upon any street of public way along which a sidewalk has been constructed, to obstruct any portion of said sidewalk, except as hereinafter provided, by placing or permitting to be placed or remain thereon any barrel, box, bench, stand, table, crate, rack or other device for storing, displaying, or creating goods,

wares and merchandise, or apparatus used in his business, except that when said sidewalk is twelve (12) or more feet wide, the occupier of the premises may use a space next to his property line not to exceed three (3) feet wide, and when said sidewalks are over seven (7) and less than twelve (12) feet wide, not to exceed two (2) feet wide, for the storage, deposit or display of his goods, wares or merchandise.

D. It shall be unlawful for the owners of any railroad company operating or owning a railroad running into or to the corporation limits of the City to operate any train, cars, locomotive or engine so as to obstruct for a period of more than five minutes at any one time any street, sidewalk, or other street crossing from any main switch, spur, wye, or other railroad track in the City.

E. It shall be unlawful for any person to remove any red lanterns, barricades or other means placed on the streets and on construction projects, public or private in the City of Nelsonville as a warning or protection for the public by persons unless authorized to remove the same nor shall any person willfully, carelessly or negligently destroy said lanterns or barricades.

F. It shall be the duty of the owner, or occupant of each and every parcel of real estate in the City abutting upon a sidewalk to keep said sidewalk abutting his premises free and clear of snow and ice, and to remove there from all snow and ice accumulated thereon within a reasonable time, which will ordinarily not exceed twelve (12) hours, after the abatement of any storm during which said snow and ice may have accumulated.

G. It shall be unlawful for any person, being the operator or owner or in charge of any vehicle or equipment removing snow from private property, to deposit the snow upon any property except that from which the snow is removed.

H. It shall be unlawful for any person, operator or owner of property to discharge or deposit snow by truck, plow, blower, shovel or other snow removal equipment onto any street, sidewalk, gutter, catch basin or highway except for accumulations which are necessary residuals of street or highway cleaning operations of the City or other public authority.

I. It shall be unlawful for any person, operator or owner of property to discharge or deposit any leaves, weeds, grass clippings, cigarette butts or anything of an unsightly or unsanitary nature onto any street, sidewalk, gutter, catch basin or highway.

J. It shall be unlawful to use the public thoroughfares and adjacent sidewalks of the City for the purpose of exhibiting commercially any dog, cat, goat, rabbit, elephant or beast of whatsoever nature or to erect, establish or maintain any commercial itinerant carnival organization for the purpose of profit. Provided however; if a petition, regularly signed by eighty percent (80%) of the property owners within an area five hundred (500) yards in circumference from the contemplated site of such carnival or exhibition, shall be presented to the Council requesting permission to permit such carnival, then the City Manager shall issue a license to said enterprise, provided, such

enterprise shall give bond to the City in such amount as the City Manager shall deem proper.

K. Whoever violates this section is guilty of a minor misdemeanor, and if the offender has previously been convicted of a violation of this section, the offender shall be guilty of a misdemeanor of the fourth degree.

L. Each day this section is violated shall constitute a separate offense.

§9.14.06. Used building materials, unlicensed motor vehicles, scrap metal, refuse and rubbish.

A. No person, firm or corporation shall keep, store, place or allow to remain any used building materials, unlicensed motor vehicles, motor vehicles in an inoperative condition, motor vehicle parts, scrap metal, refuse or rubbish on any lot, lots or parts of lots, or parcels of land within the corporate limits of the City of Nelsonville.

B. The provisions of *division (A)* hereof shall not apply to an unlicensed motor vehicle, a motor vehicle in an inoperative condition, a motor vehicle unfit for further use, an automobile and/or automobile parts which are kept within an enclosed building.

C. In the event of a violation of this section, the City Manager shall cause notice to be given to the owner of the lots and lands, occupant or person having charge of the premises upon which the violation occurs, to cease such violation within ten (10) days of such notice.

D. In the event that the owner, occupant or person having charge of said premises, fails to cause such violation to cease within ten (10) days of said notice, said person shall be deemed guilty of violation of this section and shall be subject to the penalty provided herein. Each separate day in which the offense continues shall be deemed a separate offense.

E.

(1) Notwithstanding the provisions of this section, no person or persons shall purchase used building materials and place or store them on any lot, lots, parts of lots, or parcels of lots, unless such materials are to be used by the purchaser or owner in construction on the same lot owned or controlled by such persons. Such materials shall not remain on said lot or part of lot for a period of more than thirty (30) days unless the construction or operation plan for the use of said materials are used or commenced; and provided further that such materials are used or consumed in the construction or removed from the premises within one hundred twenty (120) days from the time said materials were first placed on the lot, lots or parts of lots. No person or persons shall move any such used building materials so stored and placed to another location within the City for the purpose of avoiding the intent of this section unless such materials are used within ten (10) days at the lot or lots to which they removed for the construction of a building or buildings for which a permit has been properly issued by the City Manager.

(2) In the event that such building materials are permitted to remain on the premises beyond the period set forth in the section immediately preceding, the City

Manager or his/her designee shall cause notice to be given as foresaid in *paragraph (C)* hereof.

F. Whosoever violates this section is guilty of a minor misdemeanor, and if the offender has been convicted of a second violation of this section within any one (1) year, the offender shall be guilty of a misdemeanor of the fourth degree.

G. The notice provided for hereinabove shall be a notice in writing signed by the City Manager or his/her designee and shall be served upon the person in violation of this act. If at the conclusion of ten (10) days compliance has not been met with the provisions hereof, a citation shall issue citing the person alleged in violation to appear in the Mayor's Court.

§9.14.07. Curfew of minors.

A. No child under the age of sixteen (16) years shall be upon the streets or sidewalks between the hours of ten (10) o'clock p.m. and four (4) o'clock a.m. of the following morning, except on Friday night and Saturday night at which time the hour shall be eleven (11) o'clock p.m. and four (4) o'clock a.m. of the following morning, or for any child between the ages of sixteen (16) and eighteen (18) years of age to be upon the streets or sidewalks between the hours of ten-thirty (10:30) o'clock and four (4) o'clock a.m. of the following morning, except on Friday night and Saturday night at which time the hour shall be eleven-thirty (11:30) o'clock p.m. and four (4) o'clock a.m. the following morning; provided, however, the provisions of this section do not apply to a minor accompanied by his parents, guardians or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his parents, guardian or other adult person having the care and custody of the minor.

B. No parent or guardian of any child under the age of sixteen (16) years shall allow said child upon the streets or sidewalks between the hours of ten (10) o'clock p.m. and four (4) o'clock (A)m. of the following morning, except on Friday night and Saturday night, at which time said hours shall be eleven (11) o'clock p.m. and four (4) o'clock a.m. the following morning, and no parent or guardian of any child between the ages of sixteen (16) and eighteen (18) years shall allow said child to be upon the streets or sidewalks between the hours of ten-thirty (10:30) o'clock p.m. and four (4) o'clock a.m. of the following morning, provided, however, that the provisions of this section do not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his parent, guardian or other person having the care and custody of the minor.

C. Whosoever violates *division (B)* of this section is guilty of allowing children upon the streets after curfew, a minor misdemeanor.

§9.14.08. Posting of advertising.

A. No person shall stick or post any advertisement, poster, sign or handbill or placard of any description upon any private building, or upon any tree, post, fence, billboard, carriage step or any other structure or thing whatever the property of another without permission of the occupant or owner of the same. No person shall paint, mark, write, print or impress, or in any matter attach any notice or advertisement or the name of any commodity or thing or any trademark, 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 they desire to place such notice, advertisement, name, mark or figure.

B. No person stick, post or attach any advertisement, poster sign, handbill or placard of any kind or description upon any telegraph, telephone, railway, or electric light pole within the limits of said City, or upon any public building, voting booth, flagging, curb stone, walk, step, stone or sidewalk, or to write, print or impress or in any manner attach any notice of advertisement of any kind upon any public building, voting booth, flagging, curb stone, or sidewalk, the property of the City, or within the street lines of the City, or over which the City, or the Council thereof has the care, custody or control, except such as may be required by the laws of the State or the ordinances of the City.

(C) Whosoever violates this section is guilty of a minor misdemeanor and if the offender has previously been convicted of a violation of this section, the offender shall be guilty of a misdemeanor of the fourth degree.

§9.14.09. Fires and fire inspection.

A. It is hereby declared to be unlawful for any person to ignite, burn, or set fire to any leaves, debris, garbage, rubbish or trash on any street in the City at any time; or to ignite, burn or set fire to any leaves, debris, rubbish or trash at any other place within the corporate limits, except between the hours of seven (7) o'clock a.m. and seven (7) o'clock p.m.. Any such fires shall at all times be properly safeguarded so as to not cause damage or a nuisance to any person or property. At all other times, except as provided herein, such fires must be thoroughly quenched and not permitted to smoke or smolder.

B. The Fire Safety Inspector shall inspect or cause to be inspected the various buildings or premises for the purpose of ascertaining whether the proper precautions are taken for the prevention of fire, and if he/she shall find that conditions are caused or permitted to exist which are dangerous and in his opinion is likely to cause a fire in any such buildings or premises inspected, he/she shall order the owner to correct said condition within a time stated in such order and such person shall comply with such order within thirty (30) days.

C. Whosoever violates this section is guilty of a minor misdemeanor and if the offender has previously been convicted of a violation of this section, the offender shall be guilty of a misdemeanor in the fourth degree.

§9.14.10. Depositing poison.

No person shall leave or deposit poison or a substance containing poison in a common, street, alley, lane, or thoroughfare, or a yard or enclosure occupied by another.

Whosoever violates this section is guilty of a minor misdemeanor.

§9.14.11. Deposit of dead animals, offal, etc., upon land or water.

A. No person shall put the carcass of a dead animal or the offal from a slaughter house, butcher's establishment, packing house or fish house, or spoiled meat, spoiled fish, or other putrid substance of the contents of a privy vault, upon or into a lake, river, bay, creek, pond, canal, road, street, alley, lot, field, meadow, public ground, market place or common.

B. No owner or occupant of such place shall knowingly permit such thing to remain therein to the annoyance of any citizen or neglect to remove or abate the nuisance occasioned thereby within twenty-four (24) hours after knowledge of the existence thereof, or after notice thereof in writing from the City Manager.

C. Whosoever violates this section is guilty of a minor misdemeanor.

§9.14.12. Littering public ways.

No person shall place or dispose of in any manner any garbage, waste, or peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil, or anything else of an unsightly or unsanitary nature along or near or on any public road, street, parkway, park drive, highway, ditch, or any land adjoining any public road of highway or ditch, except on land provided by a zoning commission, city ordinance, or other governmental authority, unless directed to do so by public officials on special clean up days.

Whosoever violates this section is guilty of a minor misdemeanor.

§9.14.13. Unvented heaters.

A. A brazier, salamander, space heater, room heater, furnace, water heater, or other burner or heater using wood, coal, coke, fuel, oil, kerosene, gasoline, natural gas, or similar fuel, and tending to give off carbon monoxide of other harmful gases:

(1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed, and maintained as to vent the products of combustion outdoor;

(2) Portable or temporary burners or heaters at a construction site, or in a warehouse, shed, or structure in which persons are temporarily present, shall be vented as provided in *division (A) (1)* of this section, or used with sufficient ventilation to avoid danger of carbon monoxide poisoning.

B. This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace within an adequate flue, or hot plates, unless the same are used as space or room heaters.

C. No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting and ventilation provided in this section.

D. Whosoever violates this section is guilty of a misdemeanor of the first degree. (*ORC Sections 3701.82 and 3701.99*)

§9.14.14. Reserved.

§9.14.15. Excessive noise and music

A. No person or organization shall engage in any performance or use any electronic device in any manner as to create a public disturbance or operate or permit the operation of any sound amplification system from within a vehicle so that the sound is plainly audible at a distance of fifty (50) or more feet from the vehicle.

(1) "Public Disturbance" is defined, for the purposes of this code section, as loud music revelry, or electronically reproduced sound done or created at a time and a place, or in a manner so as to create a substantial likelihood of disturbing the public's reasonable expectation of peace and quiet.

(2) "Sound Amplification System" means any radio, tape player, compact disc player, loud speaker or other electronic device used for amplification of the human voice and/or musical instrument.

(3) "Plainly Audible" means any sound produced by a sound amplification system from within the vehicle which clearly can be heard from a distance of fifty (50) feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernable and base reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway.

B. It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

(1) A system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

(2) The vehicle was an emergency or public safety vehicle;

(3) The vehicle was owned and operated by the City or gas, electric, communications or refuse company; or

(4) The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

C. Such offenses shall be a minor misdemeanor.

D. No person who owns, rents, leases, or has control of or possession of any lot, business, property, house, rental unit, house trailer, mobile home, room apartment, or any other vehicle or place used for human habitation, shall negligently allow said lot, business, property, house, rental unit, house trailer, mobile home, room, apartment, or any other place or vehicle used for human habitation to be used in a manner which produces or disseminates unreasonable noises or in a manner that breaches the peace of the neighborhood in which it is located.

(1) It shall be prima facie evidence of using property to disturb the peace when a police officer, in good faith effort to enforce this section, notifies the offender that, in the police officer's judgment, the offender is producing or disseminating unreasonable noises or is breaching the peace of the neighborhood and the offender, once notified, continues producing or disseminating unreasonable noises or breaches the peace of the neighborhood after such notice by the police officer.

(2) Nothing in this section shall be construed to zone use of property or land to certain uses.

(3) Whosoever violates this section is guilty of using property to disturb the peace, a misdemeanor in the fourth degree.

§9.14.16. Exterior maintenance of property and premise conditions.

A. All exterior property areas and premises located within the City of Nelsonville shall be maintained in a clean, safe and sanitary condition, free from any accumulation of garbage, refuse, rubbish, special rubbish or litter otherwise in violation of *Nelsonville City Code Sections 5.02.03, 5.02.12, 9.14.03* and/or *9.14.12* or other applicable sections as herein established or amended.

B. No owner, operator, agent, tenant, lease holder, firm, corporation or entity capable of holding title of real property or premises within the City of Nelsonville shall maintain or permit to be maintained at, or on, the exterior property areas of such premises any condition which deteriorates or debases the appearance of the neighborhood, adversely alters the appearance and general character of the neighborhood, creates a fire, safety or health hazard or is a public nuisance, including, but not limited to:

(1) broken or dilapidated fences, walls or other structures in disrepair;

(2) out of use, unusable, discarded or inoperable appliances;

(3) unlicensed and/or inoperable motor vehicles described in *Nelsonville City Code §27.05.17.14* or *§7.07.02.* and/or accumulation of motor vehicle parts including tires on or off a wheel or rim;

(4) display of vending machines in single-family residential zones, on property in any zone where the primary use is single-family residential or on the sidewalks of the Public Square in accordance with *Ordinance 29-86*;

(5) broken, dilapidated, discarded or unusable furniture including but not limited to mattresses, box

springs, bed frames or upholstered furniture intended for indoor use;

(6) used building material, including floor coverings and carpet, stored on a lot where the material is not being used in association with repairs or construction;

(7) the storage of materials in boxes, bags, sacks or containers, kept on open porches or outside a completely enclosed building or other materials that contribute to neighborhood blight;

(8) conditions described in *Nelsonville City Code §9.14.01, Trees, weeds, grass and litter; or*

(9) conditions described in *Nelsonville City Code §9.14.06, Used building materials.*

C. The penalty for violating *section (A)* shall be a fine of twenty dollars (\$20.00) for the first offense, forty dollars, (\$40.00) for the second offense within one (1) year of the first offense, sixty dollars (\$60.00) for the third offense within one (1) year of the first offense, eighty dollars (\$80.00) for the fourth offense within one (1) year first offense and one hundred dollars (\$100.00) for the fifth offense within one (1) year of the first offense. The fine shall be attached to the resident's utility bill for the offending property. The ticket/citation will be documented by a time and dated picture of each offense to be filed and maintained by the citing officer.

D. The penalty for violating *section (B)* or a sixth offense of *section (A)* shall be a minor misdemeanor and a misdemeanor of the fourth degree for a subsequent offense within a one (1) year period.

9.14.99. Penalty.

Editor's note: (see *Section 9.01.99* for penalties applicable to any misdemeanor classification).

Chapter 9.15. Miscellaneous Ordinances.

§9.15.01. Procedures for Condemnation and Demolition of Structures Which Constitute a Public Nuisance.

§9.15.02. Use of Tobacco, Tobacco Products or Tobacco Derivatives at City Park Lands.

§9.15.01. Procedures for condemnation and demolition of structures which constitute a public nuisance.

§9.15.01.01. Definitions.

§9.15.01.02. Condemnation.

§9.15.01.03. Closing of vacant structures.

§9.15.01.04. Notice and orders.

§9.15.01.05. Placarding.

§9.15.01.06. Reoccupancy of the building.

§9.15.01.07. Demolition of buildings.

§9.15.01.08. Appeals to condemnation of placarding.

§9.15.01.09. Fire damaged structures, removal or repair fund.

§9.15.01.10. Demolition permit required.

§9.15.99. Penalties.

§9.15.01.01. Definitions.

A. "Structure unit for human occupancy" means a structure that is unsafe, or because of the degree in which it lacks maintenance or is in disrepair, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment, or because its location constitutes a hazard to its occupants or to the public.

B. "Unreasonable repairs" means when the cost of repair to a structure would exceed one hundred percent (100%) of the County Auditor's true value of such structure; such repairs shall be presumed unreasonable.

C. "Unsafe equipment" means any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid or containers, or other equipment on the premises or within the structure which is in such disrepair or condition that it is found to be a hazard to life, health, property or safety of the public or occupants of the premises or structure. Unsafe equipment may contribute to the finding that a structure is unsafe or unfit for human occupancy or use.

D. "Unsafe structure" means one in which all or part thereof is found to be dangerous to life, health, property or the safety of the public or its occupants because it is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable condition that it is likely to partially or completely collapse.

§9.15.01.02. Condemnation.

When a structure or part thereof is found to be unsafe, or when a structure or part thereof, is found unfit for human occupancy or use, it may be condemned pursuant to the provisions of this chapter, and may be placarded and vacated. A proper affidavit shall be prepared by the City Manager and such action shall be recorded in the County Recorder's Office and cross-referenced to the deed to the property. The structure or part thereof shall not be reoccupied without written approval from the City Manager. Unsafe equipment shall be placarded and placed out of service.

§9.15.01.03. Closing of vacant structures.

If a structure or any part thereof is vacant and unfit for human habitation, occupancy or use and is not in danger of structural collapse, the City Manager may post a placard of condemnation on the premises and may order the structure closed up so it will not be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the City Manager shall cause it to be closed through any available public agency or by contract, or arrangement by private persons, and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien against such real estate.

§9.15.01.04. Notice and orders.

A. Notice to Owner or Occupants- When a property or part thereof has been condemned, the City Manager shall give notice to the owner and to the

occupants of the intent to placard and to vacate the property or to order equipment out of service.

B. Form of Notice- The notice to owner shall:

- (1) Be in writing; and
- (2) Include a description of the real estate sufficient for identification; and
- (3) Include a statement of the reason why it is being issued; and
- (4) Include a correction order allowing a reasonable time for repairs and improvements but in no cases shall the time period exceed sixty (60) days; and
- (5) Include an explanation of the owner's right to seek modification or withdrawal of the notice by written petition to City Council.

C. Service on Owner

Service shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner personally, or by leaving at the usual place of abode, in the presence of someone in the family of suitable age and discretion who shall be informed of the contents thereof, or by certified or registered mail addressed to the owner at the last known address with return receipt requested, or if the certified or registered letter is returned with receipt showing that it has not been delivered, by posting of a copy thereof in a conspicuous place in or about the structure affected by such notice, and at least one (1) publication of such notice in a local newspaper of general circulation at least once a week for three (3) consecutive weeks.

D. Service on Occupant

When a condemnation order is served on an occupant other than the owner or person responsible for compliance, a reasonable time to vacate the property after noncompliance shall be stated. In no case shall this time period exceed sixty (60) days. Owners or persons responsible for compliance must vacate at the time set for correction of defects if there is failure of compliance.

§9.15.01.05. Placarding.

A. Placarding of Structure- After the condemnation notice has been served and the compliance period expired, the City Manager may post on the premises, structure or parts thereof, or on defective equipment, a placard bearing the words:

WARNING

This property has been determined by the City of Nelsonville to be unfit for human habitation. It shall be unlawful for this building to be rented, leased or occupied from the date of this notice or until all repairs have been made in a manner approved in writing by the City Manager, subject to occupants being given a reasonable time thereafter to vacate. Mutilation, unauthorized removal or defacing of this placard shall be in violation punishable under the City of Nelsonville ordinances.

B. Prohibited Use

Any person who shall occupy a placarded premises or structure or part thereof, or shall use placarded equipment, and any owner or person responsible for the

premises who shall let anyone occupy placarded premises shall be liable for the penalties provided by this ordinance.

C. Removal of Placard

The City Manager shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the City manager shall be subject to the penalties provided by this ordinance.

§9.15.01.06. Reoccupancy of the building.

No structure which has been condemned and placarded as unfit for human habitation or use shall again be used until written approval has been secured from the City Manager. The City Manager shall remove the placard when written notice has been received from the owner and inspection confirms that the defects which resulted in the placard have been eliminated, and shall also file an affidavit with the County's Recorder Office to that effect.

§9.15.01.07. Demolition of buildings.

A. Council Action

When it is determined that a building is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and that it would be unreasonable to repair the same, the City Council may, through motion and vote, determine that the building is a public nuisance and to have the building razed and removed, or if it can be made safe by repairs, to repair and make safe and sanitary.

B. Demolition Order

The order shall specify a time not to exceed sixty (60) days in which the owner shall comply therewith and specify repairs, if any. It shall be served on the owner of record or an agent where and agent is in charge of the building upon the holder of any encumbrance of record in the manner provided for service of a summons by a court of record. If the owner of a holder of an encumbrance of record cannot be found, the order may be served by posting it on the main entrance of the building and by publishing it once each week for three (3) successive weeks in a local newspaper of general circulation.

C. Restraining Actions

Any person affected by an order of demolition may, within ten (10) working days after service of such order, apply to a court of record for an order restraining the City from razing or removing such structure or parts thereof. The court shall determine whether the demolition order is reasonable and if found reasonable, shall dissolve the restraining order. If the court finds the order unreasonable, the court shall continue the restraining order or modify it as the circumstances may require.

D. Failure to Comply

Whenever the owner of a property fails to comply with a demolition order within the time prescribed, the City Manager shall cause the structure or part thereof to be razed and removed, either through an available public agency or

by contract or arrangement by private persons, and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien against such real estate and be cross-referenced to the deed of such real estate.

§9.15.01.08. Appeals to condemnation of placarding.

Any person receiving written notice from the City Manager or his agent of alleged deficiencies on their property may, within thirty (30) days following the date of such notice, submit a written appeal to the City Council. Such appeal shall state the location of the property and the date of the notice of violations. The appellant must state the reasons, hardship or conditions upon which the appeal is made. The City Council shall meet to discuss the matter within thirty (30) days after the receipt of the written appeal. Council decisions on the matter shall be by motion and vote, and shall be delivered in writing to the appellant and the City Manager.

§9.15.01.09. Fire damaged structures, removal or repair fund.

A. No insurance company doing business in the State of Ohio shall pay a claim of a named insured for fire damage to a structure located within the City of Nelsonville, Ohio where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars (\$5,000.00), unless there is compliance with the following procedures:

(1) When the loss agreed to between the named insured or insureds and the company or companies equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or structure, the insurance company or companies, in accordance with *Ohio Revised Code Section 715.26 (F)* shall transfer from the insurance proceeds to the City Auditor in the aggregate two thousand dollars (\$2,000.00) for each fifteen thousand dollars (\$15,000.00), and each fraction of that amount, of a claim, or, if, at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies, the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, shall transfer from the insurance proceeds the amount specified in the estimate.

The transfer of proceeds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the City shall be disbursed in accordance with the policy terms. The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure after the transfer, and the City Auditor, after notifying the City Manager, shall return the amount of the fund in excess of the estimate to the named insured or insureds, provided that the City has not commenced to remove, repair, or secure the building or other structure.

(2) Upon receipt of proceeds by the City as authorized by this section, the City Auditor shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing, or securing incurred by the City pursuant to *Ohio Revised Code Section 715.261*.

When transferring the funds as required in *section (A)* hereof, an insurance company shall provide the City with the name and address of the named insured or insureds, whereupon the City shall contact the named insured or insureds, certify that the proceeds have been received by the City, and notify them that the following procedures will be followed:

The fund shall be returned to the named insured or insureds when repairs, removal, or securing of the building or other structure have been completed and the required proof has been received by the City Manager, if the City has not incurred any costs for the repairs, removal, or securing. However, the fund shall be returned to the named insured or insureds no later than sixty days after the City Auditor receives the required proof. If the City has incurred any costs for repairs, removal, or securing of the building or other structure, the costs shall be paid from the fund, and if excess funds remain, the City shall transfer, no later than sixty (60) days after all such costs have been paid, the remaining funds to the named insured or insureds.

B. Nothing in this section shall be construed to limit the ability of the City to recover any deficiency under *Ohio Revised Code Section 715.261*.

C. Nothing in this section shall be construed to prohibit the City and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.

D. Nothing in this section shall be construed to make an insurance company liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this section, or to make the City an insured under a policy of insurance, or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided by law.

E. As used in this section and *Ohio Revised Code Section 3929.87*, "insurance company" or "insurer" includes the Ohio Fair Plan Underwriting Association as established in *Ohio Revised Code Section 3929.43*.

F. The City Auditor is hereby designated as the officer authorized to carry out the duties of this section, provided that no funds so held under this section shall be released without notification of such intent to the City Manager.

G. This section shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property, and to prevent urban blight and deterioration.

§9.15.01.10. Demolition permit required.

A. A demolition permit shall be obtained from the City Manager or designated agent prior to the

destruction and removal of a building or structure where the area demolished exceeds sixty percent (60%) percent of the gross floor area or sixty percent (60%) of the market value of the building or structure. A permit shall not be required for one (1) story accessory structures less than two hundred (200) square feet in area.

B. Each permit application shall contain at a minimum:

(1) A site plan indicating the vicinity of the property, the location of the building proposed for demolition, the names of adjacent property owners and the location of buildings on those lots, the location of all utilities, the location of all dumpsters and equipment storage areas and the location of signs and fencing to minimize any attractive nuisance created by the demolition and to protect the public;

(2) A narrative statement or completed application indicating the name of the owner and/or demolition contractor, estimated time for removal and clean-up, verification of the disconnection of utilities and commitment to the proper disposal of all demolition debris;

(3) A performance bond, letter of credit, cash deposit, or other surety in a form and amount determined sufficient by the City Manager or his agent in favor of the owner and/or the City of Nelsonville, Ohio guaranteeing the workman like completion of the demolition but not less than five thousand dollars (\$5,000.00) for a structure not exceeding two thousand five hundred (2,500) square feet in gross floor area and not exceeding two (2) stories in height, ten thousand dollars (\$10,000.00) for a structure exceeding two thousand five hundred (2,500) square feet in gross floor area and not exceeding two (2) stories in height and twenty thousand dollars (\$20,000.00) for structures greater than two (2) stories in height regardless of gross floor area. The City Manager may require surety amounts greater than the stated minimums or upon initial application review of the scope of work of a project reduce or waive minimum requirements;

(4) Liability insurance policy or certificate covering the owner or contractor in an amount not less than three hundred thousand dollars (\$300,000.00) for the protection of adjacent property owners, the general public and the City of Nelsonville; and

(5) Any other information, conditions or attachments deemed necessary by the City Manager or designated agent for permit administration and in keeping with public health, safety and welfare or the unnecessary expenditure of public funds.

C. A permit fee shall be paid prior to issuance of the demolition permit in the sum of fifty dollars (\$50.00) for residential structures and one hundred dollars (\$100.00) for commercial, non-residential or mixed uses or in an amount as otherwise established by separate Council ordinance.

D. The permit shall be valid for a period not to exceed thirty (30) days and may be renewed by the City Manager or designated agent at no additional cost so long as demolition is actively pursued and all other requirements maintained. Upon investigation and notification to the

owner and/or contractor of failure to comply with any requirement, condition or attachment to a permit approval, the permit shall be voided and all activity cease until the deficiency is corrected and the permit is revalidated.

§9.15.99. Penalties.

Any person violating a provision of this section shall be deemed guilty of a minor misdemeanor in accordance with *Ohio Revised Code Chapter 2929.28*, Financial sanctions-misdemeanor.

§9.15.02. Use of tobacco, tobacco products or tobacco derivatives at city park lands.

A. "Use of any form of tobacco" means all uses of tobacco, including inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, other lighted smoking device or papers for burning tobacco, or any other plant; chewing tobacco, snuff, or any other matter or substances that contain tobacco.

B. No person shall use any form of tobacco at, or on, any city owned, or operated, Park Lands, including, but not limited to, parking areas, restroom, spectator, and concession areas, playgrounds, athletic fields, aquatic areas, pavilions, and shelters.

C. City owned or operated Park Lands shall cause to be conspicuously posted "TOBACCO FREE", "NO SMOKING", OR "SMOKING PRHIBITED" signs at the entrance to each facility.

D. Whomever violates this Code Section shall be subject to a fine of one hundred dollars (\$100.00).

Chapter 9.16. Fires and Burning Permits.

§9.16.01. Fires and burning permits.

§9.16.02. Definitions.

§9.16.03. Relation to other prohibitions.

§9.16.04. Open burning.

§9.16.05. Permission to individuals and notification to the Ohio EPA.

§9.16.99. Penalty.

§9.16.01. Fires and burning permits.

A. It shall be unlawful for any person to kindle or authorize another person to kindle a fire in the open air within the City of Nelsonville, Ohio without making a written application for and obtaining a burning permit from the Fire Chief of the City of Nelsonville, as hereinafter provided. This section is not intended to, and shall not, apply to the kindling of a fire in a covered metal container or incinerator of not more than two (2) inch mesh; in a dutch oven, outdoor fireplace, or grill with not less than two (2) inch mesh screen or grating on the opening and chimney, the same of a design and construction approved by the Chief of the Fire Department of the City of Nelsonville; or in a charcoal grill. Under no circumstances shall any fire be kindled in the out of doors in any street or alley.

B. No garbage shall be burned or kindled in the

open air or in an outdoor container, incinerator, dutch over, outdoor fireplace or grill or charcoal grill or other container or device. Garbage shall be defined as refuse animal and vegetable matter from a kitchen, the burning of which gives off noxious fumes or odors.

C. That the Fire Chief of the City of Nelsonville be, and he is hereby authorized, empowered, and directed to accept applications for, and issue burning permits herein provided. Every applicant for a burning permit shall submit to the Fire Chief of the City of Nelsonville a written application stating the reason or purpose of the intended fire, when and where he expects to kindle such fire, what implements, and other safeguards will be immediately available to control such fire, and such other information as the Fire Chief of the City of Nelsonville may require in order to carry into effect the duties imposed upon him by the terms and provision of this ordinance.

D. That the Fire Chief of the City of Nelsonville shall issue a burning permit to any applicant when he is satisfied that there is good reason for such intended fire; that prevailing weather conditions will not cause such fire to be hazardous; that no injury or damage to life or property is likely to occur by reason of such fire; where and when such fire will be kindled; that such fire will not be nearer than fifty (50) feet to any building or other structure; that applicant will immediately have available implements and other safeguards to control such fire; and that applicant or his agents and employees will be present at such fire at all times. In the event of the falsification of any of the information contained in an application for a burning permit, or the violation of any of the terms and provisions of any burning permit issued, the Fire Chief may, without notice, cancel, revoke or render void such burning permit.

E. Any person found guilty of violating any of the terms and provisions of this chapter shall be fined not less than five dollars (\$5.00) or more than one hundred dollars (\$100).

§9.16.02. Definitions.

As used in *Chapter §9.16.02*:

A. "Agricultural waste" means any waste material generated by crop, horticultural, or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials, and landscape wastes that are generated in agricultural activities, but does not include land-clearing waste; buildings; garbage; dead animals; animal waste; motor vehicles and parts thereof; nor economic poisons and containers thereof, unless the manufacturer has identified open burning as a safe disposal procedure.

B. "Bonfire" means an outdoor fire utilized for ceremonial purposes that is larger than a recreational fire.

C. "Economic poisons" include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliant.

D. "Emergency burning" means the burning of clean wood waste or deceased animals caused by a natural disaster or an uncontrolled event such as the following:

- (1) A tornado;
- (2) High winds;
- (3) An earthquake;
- (4) An explosion;
- (5) A flood; or
- (6) A hail storm, a rain storm, or an ice storm.

E. "Garbage" means any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.

F. "Landscape waste" means any plant waste material, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings, and crop residues.

G. "Land clearing waste" means plant waste material which is removed from land, including plant waste material removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial, or industrial development. "Land clearing waste" also includes the plant waste material generated during the clearing of land for new agricultural development.

H. "Ohio EPA" means the Ohio Environmental Protection Agency Director or agencies delegated authority by the Director of the Ohio Environmental Protection Agency pursuant to *Ohio Revised Code §3704.03* or the chief of any Ohio Environmental Protection Agency District Office.

I. "Open burning" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any device not subject to or designed specifically to comply with the requirements of *Rule 3745-17-09* or *3745-17-10* of the *Ohio Administrative Code*.

J. "Patio appliances." Means appliances including any devices designed to burn wood and have a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height for pleasure, cooking, warmth or similar purposes. Patio appliances may be portable or stationery and includes outdoor fireplaces.

K. "Recreational fire." Means outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes. Recreational fires include campfires and any fires burned in makeshift devices for the above purposes.

L. "Residential waste" means any waste material, including landscape wastes, generated on a one-, two- or three-family residence as a result of residential activities, but not including garbage.

M. Incorporation by reference. This chapter includes references to certain matter or materials. The text

of the incorporated materials is not included in the regulations contained in this chapter. The materials are hereby made a part of the regulations in this chapter. For materials subject to change, only the specific version specified in the regulation are incorporated. Material is incorporated as it exists on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) *Code of Federal Regulation* compilations, any amendment or revision to a referenced document is not incorporated unless and until this rule has been amended to specify the new dates.

N. Availability. The materials incorporated by reference are available as follows:

(1) National Fire Protection Association. Information on the National Protection Association codes may be obtained by contacting the association at 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, 617-770-3000. Codes may be ordered www.nfpa.org/catalog/home/index.asp. Copies of the code at most public libraries and "The State Library of Ohio."

(2) Incorporated materials.

(3) *NFPA publication 1403; "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures;"* November 2001 Edition.

§9.16.03. Relation to other prohibitions.

A. Notwithstanding any provision in *Chapter 3745-19* of the *Ohio Administrative Code* or this chapter, no open burning shall be conducted in an area where an air alert, warning, or emergency under *Chapter 3745-25* of the *Ohio Administrative Code* is in effect. Open burning that is offensive or objectionable because of smoke or odor emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

B. No provisions of *Chapter 3745-19* of the *Ohio Administrative Code* or this chapter, permitting open burning, and no permission to open burn granted by the Ohio EPA, shall exempt any person from compliance with any section of the *Ohio Revised Code*, or any regulation of any State department, or any local ordinance or regulation dealing with open burning.

C. The Fire Code Official, in addition to issuing citations for violation of this chapter, is also authorized to order the extinguishment by a permit holder or any other person responsible for open burning that creates or adds to a hazardous or objectionable situation.

§9.16.04. Open burning.

A. No person or property owner shall cause or allow open burning in the City except as provided in *Sections 9.16.03 to 9.16.05* of this chapter or in *Ohio Revised Code §3704.11*.

B. Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA:

(1) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor

workers and strikers, smudge pots and similar occupational needs.

(2) Campfires, recreational fires, including outdoor fires in fireplace equipment or patio appliances, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:

(a) The fires are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood;

(b) The fires are not used for waste disposal purposes; and

(c) The fires shall have a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height.

(d) The fires are constantly attended by a person at least eighteen (18) years of age until the fire is extinguished. A minimum of one (1) portable fire extinguisher complying with *Paragraph F 906 of Rule 1301:7-7-09* of the *Ohio Administrative Code* with a minimum 4-A rating or other approved on-site fire extinguishing equipment such as dirt, sand, water barrel, garden hose or water truck shall be available for immediate utilization.

(e) If the fire is a campfire, recreation fire or outdoor fire in fireplace equipment, the fire must be located no closer than twenty-five (25) feet from any structure and provisions are made to prevent the fire from spreading to within twenty-five (25) feet of a structure.

(f) If the fire is in a patio appliance, then in addition to the requirements of (B) (2) (a), (b), (c), and (d) above, the following condition must also be met:

(i) The fire may not be within fifteen (15) feet of a structure including a combustible deck or patio, excepting patio appliances that incorporate a screen encompassing all open areas of the burn chamber and are designed to prevent ignition through conduction through its base may be placed on a combustible deck. However, the appliance shall be at least fifteen (15) feet from any other structure including the structure that it is attached to.

(ii) Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to paragraph (D) (1) (d) of *Rule 3745-50-45* of the *Ohio Administrative Code*.

(iii) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.

C. Open burning shall be allowed for the following purposes with prior notification to the Ohio EPA in accordance with *paragraph (B) of Rule 3745-19-05* of the *Ohio Administrative Code*:

(1) Prevention or control of disease or pests, with written or verbal verification to the Ohio EPA from the local health department, cooperative extension service, Ohio Department of Agriculture, or U.S. Department of

Agriculture, that open burning is the only appropriate disposal method.

(2) Bonfires or campfires used for ceremonial purposes that do not meet the standards of *paragraph (B) (2)* of this section, provided the following conditions are met:

(a) Bonfires have a total fuel area no greater than five (5) feet in diameter by five (5) feet in height and burn no longer than three (3) hours;

(b) Bonfires are not used for waste disposal purposes; and

(c) Bonfires are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.

(d) Bonfires shall not be conducted within fifty (50) feet of a structure or combustible material unless the fire is in a barbecue pit. Conditions which could cause a fire to spread within fifty (50) feet of a structure shall be eliminated prior to ignition.

(3) Disposal of agricultural waste generated on the premises if the following conditions are observed:

(a) The fire is set only when atmospheric conditions will readily dissipate contaminants;

(b) The fire does not create a visibility hazard on the roadways, railroad tracks, or air fields;

(c) The fire is located at a point on the premises no less than one thousand (1,000) feet from any inhabited building not located on said premises;

(d) The wastes are stacked and dried to provide the best practicable condition for efficient burning; and

(e) No materials are burned which contain rubber, grease, asphalt or liquid petroleum products.

D. Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with *paragraph (A) of Rule 3745-19-05* of the *Ohio Administrative Code*, provided that any conditions specified in the permission are followed:

(1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in *paragraph (B) (3)* of this rule;

(2) Instruction in methods of fire fighting or for research in the control of fires as recognized by the State Fire Marshal Division of the Ohio Department of Commerce and the guidelines set forth in the National Fire Protection Association's (NFPA) publication 1403: *Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures*, provided that the application required in *paragraph (A) (1)* of *Rule 3745-19-05* is submitted by the commercial or public entity responsible for the instruction;

(3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Director and performed as identified in the appendix of this rule. If deemed necessary, the open burning may be authorized with prior oral approval by the Director

followed by the issuance of a written permission to open burn within seven (7) working days of the oral approval;

(4) Recognized horticultural, silvicultural, range, or wildlife management practices; and

(5) Fires and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film making or video production activities for motion pictures and television.

§9.16.05. Permission to individuals and notification to the Ohio EPA.

A. Permission.

(1) An application for permission to open burn, if required, shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday, and legal holidays shall not be considered a working day. It shall be in such form and contain such information as required by the Ohio EPA.

(2) Except as provided in *divisions (A) (6)* and *(A) (7)* of this section, such applications shall contain, as a minimum, information regarding:

(a) The purpose of the proposed burning;

(b) The nature of quantities of material to be burned;

(c) The date or dates when such burning will take place;

(d) The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields, and other pertinent landmarks; and

(e) The methods or actions which will be taken to reduce the emissions of air contaminants.

(3) Permission to open burn shall not be granted unless the applicant demonstrates to the satisfaction of the Ohio EPA that open burning is necessary to the public interest; will be conducted in a time, place, and manner as to minimize the emission of air contaminants; and will have no serious detrimental effect upon adjacent properties or the occupants thereof. The Ohio EPA may impose such conditions as may be necessary to accomplish the purpose of *Chapter 3745-19* of the *Ohio Administrative Code*.

(4) Except as provided in *division (A) (6)* of this section, permission to open burn must be obtained for each specific project. In emergencies where public health or environmental quality will be seriously threatened by delay while written permission is sought, the fire may be set with oral permission of the Ohio EPA.

(5) Violations of any of the conditions set forth by the Ohio EPA in granting permission to open burn shall be grounds for revocation of such permission and refusal to grant future permission, as well as for the imposition of other sanctions provided by law.

(6) The Ohio Department of Commerce, Division of State Fire Marshal, may request permission to open burn on an annual basis for the purpose of training firefighters on pre-flashover conditions using the Ohio fire academy's mobile training laboratory at either the academy or at other training sites in Ohio. The annual application

required pursuant to *division (A) (1)* of this section shall contain information as required in *division (A) (2)* of this section, except the information required in *divisions (A) (2)* and *(A) (2) (d)* of this section need not be provided unless it is available at the time of submittal of the application. The academy shall contact the appropriate Ohio EPA district office or local air agency at least five (5) working days before each training session of the date or dates when the training session will take place and its location. Saturday, Sunday, and legal holidays shall not be considered a working day.

(7) For open burning defined under *paragraph (D) (2)* of *Rule 3745-19-03* and *paragraph (C) (2)* of *Rule 3745-19-04* of the *Ohio Administrative Code*, permission to open burn shall not be granted unless the applicant provides proof of written notice of intent to demolish received by the appropriate Ohio EPA field office in accordance with *Rule 3745-20-03* of the *Ohio Administrative Code*.

B. Notification.

(1) Notification shall be submitted in writing at least ten (10) working days before the fire is to be set. Saturday, Sunday, and legal holidays shall not be considered a working day. It shall be in such form and contain such information as shall be required by the Ohio EPA.

(2) Such notification shall inform the Ohio EPA regarding:

- (a) The purpose of the proposed burning;
- (b) The nature and quantities of materials to be burned;
- (c) The date or dates when such burning will take place; and
- (d) The location of the burning site.

(3) The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under *Chapter 3745-19* of the *Ohio Administrative Code* and the Ohio EPA shall notify the applicant to this effect.

§ 9.16.99. Penalty.

Whosoever violates any provision of this chapter is guilty of a misdemeanor of the third degree, and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both.

Chapter 9.17. Registration of Vacant Property.

- §9.17.01. Application of chapter.
- §9.17.02. Definitions.
- §9.17.03. Registration required.
- §9.17.04. Minimum requirements.
- §9.17.05. Vacant building plan.
- §9.17.06. Fees.
- §9.17.07. Ownership of unregistered buildings.
- §9.17.08. Interpretation of Chapter.
- §9.17.09. Appeals.

§9.17.99. Penalty.

§9.17.01. Application of this Chapter.

This chapter shall be applicable to all residential, commercial, and industrial buildings and premises located within the City of Nelsonville, Athens County, Ohio.

§9.17.02. Definitions.

For purposes of this chapter, the following definitions shall apply:

A. "Owner" means any person who, alone or jointly or severally with others, shall have the legal or equitable title to a property, and shall include executors, administrators, trustees, or guardians of the estate of the owner, and any purchaser or assignee under a certificate of sale pursuant to a mortgage foreclosure. The term "owner" shall also include partnerships and other unincorporated associations. Any individual owner, regardless of whether he or she shares ownership responsibility with any other person, any general partner of a partnership, and any officer of a corporation or unincorporated association, shall have direct and personal responsibility and liability for compliance with the provisions of this chapter.

B. "Designated agent" means a business entity located in or an individual person eighteen (18) years or older residing in Athens or Hocking Counties with an address other than a post office box and named by an owner as a secondary point of contact regarding the use or condition of land and the occupancy and physical condition of structures on a platted lot or parcel of land.

C. "Vacant building" means a structure which is unoccupied for ninety (90) days or more or which constitutes a structure unfit for human occupancy, an unsafe building, or a building or premises that are a public nuisance. In the case of structures containing multiple dwelling units, multiple commercial or industrial units, or a combination thereof, a building shall be considered vacant when a majority of the units are unoccupied unless any part of the building is considered unfit for human habitation, unsafe, or a public nuisance, then the entire premises shall be considered subject to these regulations.

D. "Structure Unfit for Human Occupancy" means a structure that is unsafe, or because of the degree in which it lacks maintenance or is in disrepair, is unsanitary, vermin or rat infested, contains filth and contamination, or lack ventilation, illumination, sanitary or heating facilities or other essential equipment, or because its location constitutes a hazard to its occupants or to the public.

E. "Unsafe Structure" means a structure in which all or part thereof is found to be dangerous to life, health, property, or the safety of the public or its occupants because it is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable condition that it is likely to partially or completely collapse.

F. "Public nuisance" means any building, house, shed, accessory structure, fence, or other man-made structure or part thereof, including the premises where such structure is located, which by reason of its faulty construction, age, lack of repair, lack of reasonable and

adequate maintenance, continued vacancy, or other cause is;

(1) endangering human health, life or limb or is likely to cause the spread of disease or otherwise cause injury to the health of persons or to surrounding neighborhood structure.

(2) susceptible to the occurrence of fire and constitutes or creates a fire hazard.

(3) liable to cause injury or damage to persons or property by collapse or by the danger of collapse of any part of the structure.

(4) unsecured, open, and available to and frequented by malefactors, disorderly persons, or juveniles who are not lawful occupants of such structure.

(5) creating a deteriorating and blighting influence on nearby properties and causes depreciation in the use, enjoyment and value of properties in the immediately surrounding area to such an extent that it is harmful to the community in which such structure is situated.

(6) subject to provisions of *Nelsonville City Code Chapter 9.14, Nuisance*, or *Chapter 9.15.01, Procedures for Condemnation and Demolition of Structures Which Constitute a Public Nuisance*.

§9.17.03. Registration required.

A. All buildings presently located within the City of Nelsonville, Athens County, Ohio which are vacant, as defined in this chapter, or which hereafter become vacant, shall be registered by the owner thereof with the City Manager or his/her designated representative within thirty (30) days of being or becoming a vacant structure.

B. Registration shall be made on forms supplied by the City Manager and shall include:

(1) The name, address and telephone number of the owner.

(2) The name, address and telephone number of a local agent or representative if the owner is not a resident of Athens or Hocking Counties. Agents shall be required to be residents of Athens or Hocking Counties, at least eighteen (18) years of age. Every owner of a vacant building shall designate an agent who in addition to the owner shall be responsible for care of the premises and who may accept service of process and official notices on behalf of the owner. An official notice or service of process issued to a designated agent shall be deemed as served or delivered upon the owner of record.

(3) The names, addresses and telephone numbers of all persons with any legal interest in the property, buildings and premises, including but not limited to holders of land contracts, mortgages, and other interest in equity.

(4) A legal description and the tax parcel identification number of the premises on which the building or structure is located.

(5) The common address of the building or premises.

(6) The date on which the building became or has become vacant.

(7) A vacant building plan as hereinafter described.

C. Registration of a vacant building or structure shall be valid for a period of one (1) year. If the building is vacant at the expiration of any registration period and requirements of the vacant building plan are not completed, then the owner shall re-register such building and pay an additional renewal fee established by separate Council ordinance. If the building is vacant at the expiration of any registration period and the requirements of the vacant building plan are completed, the owner shall re-register such building without filing a new vacant building plan or paying an additional filing fee.

D. The registration of a vacant building shall not preclude action by the City to demolish or force rehabilitation of the building pursuant to the provisions of *Nelsonville City Code Chapter 9.15.01* or other fire, safety, health, sanitation, or public nuisance law.

E. Upon registration of any previously unregistered building pursuant to this chapter, or when any such vacant building comes to the attention of the City, the City Manager may cause inspections to be made of the premises to determine the condition of such building and premises and whether there exist any fire, safety, health, sanitation, or public nuisance hazards upon the premises and shall provide notice to the owners thereof to comply with the provisions of this chapter.

§9.17.04. Minimum requirements.

A. As a minimum requirement, all vacant buildings, as defined in this chapter, shall conform to the following requirements:

(1) Foundations shall provide structural support at all load bearing structural components and be free from holes and cracks which might admit vermin, rodents, insects, snakes, stray animals, water, and dampness to the interior of the building.

(2) Exterior walls and other exterior surfaces, including basement and cellar hatchways, shall be free of holes, cracks, loose and/or rotting boards and siding material which might admit vermin, rodents, insects, snakes, stray animals, rain, and dampness to the interior of the building. Wood and ferrous materials shall be maintained free of loose, peeling, or flaking paint.

(3) Windows shall fully contain glass in their frames and sashes, be fully glazed without holes or cracks, shall fit reasonably well in their frames, and shall be supplied with mechanisms to prevent entry from the exterior. Windows and doors failing this criteria may be boarded in accordance with (B) (1-2) below if approved by the City Manager or his/her designated representative.

(4) Exterior doors shall be operable, structurally sound, weather-proof and water-proof, maintained in good working order, fit reasonably well in their frames, and shall be supplied with mechanisms to prevent entry from the exterior.

(5) Roof coverings and flashing shall be provided and maintained so as to prevent the entrance of

rain, snow, moisture, vermin, birds, or any other animal causing nuisance.

(6) Roof gutters and downspouts shall be provided to collect, conduct, and discharge all water from the roof to a location so as not to cause detriment to the structure, its foundation, or adjacent properties.

(7) Chimneys shall be free of cracks, holes, or missing portions and maintained in good repair.

(8) Exterior stairs, steps, and landings shall be safe to use, maintained free of missing, rotting or deteriorated parts, and kept in sound condition and good repair.

(9) Structural components shall be free from deterioration and damage, maintained to function as originally designed, or shall be repaired or replaced.

(10) The grounds of the premises shall be kept free of weeds, grass, tree limbs, debris, trash, garbage, refuse, rubbish, special rubbish and litter so as not to degrade and debase the general nature and character of the neighborhood, minimize the potential for spreading of noxious weeds and grasses, and minimize conditions creating potential harborage for vermin, rodents, insects, snakes, and stray animals.

(11) Grass shall be mowed during summer months in conformance with *Nelsonville City Code §9.14.01*.

(12) Public sidewalks shall be kept free of snow and ice during the winter months in accordance with *Nelsonville City Code §9.14.05*.

(13) No junk, abandoned, unlicensed, or inoperable motor vehicle shall be parked on the premises outside a completely enclosed building except those properly licensed as a collector's vehicle stored in accordance with *Nelsonville City Code §27.05.17.14*.

(14) No used building material, scrap metal, unusable appliances, or other objectionable material shall be stored on the premises outside a completely enclosed structure and shall be stored in conformance with *Nelsonville City Code §9.14.06* and *§9.14.16*.

(15) The interior of the building or structure, including any garage area, storage area, and/or accessory structure shall be clean and free of debris, garbage, trash, rubbish, refuse, litter, and filth so as to minimize the potential for unhealthy or unsanitary conditions which may attract vermin, rodents, insects, snakes, and stray animals.

B. All buildings, which, in addition to being vacant as defined in this chapter, not in conformance with (A) (3-4) above, and are open and unsecured to trespass, shall additionally meet the following requirements:

(1) All windows and doors at or below the ground floor area, including any basement or detached accessory structure, shall be fully glazed, fit reasonably well in their frames, be secured to preclude entry, or boarded up and secured with a minimum one-half inch (½") sheathing grade plywood, OSB board, or equivalent. In no case shall the sheathing be affixed for a period longer than thirty (30) days without being painted to match the exterior of the structure. All other openings above the ground floor shall contain doors and/or windows in conformance with

(A) (3-4) above or shall be boarded up as per ground floor requirements if ordered or approved by the City Manager.

(2) Sheathing shall be applied in a neat, orderly, weather tight and workmanlike manner, cut reasonably well to the size of the opening, and painted to match the exterior color scheme of the structure.

C. Any structure in the City of Nelsonville, falling within the meaning of any of the definition of "structure unfit for human occupancy", "unsafe structure" or "public nuisance" is hereby declared to be illegal and to constitute a public nuisance which shall be subject to abatement by repair or demolition in accordance with the provisions of *Nelsonville City Code Chapter 9.15.01, Procedures for Condemnation and Demolition of Structures Which Constitute a Public Nuisance*.

§9.17.05. Vacant building plan.

A. When a building or structure is to be registered as required herein, the owner or agent shall submit a vacant building plan. The plan shall contain, at a minimum, the following:

(1) A plan of action to maintain the building and premises thereof in conformance with all laws of the City and State, with reference to premises security and protection from vandalism.

(2) An approved plan for fire alarm and fire protection if required by the Nelsonville Fire Department.

(3) The name and address of a local company, person, or designated agent who can be called when emergencies occur and who may provide inspection access or make immediate repairs to windows, doors, alarm systems, or other facilities or utilities. The company, person, or designated agent shall be located in or a resident of either Athens or Hocking Counties and at least eighteen (18) years of age.

(4) A plan of action to remedy any fire, safety, health, sanitation, or public nuisance existing or occurring in the building or on the premises.

(5) Any plans for demolishing or altering structures or buildings, along with a time schedule for such activity.

(6) Certification of insurance that will be applicable on the property during the time of vacancy.

(7) Any planned changes in ownership or interest in the property.

(8) If required, a lighting plan for parking or loading areas and night-time illumination of areas and walkways of the building which may be vulnerable to vandalism or criminal activity, as determined by the City Manager, Chief of Police, or the City Manager's designated representative.

(9) A listing of any and all motor vehicles that will be stored on the premises, along with the registration and ownership of such vehicles and a certification that current license and registration will be maintained or the vehicles stored in an enclosed building.

(10) A plan in accordance with the requirements of *Nelsonville City Code §9.17.04* for the maintenance of all structural items, such as windows, doors

and other openings, so as to avoid the necessity of any boarding up, which is prohibited unless required and approved by the City Manager, and a plan for the regular maintenance of all exterior lighting fixtures and the illumination of the building, premises, and walkways adjacent thereto. If a store front window is involved, a form of display shall be submitted to and approved by the City Manager or his/her designated representative so as to avoid the appearance of vacancy and to avoid papering, soaping and/or boarding up.

B. The plan shall be reviewed and approved by the City Manager or his/her designated representative and implemented and completed within thirty (30) days of the date that the building is registered under this chapter.

C. The vacant building plan shall remain in effect notwithstanding a change in ownership. A new owner shall be required to file a new registration with the City Manager within five (5) days of ownership and supply the names, addresses and telephone numbers of the new owners, along with any required information, including new agent name that may be different from that set forth in the original plan and registration.

D. Failure to comply with the approved plan shall constitute a violation of this section, subjecting the owner of the building to the penalties provided in this chapter or any other applicable regulation.

§9.17.06. Fees.

A. A vacant property registration form and registration fee shall be filed with the City Manager.

B. Fees for the registration of vacant property shall be established by separate Council ordinance.

§9.17.07. Ownership of unregistered buildings.

A. No person shall own a vacant building or property, as defined in this chapter, unless the building is registered with the City Manager in accordance with the requirements of this chapter.

B. When a building, structure, and/or premises are not registered as vacant, the City Manager shall cause written notice to be served by certified mail upon the owner, and if different, the person having charge of the land, notifying them that registration of the vacant property is necessary. If the address of the owner or person having charge of the property in question is unknown, it shall be sufficient for the City Manager to cause notice to be published once in a newspaper of general circulation in Athens County. In lieu of the above, the City Manager, his/her designated representative, or any Police Officer may make personal or residence service and return of the notice provided for herein, which shall be duly noted by the City Manager, setting forth the cost of the notice or publication. Upon failure of the owner or person having charge of the property in question to comply with the notice within the period of time stipulated, the City Manager shall give notice if the building is open and unsecured, to proceed with any requirements of *Nelsonville City Code §9.17.03*. Upon the completion of such labor, the City Manager shall determine all costs associated thereof, including

registration fees, plus administrative fees. In the event the City is required to employ outside services for the abatement work, the fee shall be the actual cost of the contract plus fifteen percent (15%) for administration charges. The total labor costs and registration fee shall be forwarded by the City Manager to the Athens County Auditor of such total charge which shall be entered upon the tax duplicate of the County and be allocated onto the taxes of the property in accordance with *Ohio Revised Code Section 731.54*.

§9.17.08. Interpretations of chapter.

This chapter shall not, in any manner, abrogate any of the other provisions of any building, property maintenance, or nuisance codes of the City of Nelsonville pertaining to the abatement of public nuisances or unsafe buildings.

§9.17.09. Appeals.

The building plan, as agreed upon and approved by the City Manager, with the advice and consultation of applicable departments of the City and the City Attorney, shall be binding upon the building owner and any interested person. Any disagreement between City representatives and the owner shall be subject to appeal to the City Planning Commission or in the case of the Historic District, the Design Review Committee.

§9.17.99. Penalty.

In addition to penalties prescribed for public nuisances and nuisance abatement, whosoever violates any of the provisions of this chapter is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.