

CHAPTER 130: CRIMINAL CODE

(Ordinance No. 7-2012)

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VILLAGE OF FAIRFAX CRIMINAL CODE

(Ordinance No. 7-2012)

130.01 FAILURE TO AID A 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 a substantial risk of physical harm to the person giving it.
- (B) Whoever violates this section is guilty of a minor misdemeanor. (O.R.C. 2921.23)

130.02 RESISTING ARREST

- (A) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person 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) Except as otherwise provided by the Revised Code, whoever violates division (A) of this section is guilty of a misdemeanor of the second degree. Whoever violates division (B) of this section is guilty of a misdemeanor of the first degree. (O.R.C. 2921.33)

130.03 CRIMINAL MISCHIEF; SAFETY DEVICE DEFINED

- (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 that is harmful or offensive to persons exposed or that tends to cause public alarm;
 - (3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;
 - (4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when

required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(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;

(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 in a computer, computer system, computer network, computer software, or computer program;

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

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

(C)(1) Except as otherwise provided in this division or the Revised Code, whoever violates division (A)(1), (2), (3), (4), or (5) of this section is guilty of a misdemeanor of the third degree. Except as otherwise provided in this division or the Revised Code, if the violation of division (A)(1), (2), (3), (4), or (5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a misdemeanor of the first degree.

(2) Except as otherwise provided in this division or the Revised Code, whoever violates division (A)(6) of this section is guilty of a misdemeanor of the first degree. (O.R.C. 2909.07)

130.04

CRIMINAL TRESPASS

- (A) No person, without privilege to do so, shall do any of the following:
- (1) Knowingly enter or remain on the land or premises of another;
 - (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in 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 the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
 - (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise 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) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (O.R.C. 2911.21)
- (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.

130.045

AGGRAVATED TRESPASS

- (A) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to him.
- (B) Whoever violates this section is guilty of a misdemeanor of the first degree. (O.R.C. 2911.211)

130.05

THEFT

- (A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:
- (1) Without the consent of the owner or person authorized to give consent;
 - (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
 - (3) By deception;
 - (4) By threat;
 - (5) By intimidation.
- (B) Except as provided by the Revised Code, whoever violates this section is guilty of a misdemeanor of the first degree. (O.R.C. 2913.02)

130.06

UNAUTHORIZED USE OF PROPERTY— COMPUTER, CABLE

- (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 access to the law enforcement automated database system created pursuant to section 5503.10 of the Revised Code without the consent of, or beyond the scope of the express or implied consent of, the chair of the law enforcement automated data system steering committee.
- (D) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law enforcement gateway established and operated pursuant to division (C)(1) of section 109.57 of the Revised Code without the consent of, or beyond the scope of the express or implied

consent of, the superintendent of the bureau of criminal identification and investigation.

(E) The affirmative defenses contained in division (C) of section 2913.03 of the Revised Code are affirmative defenses to a charge under this section.

(F) (1) Except as otherwise provided in the Revised Code, a violation of this section is a misdemeanor of the fourth degree.

(2) Except as otherwise provided in division (F)(1) of this section, if unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, the following is applicable:

(a) If the value of the property or services or the loss to the victim is less than one thousand dollars, the offender is guilty of a misdemeanor of the first degree.

(b) If the value of the property or services or the loss to the victim is one thousand dollars or more, the violation is punishable pursuant to section 2913.04(F)(3) of the Revised Code.

(G) As used in this section:

(1) "Cable operator" means any person or group of persons that does either of the following:

(a) Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in that cable system;

(b) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

(2) "Cable service" means any of the following:

(a) The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;

(b) Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in division (J)(2)(a) of this section;

(c) Any cable television service.

(3) "Cable system" means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple

subscribers within a community. "Cable system" does not include any of the following:

- (a) Any facility that serves only to retransmit the television signals of one or more television broadcast stations;
- (b) Any facility that serves subscribers without using any public right-of-way;
- (c) Any facility of a common carrier that, under 47 U.S.C.A. 522(7)(c), is excluded from the term "cable system" as defined in 47 U.S.C.A. 522(7);
- (d) Any open video system that complies with 47 U.S.C.A. 573;
- (e) Any facility of any electric utility used solely for operating its electric utility system. (O.R.C. 2913.04)

130.07 MENACING

- (A) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family.
- (B) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (O.R.C. 2903.22)

130.075 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 the other person, the other person's unborn, or a member of the other person's immediate family.
- (B) Whoever violates this section is guilty of a misdemeanor of the first degree. (O.R.C. 2903.21)

130.08 FAILURE TO DISPERSE

- (A) Where five or more persons are participating in a course of disorderly conduct in violation of section 2917.11 of the Revised Code, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to person or property or of serious public inconvenience, annoyance, or alarm, a law enforcement officer or other public official may order the participants and such other persons to disperse. No person shall knowingly fail to obey such order.
- (B) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

(C)(1) Except as otherwise provided in division (C)(2) of this section, whoever violates this section is guilty of a minor misdemeanor.

(2) Whoever violates this section is guilty of a misdemeanor of the fourth degree if the failure to obey the order described in division (A) of this section creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot, or emergency of any kind. (O.R.C. 2917.04)

130.09 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 an offensively coarse utterance, gesture, or display or communicating unwarranted and grossly abusive language to any person;
- (3) Insulting, taunting, or challenging another, under circumstances in which that 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 that serves no lawful and reasonable purpose of the offender;
- (5) Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.

(B) No person, while voluntarily intoxicated, shall do either of the following:

- (1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance, or alarm to persons of ordinary sensibilities, which conduct the offender, if the offender were not intoxicated, should know is likely to have that effect on others;
- (2) Engage in conduct or create a condition that presents a risk of physical harm to the offender or another, or to the property of another.

(C) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft, or other vehicle

while under the influence of alcohol or any drug of abuse, is not a violation of division (B) of this section.

(D) If a person appears to an ordinary observer to be intoxicated, it is probable cause to believe that person is voluntarily intoxicated for purposes of Division (B) of this section.

(E)(1) Except as otherwise provided in division (E)(2) of this section, whoever violates this section is guilty of a minor misdemeanor.

(2) Whoever violates this section is guilty of a misdemeanor of the fourth degree if any of the following applies:

(a) The offender persists in disorderly conduct after reasonable warning or request to desist.

(b) The offense is committed in the vicinity of a school or in a school safety zone.

(c) The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind.

(d) The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility. (O.R.C. 2917.11)

(F) As used in this section:

(1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in section 2133.21 of the Revised Code.

(2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in section 2909.04 of the Revised Code.

(3) "Emergency facility" has the same meaning as in section 2909.04 of the Revised Code.

(4) "Committed in the vicinity of a school" has the same meaning as in section 2925.01 of the Revised Code.

130.10

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) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (O.R.C. 2917.12)

130.12 **NOISE**

(A) No owner, keeper, manager or any person in charge or control of a hotel, night club, restaurant, dance or amusement hall, tavern or other public place, shall engage in or permit the playing of musical or other instruments, singing, loud talking or the making of other noises in or about the premises in such a manner as to disturb the peace and quiet of the neighborhood during the night season between 11:00 P.M. and 7:00 A.M. The complaint charging an offense under this section shall state the hour at which the offense is alleged to have occurred.

(B) No person shall operate or cause to be operated, any whistle, rattle, bell, gong, clapper, hammer, drum, horn, player piano, calliope, radio, phonograph, or other sound producing or sound amplifying instrument or otherwise create noise or sound in such a manner as to disturb the Peace and quiet of a neighborhood or interfere with the transaction of business or other ordinary pursuits.

(C) Nothing herein shall be constructed to affect the usual and reasonable operation of steam railroads, electric railways and motor buses, or to prohibit the reasonable use of automobile warning signals, the reasonable ringing of church bells or the reasonable and ordinary noises attendant on athletic contests or lawful public or semi-public meetings, parades or celebrations.

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

130.14 **PASSING BAD CHECKS**

(A) As used in this section:

(1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:

(a) A check, bill of exchange, draft, order of withdrawal, or similar negotiable or non-negotiable instrument;

(b) An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.

(2) "Issue a check" means causing any form of debit from a demand deposit account.

- (B) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.
- (C) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored if either of the following occurs:
- (1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later;
 - (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.
- (D) For purposes of this section, a person who issues or transfers a check, bill of exchange, or other draft is presumed to have the purpose to defraud if the drawer fails to comply with section 1349.16 of the Ohio Revised Code by doing any of the following when opening a checking account intended for personal, family, or household purposes at a financial institution:
- (1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under section 4507.50 of the Revised Code;
 - (2) Furnishing such license or card, or another identification document that contains false information;
 - (3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.
- (E) In determining the value of the payment for purposes of division (F) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of division (A) of this section within a period of one hundred eighty consecutive days.
- (F) Except as otherwise provided in the Revised Code, whoever violates this section is guilty of a misdemeanor of the first degree. (O.R.C. 2913.11)

130.15**MISUSE OF CREDIT CARDS**

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

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

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

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

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

(D)(1) Except as otherwise provided in the Revised Code, whoever violates division (A), (B)(1), or (C) of this section is guilty of a misdemeanor of the first degree.

(2) If the cumulative retail value of the property and services does not exceed \$1000, whoever violates division (B)(2), (3), or (4) of this section is guilty of a misdemeanor of the first degree.

(3) If the cumulative retail value of the property and services is \$1000 or more, whoever violates division (B)(2), (3), or (4) of this section is punishable in accordance with section 2913.21 of the Revised Code. (O.R.C. 2913.21).

130.16**RECEIVING STOLEN PROPERTY**

(A) No person shall receive, retain, or dispose of property of another knowing or having reasonable cause to believe that the property 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) Except as otherwise provided in the Revised Code, whoever violates this section is guilty of a misdemeanor of the first degree. (O.R.C. 2913.51)

130.17 **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) Except as otherwise provided by the Revised Code, whoever violates this section is guilty of a misdemeanor of the first degree. (O.R.C. 2911.32)

130.18 **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) 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 the actor was authorized to use or operate the property.

(2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(C) Except as otherwise provided by the Revised Code, whoever violates division (A) of this section is guilty of a misdemeanor of the first degree. (O.R.C. 2913.03)

130.19 **ASSAULT**

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

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

(C) Whoever violates this section is guilty of a misdemeanor of the first degree. (O.R.C. 2903.13)

130.195

NEGLIGENT ASSAULT

- (A) No person shall negligently, by means of a deadly weapon or dangerous ordnance, as defined in section 2923.11 of the Revised Code, cause physical harm to another or to another's unborn.
- (B) Whoever violates this section is guilty of a misdemeanor of the third degree. (O.R.C. 2903.14)

130.20

OBSTRUCTING JUSTICE

- (A) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for crime or to assist another to benefit from the commission of a crime, 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 act, or induce any person to withhold testimony or information or to elude legal process summoning the person to testify or supply evidence;
 - (5) Communicate false information to any person;
 - (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) A person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of division (A) of this section regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed shall be used under division (C) of this section in determining the penalty for the violation of division (A) of this section, regardless of whether the person or child aided ultimately

is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed.

- (C) Except as otherwise provided by the Revised Code, if the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be a misdemeanor if committed by an adult, whoever violates this section is guilty of a misdemeanor of the same degree as the crime committed by the person aided or a misdemeanor of the same degree that the act committed by the child aided would be if committed by an adult. (O.R.C. 2921.32)

130.205 **OBSTRUCTING OFFICIAL BUSINESS**

- (A) No person, without privilege to do so and with purpose to prevent, obstruct, or delay the performance by a public official of any authorized act within the public official's official capacity, shall do any act that hampers or impedes a public official in the performance of the public official's lawful duties.
- (B) Except as otherwise provided by the Revised Code, whoever violates this section is guilty of a misdemeanor of the second degree. (O.R.C. 2921.31)

130.21 **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 workers' compensation, unemployment compensation, aid to the aged, aid for the blind, aid for the permanently and totally disabled, aid to dependant children, general relief, retirement benefits, or other benefits administered by a governmental agency or paid out of a public treasury.
 - (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, or release.

(6) The statement is sworn or affirmed before a notary public or other person empowered to administer oaths.

- (7) The statement is in writing on or in connection with a report or return which is required or authorized by law.
 - (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom such statement is directed relies upon it to his detriment.
- (B) It is no defense to a charge under division (A)(4) of this section that the oath or affirmation was administered or taken in an irregular manner.
 - (C) Where contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false. (O.R.C. 2921.13)
 - (D) Except as otherwise provided by the Revised Code, whoever violates division (A) of this section is guilty of a misdemeanor of the first degree. (O.R.C. 2921.13)

130.22

MAKING FALSE ALARMS

- (A) No person shall do any of the following:
 - (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
 - (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
 - (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.
- (B) This section does not apply to any person conducting an authorized fire or emergency drill.
- (C)(1) Whoever violates this section is guilty of a misdemeanor of the first degree.

- (2) If a violation of this section results in economic harm of one thousand dollars or more, a violation of this section is punishable pursuant to section 2917.32(C) of the Revised Code. (O.R.C. 2917.32)

130.23

MISCONDUCT AT EMERGENCY

- (A) No person shall knowingly do any of the following:
- (1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services 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 law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.
- (B) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.
- (C) Except as otherwise provided in this division, whoever violates this section is guilty of a misdemeanor of the fourth degree. If a 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. (O.R.C. 2917.13)
- (D) As used in this section:
- (1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in section 2133.21 of the Revised Code.
 - (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in section 2909.04 of the Revised Code.
 - (3) "Emergency facility" has the same meaning as in section 2909.04 of the Revised Code.

130.24

TELECOMMUNICATIONS HARASSMENT

- (A) No person shall knowingly make or cause to be made a telecommunication, 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 proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the 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 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 of protecting, or insures the property that will be destroyed or damaged;
 - (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication 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 telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.
- (C) Except as otherwise provided by the Revised Code, a violation of division (A)(1), (2), (3), (4) or (5) or (B) of this section is a misdemeanor of the first degree.
- (D) No cause of action may be asserted in any court of this state against any provider of a telecommunications service or information service, or against any officer, employee, or agent of a telecommunication service or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or

assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section or section 4931.31 of the Revised Code. A provider of a telecommunications service or information service, or an officer, employee, or agent of a telecommunications service or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section or section 4931.31 of the Revised Code.

(E) As used in this section:

(1) "Economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:

(a) All wages, salaries, or other compensation lost as a result of the criminal conduct;

(b) The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(c) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;

(d) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(2) "Caller" means the person described in division (A) of this section who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.

(3) "Telecommunication" and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(4) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

(F) Nothing in this section prohibits a person from making a telecommunication to a debtor that is in compliance with the "Fair Debt Collection Practices Act," 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act," 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended. (O.R.C. 2917.21)

PUBLIC INDECENCY

(A) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others who are in the person's physical proximity and who are not members of the person's household:

- (1) Expose the person's private parts;
- (2) Engage in sexual conduct or masturbation;
- (3) Engage in conduct that 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)(1) Except as otherwise provided in division (C)(1) of this section, a violation of division (A)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of division (A)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section, a violation of division (A)(1) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section, a violation of division (A)(1) of this section is a misdemeanor of the first degree.

- (2) Except as otherwise provided in division (C)(2) of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the first degree.
- (3) Except as otherwise provided in division (C)(3) of this section, a violation of division (B)(1), (2), or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of division (B)(1), (2), or (3) of this section is a misdemeanor of the first degree.
- (4) Except as otherwise provided in the Revised Code, a violation of division (B)(4) of this section is a misdemeanor of the first degree.
(O.R.C. 2907.09)

130.26

VOYEURISM

- (A) 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 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 video tape, film, photograph, or otherwise record 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 video tape, film, photograph, or otherwise record the other person in a state of nudity if the other person is a minor.
- (D) 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.
- (E)(1) Whoever violates division (A) of this section is guilty of a misdemeanor of the third degree.
- (2) Whoever violates division (B) of this section is guilty of a misdemeanor of the second degree.

(3) Whoever violates division (C) or (D) of this section is guilty of a misdemeanor of the first degree. (O.R.C. 2907.08)

130.27 CRIMINAL DAMAGING OR ENDANGERING

(A) No person shall cause, or create a substantial risk of physical harm to any property of another without the other person's consent:

(1) Knowingly, by any means;

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

(B) Whoever violates this section is guilty of a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. (O.R.C. 2909.06)

130.28 USING WEAPONS WHILE INTOXICATED

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

(B) Whoever violates this section is guilty of a misdemeanor of the first degree. (O. R. C. 2923.15)

130.29 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 for the purpose;

- (4) In plain sight with the action open or the weapon stripped, or if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

- (D) This section does not apply to officers, agents, or employees of this or any other state or the United States, or to law enforcement officers, authorized to carry or have loaded or accessible firearms in motor vehicles, and acting within the scope of their duties.
- (E) The affirmative defenses contained in division (C)(1) and (2) of 2923.12 of the Revised Code are affirmative defenses to a charge under division (B) or (C) of this section.
- (F) As used in this section, "unloaded" means, with respect to a firearm employing a percussion cap, flint-lock, or other obsolete ignition system, when the weapon is uncapped, or when the priming charge is removed from the pin. (O. R. C. 2923.16)
- (G) Except as otherwise provided in the Revised Code, whoever violates this section is guilty of a misdemeanor of the first degree.

130.30

CARRYING CONCEALED WEAPONS

- (A) No person shall knowingly carry or have, concealed on his person or concealed ready at hand, any deadly weapon.
- (B) This section does not apply to officers, agents, or employees of this or any other state of the United States, or to law enforcement officers, authorized to carry concealed weapons or dangerous ordnance, and acting within the scope of their duties.
- (C) It is an affirmative defense to a charge under this section of carrying or having control of a weapon other than dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following 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, which business or occupation was of such character or was necessarily carried on in such manner or at such a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent man in going armed.
 - (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while he was engaged in a lawful activity, and had reasonable cause to fear a criminal attack upon himself or a member of his family or upon his home, such as would justify a prudent man in going armed.
 - (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in his own home.

(4) The weapon being transported in a motor vehicle for any lawful purpose, and was not on the actors person, if the weapon was a firearm was carried in compliance with the applicable requirements of division (C)(1)-(4) of 2923.16 of the Ohio Revised Code.

(D) This section shall not apply if:

(1) The weapon involved is a firearm which is either loaded or for which the offender has ammunition ready at hand; or

(2) The offender has previously been convicted of a violation of this section or of any offense of violence.

(E) Except as otherwise provided by the Revised Code, whoever violates this section is guilty of a misdemeanor of the first degree. (O. R. C. 2923.12)

130.31

HALLUCINOGENS

(A) No person shall, with intent to produce hallucinations or illusions, purchase, use, possess or have under his control any hallucinogen. Possession or control of any hallucinogen specifically named in 3719.41 of the Revised Code constitutes prima-facie evidence of a violation of this section, except that this section does not apply to the use, possession or control of any hallucinogen by licensed manufacturers, wholesalers, pharmacists, owners of pharmacies, physicians and other persons for research, clinical or medicinal purposes authorized by federal law or state law or any rules or regulations adopted pursuant thereto.

(B) No person shall induce or attempt to induce another person to unlawfully use or administer any hallucinogen; or employ, induce or use a minor to lawfully transport, carry, dispense, produce or manufacture any hallucinogen; or induce or attempt to induce a minor to violate any of the provisions of this section; or induce or attempt to induce a minor to use any hallucinogen except in accordance with a prescription issued by a physician.

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

130.32

PROHIBITING THE USE, POSSESSION OR OBTAINING OF MARIJUANA

(A) No person shall knowingly obtain, possess, or use marijuana within the Village of Fairfax.

(B) Whoever violates this section is guilty of a misdemeanor of the fourth degree, punishable by a fine of not more than two hundred fifty dollars

and/or imprisonment in the county jail for not more than thirty days, unless the amount of marijuana involved is less than one hundred grams, the amount of marijuana resin, or extraction or preparation of such resin, is less than five grams, and the amount of such resin is a liquid concentrate, liquid extract, or liquid distillate form, is less than one gram, in which case violation of this subsection is a minor misdemeanor, punishable by a fine of not more than one hundred fifty dollars. (O.R.C. 2925.11)

130.33 POSSESSION OF CONTROLLED SUBSTANCE

- (A) No person shall knowingly obtain, possess, or use a controlled substance, excluding marijuana and hashish, which is included in Schedule III, IV, or V of section 3719.41 of the Revised Code as that section may be amended from time to time. This section does not apply to the obtaining, possession or use of any controlled substance by manufacturers, practitioners, pharmacist, owners of pharmacies, and other person whose conduct is in accordance with Chapters 3719, 4715, 4729, 4741, or section 4733.56 of the Revised Code.
- (B) Whoever violates division (A) of this section shall be guilty of a misdemeanor of the third degree.

130.34 PINBALL MACHINES

- (A) No person shall display or offer to the public for play any pinball machine or other coin operated amusement device excluding coin operated vending machines, music machines, motion picture machines, or other machines used bona fide and solely for the vending of service, food, or merchandise, without first obtaining a license from the Mayor of the Village for each such machine for which a fee of \$100 annually shall be charged. Prior to October 1st, such license must be renewed annually. There shall be no proration of the license fee for such machines installed after October 1 during any license year. The Mayor may, at his discretion, revoke any such license at any time when he deems that the continued operation of the machine is tending to contribute to juvenile delinquency or is harmful to public peace or morals, without rebating any part of the license fee. For the purpose of this section, the term pinball machine shall include any machine or device which registers a score and in which or on which a person can shoot, or roll, or propel either manually or mechanically one or more discs, pellets, balls, or other objects upon the insertion of a coin, disc, or other insertion piece or upon the payment of a consideration.
- (B) Whoever violates this section is guilty of a minor misdemeanor.

130.35 REGISTRATION BY PERSONS CONVICTED OF CERTAIN CRIMES

(A) Every person coming into the Village, whether in transit through or otherwise, who has been convicted in a federal or state court of an

offense which is a felony under the laws of the United States or of the state in which committed, or which would be classed as a felony, if committed in the State of Ohio, within 36 months following the later of: a) said conviction, b) release from incarceration arising from said conviction, c) release from parole arising from said conviction or d) release from probation arising from said conviction. Such person shall report to the investigation section of the Police Department within 48 hours after his arrival within the Village. He shall furnish to the police, in a written statement signed by him, his true name and every other name or alias by which he is or has been known, a full and complete description of himself and the name of each offense as herein above defined of which he has been convicted, together with the names of the places where each offense was committed, the name under which he was convicted, the date of the conviction, and the name, if any, and location of each penal institution in which he has been confined by way of punishment for each offense, together with the location or address, used, or to be used by him, as a residence, stopping place or living quarters in the Village, with a description of the character of each place, whether a hotel, apartment house, dwelling house or otherwise, giving the street number thereof, if any, or any description of the same as will so identify it as to make it possible of location. The length of time he expects to remain within the Village shall also be disclosed to the police.

(B) Photograph and fingerprints. Every person registering in accordance with 130.35(A) shall be photographed and fingerprinted by the police, and his photograph and fingerprints shall be made a part of the permanent records of the Police Department.

(C) Convicted persons residing in the Village. Every Person residing within the Village who has been convicted within the immediately prior period of five years, of any offense, as described in 130.35(A), shall, prior to March 1, 1983, file with the police, a written statement signed by himself, containing all the information required to be furnished in accordance with the section, together with his photograph and his fingerprints, as Provided by 130.35(B). Such statement shall also set forth the occupation of employment in which he is engaged, the name of his employer, the business in which the employer is engaged, and the nature and character of the business.

(D) Change of Address. In the event that any person required to register in accordance with the provisions of this section, shall change his place of residence, stopping place or living quarters to a new or different place within the Village, he shall within 48 hours after leaving the registered location, notify the police of the changed address in a signed statement, which statement shall set forth his new address. Similar notification shall be made in the case of further changes of address.

(E) False information. It shall be unlawful for any Person required by any provision of this section to furnish a report or information, to fail,

neglect or refuse to make such report or furnish such information, photograph or fingerprints, or to fail, neglect or refuse to furnish the same within the time prescribed, or to fail, neglect or refuse to furnish the police, within such time, any information, photograph or fingerprints required to be furnished by any provision of this section, or to furnish any false, untrue or misleading information on, or statement relating to, any information required to be made or furnished.

(F) Provision of ordinance not applicable when. Nothing in this section shall be deemed or construed to apply to any person who has received a pardon for each offense, as described in 130.35(A), whereof he has been convicted.

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

130.36

REGULATING SOLICITING AND PEDDLING

(A) Unless invited by the owner or occupant of the property, it shall be unlawful for any person or entity to enter upon private property and solicit money, property, or donations of any kind except for non-profit purposes or otherwise for a bona fide charitable, educational, or philanthropic entity or purpose. Any soliciting otherwise permitted by this section shall be unlawful unless it takes place between 9:00 a.m. and 8:00 p.m.

(B) Unless invited by the owner or occupant of the property, it shall be unlawful for any person or entity to enter upon private property and solicit, peddle, hawk, sell, vend, or otherwise offer to transact to provide goods or services except during the hours of 9:00 a.m. and 8:00 p.m.

(C) No person or entity shall engage in any otherwise permitted activity pursuant to sections (A) and (B) above in violation of a clearly posted and readable sign prohibiting such activity on the property.

(D) No person shall engage in any otherwise permitted activity pursuant to sections (A) and (B) above unless he or she has applied for and received a valid permit to do so from the Fairfax Police Department and paid an annual registration fee of twenty five dollars. It shall be unlawful for any person to engage in the activity set forth in sections (A) and (B) above without carrying his or her valid permit and without displaying the permit at the request of any member of the Fairfax Police Department or any owner or occupant of the property on which the activity takes place. No person shall display any permit issued to another person.

(E) Within ten days of receiving a completed application for the same, the Fairfax Police Department shall issue the permit described in section (D) above to any person who applies for it and pays the annual

registration fee unless it finds any of the following, in which case, it shall deny the permit:

- (1) Failure to supply the person's name, address, date of birth, and Social Security Number or other information necessary to perform a criminal background check;
 - (2) Failure to sign a release to conduct a criminal background check;
 - (3) Failure to state and provide information regarding the purpose of the activity, or to disclose or provide information regarding the entity or person on whose behalf the activity is to be conducted, with sufficient particularity to enable the Police Department to ascertain and verify the same;
 - (4) Conviction for a felony, or for a misdemeanor relating to theft, assault or other violence, or dishonesty;
 - (5) A previous violation of this Ordinance;
 - (6) Failure to satisfy the lawful purposes set forth in sections (A) and (B) above.
- (F) Permits shall be valid for one week and expire thereafter. Permits may be renewed at the option of the applicant unless he or she failed to comply with this Ordinance, either before or subsequent to the initial permit application. A permit which has lapsed without renewal for more than three months shall be nonrenewable and a new permit shall issue only in accordance with this Ordinance. A permit shall be automatically invalid upon violation of this Ordinance or upon a conviction for a felony or for a misdemeanor relating to theft, assault or other violence, or dishonesty.
- (G) No person or entity shall allow any person acting on his, her, or its behalf to engage in any of the activity permitted by sections (A) and (B) above, or to apply for a permit, knowing or recklessly or negligently failing to know that the person does not have a valid permit or does not qualify for the issuance of a permit under this Ordinance.
- (H) Whoever violates sections (A), (B), or (C) of this section is guilty of a minor misdemeanor. Whoever violates sections (D) or (G) of this section is guilty of a misdemeanor of the first degree, except a negligent violation of section (G) is a misdemeanor of the second degree. The penalties therefore shall be the same as for other offenses of the same degree set forth in Ordinance No. 27-2008, as amended.

130.37

**PROVIDING FOR THE REGULATION AND LICENSING OF
PEDDLERS**

- (A) It shall be unlawful for any person to go in and upon any private residence as a solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise, not having been requested to do so by the owner or owners, occupant or occupants of such private residence for the purpose of selling or soliciting orders for the sale of goods, wares and merchandise from sunset to sunrise.
- (B) Every person engaged in the business of going about the Village selling or soliciting orders for the sale of goods, ware and merchandise, for profit, shall pay an annual license fee thereof in the sum of \$25.00, to be issued by the Chief of Police, upon proper application thereof. Each such person, shall, each day, that he plans to so sell or solicit, register with the Chief of Police and obtain a certificate of registration, indicating his right to solicit under his annual license and said certificate shall be valid only on the day of its issuance and shall be kept upon the person of such salesman or solicitor for immediate display upon questioning regarding same. These licensing and registration provisions shall not apply to an employee of or any person maintaining a regularly established bona fide place of business within the Village, nor to any person taking orders for products of his own raising or of his own fabrication or manufacture.
- (C) Each entrance upon any separate premises for the purpose of consummating a transaction regulated by this section shall be deemed a separate offense. (Ordinance No. 21-1987)
- (D) Whoever violates this section is guilty of a minor misdemeanor.

130.38

STREET SALES

- (A) No person, other than a licensed hand peddler, shall demonstrate, sell or offer for sale any goods, wares or merchandise from any vehicle, or from any box, basket, bag or other container upon the highways of the Village, except in authorized market stands not closer than twenty feet to intersections other than at alleys.
- (B) No person other than a licensed peddler selling from a vehicle shall stand or go upon a roadway for the purpose of demonstrating, selling or offering for sale any goods, wares, newspapers or merchandise or the distributing or handing out handbills, cards, leaflets, samples of merchandise or other similar items.
- (C) No person, whether licensed as a peddler or not, shall demonstrate, sell or offer for sale, upon any street within a congested or closely built

up portion of the Village, except at authorized market stands, any goods, wares or merchandise other than newspapers.

(D) Nothing herein shall be construed to prohibit the distribution of non-commercial handbills, cards, leaflets, or other literature on sidewalks.

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

130.39

DRUG PARAPHERNALIA

(A) As used in this section, "drug paraphernalia" means any equipment, product, or material of any kind that is used by the offender, intended by the offender for use, or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance in violation of this chapter. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products, or materials that are used by the offender, intended by the offender for use, or designed by the offender for use, in any of the following manners:

- (1) A kit for propagating, cultivating, growing, or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
- (2) A kit for manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;
- (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
- (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
- (5) Testing equipment for identifying, or analyzing the strength, effectiveness, or purity of, a controlled substance;
- (6) A scale or balance for weighing or measuring a controlled substance;
- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance;
- (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marijuana;
- (9) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance;

- (10) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance;
 - (11) A container or device for storing or concealing a controlled substance;
 - (12) A hypodermic syringe, needle, or instrument for parenterally injecting a controlled substance into the human body;
 - (13) An object, instrument, or device for ingesting, inhaling, or otherwise introducing into the human body, marihuana, cocaine, hashish, or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or without a screen, permanent screen, hashish head, or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.
- (B) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:
- (1) Any statement by the owner, or by anyone in control, of the equipment, product, or material, concerning its use;
 - (2) The proximity in time or space of the equipment, product, or material, or of the act relating to the equipment, product, or material, to a violation of any provision of this chapter;
 - (3) The proximity of the equipment, product, or material to any controlled substance;
 - (4) The existence of any residue of a controlled substance on the equipment, product, or material;
 - (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product, or material, to deliver it to any person whom the owner or person in control of the equipment, product, or material knows intends to use the object to facilitate a violation of any provision of this chapter. A finding that the owner, or anyone in control, of the equipment, product, or material, is not guilty of a violation of any other provision of this chapter does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.

(6) Any oral or written instruction provided with the equipment, product, or material concerning its use;

- (7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use;
 - (8) National or local advertising concerning the use of the equipment, product, or material;
 - (9) The manner and circumstances in which the equipment, product, or material is displayed for sale;
 - (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product, or material to the total sales of the business enterprise;
 - (11) The existence and scope of legitimate uses of the equipment, product, or material in the community;
 - (12) Expert testimony concerning the use of the equipment, product, or material.
- (C)(1) No person shall knowingly use, or possess with purpose to use, drug paraphernalia.
- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product, or material will be used as drug paraphernalia.
 - (3) No person shall place an advertisement in any newspaper, magazine, handbill, or other publication that is published and printed and circulates primarily within this state, if the person knows that the purpose of the advertisement is to promote the illegal sale in this state of the equipment, product, or material that the offender intended or designed for use as drug paraphernalia.
- (D) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by section 3719.172 of the Revised Code.
- (E) Notwithstanding Chapter 2981. of the Revised Code, any drug paraphernalia that was used, possessed, sold, or manufactured in a violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to division (B) of section 2981.12 of the Revised Code.
- (F)(1) Whoever violates division (C)(1) of this section is guilty of a misdemeanor of the fourth degree.

- (2) Except as provided in division (F)(3) of this section, whoever violates division (C)(2) of this section is guilty of a misdemeanor of the second degree.
- (3) Whoever violates division (C)(2) of this section by selling drug paraphernalia to a juvenile is guilty of a misdemeanor of the first degree.
- (4) Whoever violates division (C)(3) of this section is guilty of a misdemeanor of the second degree.
- (G) 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 months or more than five years the offender's driver's or commercial driver's license or permit if the offender has previously been convicted of this offense. 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 Revised Code if the offender has previously been convicted of this offense. (O.R.C. 2925.14)

130.40

ELECTRONICALLY MONITORED HOME INCARCERATIONS

- (A) The Defendant/Participant will pay all of the participating costs of the program.
- (B) The Defendant/Participant will wear an electronic radio frequency transmitter that will signal a receiver attached to his or her telephone, which will communicate with a central monitoring computer for continuous reporting capability.
- (C) The Defendant/Participant shall be employed or have a source of income, have a stable place of residence served by a single telephone line and not have a history of violent behavior or a mental or learning disorder and must reside in Hamilton County, Ohio, State of Ohio.
- (D) The Mayor will determine the number of days of electronically monitored house arrest to be served by the Defendant/Participant, plus the number of days of actual incarceration, plus the number of days of actual incarceration which will be suspended upon successful completion of the HCML-CHIP program. The Defendant/Participant will sign an agreement whereby he or she agrees that he or she will not receive credit for the suspended incarceration days until all of the HCML-CHIP days have been satisfactorily served. Upon termination of the HCML-CHIP days for failure of the Defendant/Participant to abide by the rules or for other reasons of disqualification of the individual, then he or she must serve all of the suspended incarceration days with no credit for HCML-CHIP days. In determining the

sentence, the Mayor shall not sentence the individual to incarceration days plus HCML-CHIP days which, when added together, exceed the

total number of days of imprisonment which the person may serve under the ordinances of the Village of Fairfax.

- (E) The agreements shall also provide that the HCML-CHIP program may identify candidates whose entry into the Hamilton County Justice Center to serve a term of incarceration for an offense under the ordinances of the Village of Fairfax will be significantly delayed and refer such candidates to the Mayor for consideration of the HCML-CHIP sentencing alternatives.

The Defendant/Participant must agree, before being allowed to participate in the HCML-CHIP program, to abide by all rules of the program as enforced by the Hamilton County Probation Department, to report as scheduled and to pay fees in advance as instructed, and to refrain from drug and alcohol use as required in conjunction with the Home Incarceration Program.

130.41 **COMPLICITY**

- (A) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:
- (1) Solicit or procure another to commit the offense;
 - (2) Aid or abet another in committing the offense;
 - (3) Conspire with another to commit the offense in violation of section 2923.01 of the Revised Code;
 - (4) Cause an innocent or irresponsible person to commit the offense.
- (B) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.
- (C) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of section 2923.02 of the Revised Code.
- (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 of or an attempt to commit an offense, an attempt to commit an offense, or 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 facts 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 attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.
- (F) Whoever violates this section is guilty and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense. (O.R.C. 2923.03)

130.42 HAZING

- (A) As used in this section, “hazing” means doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person.
- (B) (1) No person shall recklessly participate in the hazing of another.

(2) No administrator, employee, or faculty member of any primary, secondary, or post-secondary school or of any other educational institution, public or private, shall recklessly permit the hazing of any person.
- (C) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (O.R.C. 2903.31)

130.43 UNLAWFUL RESTRAINT

- (A) No person without privilege to do so, shall knowingly restrain another of his liberty.
- (B) Whoever violates this section is guilty of a misdemeanor of the third degree. (O.R.C. 2905.03)

130.44 VEHICULAR VANDALISM

- (A) As used in this section:

- (1) "Highway" means any highway as defined in section 4511.01 of the Revised Code or any lane, road, street, alley, bridge, or overpass.
 - (2) "Alley," "street," "streetcar," "trackless trolley," and "vehicle" have the same meanings as in section 4511.01 of the Revised Code.
 - (3) "Vessel" and "waters in this state" have the same meanings as in section 1547.01 of the Revised Code.
- (B) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of any of the following:
- (1) Any vehicle, streetcar, or trackless trolley on a highway;
 - (2) Any boat or vessel on any of the waters in this state.
- (C) Whoever violates this section is guilty of a misdemeanor of the first degree. If the violation of this section creates a substantial risk of physical harm to any person, or causes serious physical harm to property, physical harm to any person, or serious physical harm to any person, the violation is punishable pursuant to section 2909.09(C) of the Revised Code. (O.R.C. 2909.09)

130.45

CRIMINAL SIMULATION

- (A) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:
- (1) Make or alter any object so that it appears to have value because of antiquity, rarity, curiosity, source, or authorship, which it does not in fact possess;
 - (2) Practice deception in making, retouching, editing, or reproducing any photograph, movie film, video tape, phonograph record, or recording tape;
 - (3) Falsely or fraudulently make, simulate, forge, alter, or counterfeit any wrapper, label, stamp, cork, or cap prescribed by the liquor control commission under Chapters 4301. and 4303. of the Revised Code, falsely or fraudulently cause to be made, simulated, forged, altered, or counterfeited any wrapper, label, stamp, cork, or cap prescribed by the liquor control commission under Chapters 4301. and 4303. of the Revised Code, or use more than once any wrapper, label, stamp, cork, or cap prescribed by the liquor control commission under Chapters 4301. and 4303. of the Revised Code.

(4) Utter, or possess with purpose to utter, any object that the person knows to have been simulated as provided in division (A)(1), (2), or (3) of this section.

(B) Whoever violates this section is guilty of a misdemeanor of the first degree if the loss to the victim is less than one thousand dollars. If the loss to the victim is one thousand dollars or more, the violation is punishable pursuant to section 2913.32(B) of the Revised Code. (O.R.C. 2913.32)

130.46 MAKING OR USING SLUGS

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

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

(B) Whoever violates this section is guilty of a misdemeanor of the second degree. (O.R.C. 2913.33)

130.47 PERSONATING AN OFFICER

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

(B) Whoever violates this section is guilty of a misdemeanor of the first degree. (O.R.C. 2913.44).

130.47 LAW ENFORCEMENT EMBLEM DISPLAY

(A) No person who is not entitled to do so shall knowingly display on a motor vehicle the emblem of a law enforcement agency or an organization of law enforcement officers.

(B) Whoever violates this section is guilty of a minor misdemeanor. (O.R.C. 2913.441)

130.48 INCITING TO VIOLENCE

(A) No person shall knowingly engage in conduct designed to urge or incite another to commit any offense of violence, when either of the following apply:

- (1) The conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed;

(2) The conduct proximately results in the commission of any offense of violence.

(B) Except as otherwise provided by the Revised Code, if the offense of violence that the other person is being urged or incited to commit is a misdemeanor, whoever violates this section is guilty of a misdemeanor of the first degree. (O.R.C. 2917.01)

130.49 PERMITTING DRUG ABUSE

(A) No person who is the owner, operator, or person in charge of a locomotive, watercraft, aircraft, or other vehicle, as defined in division (A) of section 4501.01 of the Revised Code, shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(B) No person who is the owner, lessee, or occupant, or who has custody, control, or supervision, of premises or real estate, including vacant land, shall knowingly permit the premises or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

(C) Except as otherwise provided by the Revised Code, whoever violates this section is guilty of 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 months or more than five years the offender's driver's or commercial driver's license or permit if the offender has previously been convicted of this offense. 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 Revised Code if the offender has previously been convicted of this offense. (O.R.C. 2925.13)

130.51 POSSESSING DRUG ABUSE INSTRUMENTS

(A) No person shall knowingly make, obtain, possess, or use any instrument, article, or thing the customary and primary purpose of which 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, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with

Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code.

- (C) Except as otherwise provided by the Revised Code, whoever violates this section is guilty of a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, a 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 months or more than five years the offender's driver's or commercial driver's license or permit if the offender has previously been convicted of this offense. 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 Revised Code if the offender has previously been convicted of this offense. (O.R.C. 2925.12)

130.52

ILLEGAL DISTRIBUTION OF CIGARETTES OR OTHER TOBACCO PRODUCTS

- (A) As used in this section and section 2927.021 of the Revised Code:
 - (1) “Child” has the same meaning as in section 2151.011 of the Revised Code.
 - (2) “Cigarette” includes clove cigarettes and hand-rolled cigarettes.
 - (3) “Distribute” means to furnish, give, or provide cigarettes, other tobacco products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, or papers used to roll cigarettes.
 - (4) “Proof of age” means a driver’s license, a commercial driver’s license, a military identification card, a passport, or an identification card issued under sections 4507.50 to 4507.52 of the Revised Code that shows that a person is eighteen years of age or older.
 - (5) “Tobacco product” means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, or snuff.
 - (6) “Vending machine” has the same meaning as “coin machine” in section 2913.01 of the Revised Code.

- (B) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, and no other person shall do any of the following:
- (1) Give, sell, or otherwise distribute cigarettes, other tobacco products, or papers used to roll cigarettes to any child;
 - (2) Give away, sell, or distribute cigarettes, other tobacco products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, or papers used to roll cigarettes to a person under eighteen years of age is prohibited by law;
 - (3) Knowingly furnish any false information regarding the name, age, or other identification of any child with purpose to obtain cigarettes, other tobacco products, or papers used to roll cigarettes for that child;
 - (4) Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six - tenths of one ounce of tobacco;
 - (5) Sell cigarettes in a smaller quantity than that placed in the pack or other container by the manufacturer.
- (C) No person shall sell or offer to sell cigarettes or other tobacco products by or from a vending machine, except in the following locations:
- (1) An area within a factory, business, office, or other place not open to the general public;
 - (2) An area to which children are not generally permitted access;
 - (3) Any other place not identified in division (C)(1) or (2) of this section, upon all of the following conditions:
 - (a) The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes and other tobacco product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the

immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.

(b) The vending machine is inaccessible to the public when the place is closed.

(D) The following are affirmative defenses to a charge under division (B)(1) of this section:

(1) The child was accompanied by a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

(2) The person who gave, sold, or distributed cigarettes, other tobacco products, or papers used to roll cigarettes to a child under division (B)(1) of this section is a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

(E) It is not a violation of division (B)(1) or (2) of this section for a person to give or otherwise distribute to a child cigarettes, other tobacco products, or papers used to roll cigarettes while the child is participating in a research protocol if all of the following apply:

(1) The parent, guardian, or legal custodian of the child has consented in writing to the child participating in the research protocol.

(2) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.

(3) The child is participating in the research protocol at the facility or location specified in the research protocol.

(F)(1) Whoever violates division (B)(1), (2), (4), or (5) or (C) of this section is guilty of a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (B)(1), (2), (4), or (5) or (C) of this section, the offender is guilty of a misdemeanor of the third degree.

(2) Whoever violates division (B)(3) of this section is guilty of a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of (B)(3) of this section, the offender is guilty of a misdemeanor of the third degree.

(G) Any cigarettes, other tobacco products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a child in violation of this section and that are used, possessed, purchased, or received by a child in violation of section 2151.87 of the Revised Code are subject to seizure and forfeiture as contraband under Chapter 2981. of the Revised Code. (O.R.C. 2927.02)

130.53**POSSESSING CRIMINAL TOOLS**

- (A) No person shall possess or have under the person's control any substance, device, instrument, or article, with purpose to use it criminally.
- (B) Each of the following constitutes prima-facie evidence of criminal purpose:
 - (1) Possession or control of any dangerous ordnance, or the materials or parts for making dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials, or parts are intended for legitimate use;
 - (2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use;
 - (3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.
- (C) Except as otherwise provided in the Revised Code, whoever violates this section is guilty of a misdemeanor of the first degree. (O.R.C. 2923.24)

130.99**PENALTIES**

- (A) Whoever is found guilty of a minor misdemeanor shall be sentenced to a fine of no more than one hundred fifty dollars.
- (B) Whoever is found guilty of a misdemeanor of the fourth degree shall be sentenced to no more than thirty days in jail, a fine of no more than two hundred fifty dollars, or both.
- (C) Whoever is found guilty of a misdemeanor of the third degree shall be sentenced to no more than sixty days in jail, a fine of no more than five hundred dollars, or both.
- (D) Whoever is found guilty of a misdemeanor of the second degree shall be sentenced to no more than ninety days in jail, a fine of no more than seven hundred fifty dollars, or both.
- (E) Whoever is found guilty of a misdemeanor of the first degree shall be sentenced to no more than one hundred eighty days in jail, a fine of no more than one thousand dollars, or both.