

ORDINANCE NO.	<u>2023- 40</u>	FIRST READING	<u>August 14, 2023</u>
		SECOND READING	<u>Waived</u>
INTRODUCED BY:	<u>CHRIS BERGER</u>	THIRD READING	<u>Waived</u>

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE SOUTH RUSSELL CODIFIED ORDINANCES AND DECLARING AN EMERGENCY.

WHEREAS, the Ohio Constitution requires that Ohio municipal ordinances comply with State law if they are an exercise of the Municipality's police powers;

WHEREAS, certain provisions within the Codified Ordinances should be amended to conform with current State law; and

WHEREAS, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and

WHEREAS, the Village has heretofore entered into a contract with the American Legal Publishing to prepare and publish such revision which is before Council;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of South Russell, Geauga, County, Ohio that:

SECTION 1: That the ordinances of the Village of South Russell, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the 2023 Replacement Pages to the Codified Ordinances, are hereby approved and adopted.

SECTION 2: That the complete text of the sections listed above are set forth in full in the current replacement pages to the Codified Ordinances which are hereby attached to this ordinance as Exhibit A. The listing above of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

SECTION 3: That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the Municipality and its inhabitants for the reason that there exists an imperative necessity for the earliest publication and distribution of current Replacement Pages to the officials and residents of the Municipality, so as to facilitate administration, daily operation and avoid practical and legal entanglements, including conflict with general State law, and shall go into effect immediately.

SECTION 5: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees on or after December 2, 1975, that resulted in formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, Ohio Revised Code



Mayor-President of Council

ATTEST:



Fiscal Officer

I certify that Ordinance No. 2023 - 40 was duly enacted on the 14th day of August, 2023, by the Council of the Village of South Russell, and published in accordance with the Codified Ordinances of the Village.

Danielle Romanowski
Fiscal Officer

VILLAGE OF SOUTH RUSSELL
DIRECTORY OF OFFICIALS
(2023)

COUNCIL

Christopher Berger
Gerald Canton
Ruth Cavanagh
Mark Porter
Dennis Galicki
Christopher Bell

OFFICIALS

William Koons
Danielle Romanowski
(Optional Position)
Bridey Matheney

Eric Haibach
Michael Rizzo
Sean Davis
Timothy Alder
Daniel D'Agostino

Mayor
Fiscal Officer
Fiscal Auditor
Solicitor/Thrasher, Dinsmore
& Dolan
Engineer/CT Consultants, Inc.
Police Chief
Chief Fire Prevention Officer
Street Commissioner
Building/Zoning Inspector

PLANNING COMMISSION

Steve Latkovic, Chairman
Elisa Budoff
James Flaiz
Mark Porter, Council Rep
Williams Koons, Mayor

ZONING BOARD OF APPEALS

Andrew Hitchcock, Chairman
Martin O'Toole
John Buda
Michael Mulloy
Cindy Matejcik

ARCHITECTURAL BOARD OF REVIEW

Gary Neola, Chairman
Denis Marino
Ryan Parsons

THE WALTER H. DRANE COMPANY
expresses its appreciation
to

and all other officers and employees
who assisted in the preparation of these
Codified Ordinances and
current Replacement Pages.

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2014-50	11-10-14	830.01 to 830.13, 830.99	2018-39	10-22-18	440.08
2014-52	12-12-14	618.13	2019-10	2-11-19	414.13
2015-1	1-26-15	630.04	2019-17	4-8-19	1012.01 to 1012.32, 1012.99
2015-10	4-13-15	618.19	2019-21	4-8-19	Ch. 1220, App. A, 2.01
2015-27	6-8-15	2015 Replacement Pages	2019-36	6-10-19	1444.08
2015-35	11-9-15	881.01 to 881.20, 881.97, 881.98, 881.99	2019-37	6-10-19	618.01(a)
2016-01	1-11-16	406.09	2019-38	6-10-19	648.05(b) to (d)
2016-02	1-25-16	881.99(D)	2019-43	7-8-19	650.01 to 650.04, 650.99
2016-08	3-28-16	1602.01 to 1602.03	2019-44	8-12-19	2019 Replacement Pages
2016-11	3-28-16	1440.05	2019-56	10-14-19	646.02
2016-15	5-23-16	Repeals Ch. 270	2019-63	10-28-19	262.01
2016-16	5-23-16	2016 Replacement Pages	2019-65	11-25-19	1483.01, 1483.02
2016-18	6-22-16	Ch. 1220, App. A, 3.07	2020-01	1-13-20	220.01
2016-26	9-12-16	618.01	2020-03	1-13-20	260.02
2016-27	9-12-16	618.18	2020-20	4-13-20	1010.08
2016-29	9-12-16	881.051, 881.091	2020-28	6-18-20	230.05
2016-40	12-12-16	1466.01 to 1466.15, 1466.99, 1486.01 to 1486.18, 1486.99	2020-29	6-18-20	230.06
2017-03	1-23-17	452.11	2020-33	7-13-20	646.08
2017-13	5-22-17	2017 Replacement Pages	2020-40	9-14-20	1024.09
2017-24	8-14-17	230.05	2020-50	10-26-20	230.07
			2021-23	4-12-21	1464.02
			2021-24	4-12-21	1602.01 to 1602.03
			2021-35	5-10-21	240.03
			2021-36	5-10-21	1602.04, 1602.05, 1602.11, 1602.12, 1602.99
			2021-49	7-12-21	Ch. 1220, App. A, 13.00 to 13.05
			2021-50	7-12-21	Ch. 1220, App. A, 2.01
			2021-51	7-12-21	Ch. 1220, App. A, 3.01

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
2021-52	8-9-21	230.08
2021-57	9-13-21	648.05
2021-61	9-13-21	660.21
2022-01	1-10-22	262.01
2022-02	1-10-22	220.05
2022-03	1-10-22	220.04
2022-07	1-10-22	254.01
2022-08	1-10-22	268.01
2022-20	2-28-22	220.01
2022-25	3-14-22	1440.06
2022-26	3-14-22	272.03
2022-54	6-13-22	660.17
2022-66	8-8-22	Ch. 1220, App. A, 3.04, 3.05, 3.06, 3.07, 3.10, Schedule 1
2022-69	8-8-22	230.03
2022-70	8-8-22	235.02, 235.03, 235.05
2022-71	9-12-22	252.12 (Repealed)
2022-72	9-12-22	220.03
2022-73	9-12-22	252.03 (Repealed)
2022-74	9-12-22	1440.04
2022-80	9-26-22	222.01
2022-94	11-14-22	1066.01, 1066.02, 1066.03
2022-95	11-28-22	235.02
2022-102	12-12-22	1440.06
2023-09	2-13-23	252.01, Repeals 252.01 to through 252.14
2023-14	2-13-23	1440.06

(e) Decorum.

- (1) By Council members. While Council is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise delay or interrupt the proceedings or the peace and dignity of Council, nor disturb or interrupt any member while speaking or refuse to obey the orders of the Presiding Officer or Council.
- (2) By other persons. Any person, while addressing Council, who makes personal, impertinent or slanderous remarks, or who becomes boisterous, shall be ordered ejected from the Council Chamber forthwith by the Presiding Officer and barred from further audience before that Council meeting unless permission to continue be granted by a majority vote of Council present.

(f) Enforcement of Decorum.

- (1) The Police Chief, or such member or members of the Police Department as he may designate, shall be Sergeant-At-Arms of all Council meetings. He or they shall carry out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum at the meeting. Upon instructions of the Presiding Officer, it shall be the duty of the Sergeant-At-Arms, to place any person who violated the order and decorum of the meeting under arrest and cause him to be prosecuted for disturbing the peace, the complaint to be signed by the Presiding Officer.
- (2) If the offending person is the Presiding Officer or a member of Council, he shall not be removed from the meeting or charged as provided in subsection (f)(1) hereof unless a majority of the other members of Council present concur that such member of Council shall be prosecuted as provided for in subsection (f)(1) hereof.

(g) Addressing Council. Persons desiring to address Council may do so in the following manner:

- (1) Written communications. Interested parties or their authorized representatives may address Council by written communications on any matter of Village business by addressing such communications to the Mayor. Such written communications shall be read by the Fiscal Officer as directed by Council.
- (2) Oral communications. Any person or his authorized representatives who wish to address Council should notify the Fiscal Officer by noon on the Thursday before the scheduled meeting to be included on the agenda. During the visitors section, any person or his authorized representatives may appear before Council on any matter of Village business at the proper time provided in the agenda by rising and securing permission of the Presiding Officer. Such person shall state in an audible tone of voice for the record his name and address and the name and address of the person or group he may represent, if other than himself. Such person shall limit his address to five minutes unless the Presiding Officer or Council grants further time. No person other than the members of Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of Council, without the permission of the Presiding Officer. No question shall be asked of a member of Council except through the Presiding Officer.

(h) Mayor's Power to Vote. The Mayor shall have no vote unless Council, after voting on an issue, has caused a tie vote and in that case the Mayor shall cast the deciding vote and his vote shall have the same legal effect as a vote of a member of Council.
(Ord. 2005-31. Passed 12-12-05.)

220.03 MEMBERS DUTIES AND PRIVILEGES.

(a) Seating Arrangement. The Mayor is seated in the center of the Council table and the President Pro Tern sits on the Mayor's right. The seating arrangement of the members of Council are according to the Mayor's discretion. The Fiscal Auditor, if one is appointed, sits at the far left and the Fiscal Officer at the far right. The Engineer and the Solicitor are seated at the table on the right side of Council Chambers and department heads are seated at the table on the left side of Council Chambers.

(b) Addressing the Chair. Members, when about to speak to a question or make a motion, shall address the Chair as "Mayor," "President Pro Tem" or "Chairman," who shall pronounce the name of the member entitled to the floor. Members addressing Council shall confine themselves to the question under debate and avoid personalities.

(c) Limitation of Debate. No member shall be allowed to speak for a time longer than five minutes nor more than once upon any one subject until every member choosing to speak has spoken, nor more than twice upon the same subject. Any further discussion shall be referred to Committee to discuss and bring back to Council.

(d) Voting. Every member present when a question is put shall vote on the same, unless Council, for special reasons, excuses him from voting. Such excuse shall be granted only if the member states reason for the request before voting begins. A member may abstain from voting.

(e) Division of a Question. On demand of any member, a question under consideration which covers two or more points shall be divided where the question admits of such division.

(f) Demand for Roll Call. Any member may demand a roll call vote upon any question before Council at any time before the decision on such question is announced by the Chair.

(g) Excusal from Attendance. No member shall be excused from attendance at a Council meeting, except upon request to and permission by the Mayor and notification to the Fiscal Officer prior to such meeting or by a vote of a majority of the members present.

(h) Excusal during Meeting. No member shall be excused while Council is in session except upon permission of the Chair.
(Ord. 2005-31. Passed 12-12-05; Ord. 2022-72. Passed 9-12-22.)

220.04 ORDER OF BUSINESS.

(a) Agenda. The agenda for Council meetings should include the following:

CHAPTER 222 Ordinances and Resolutions

222.01 Posting places.

222.02 Public records policy.

CROSS REFERENCES

Adoption and style - see Ohio R.C. 715.03, 713.17 et seq.

Subject and amendment - see Ohio R.C. 731.19

Authentication - see Ohio R.C. 731.20

Newspaper publication - see Ohio R.C. 701.04, 731.21 et seq.

Publication in book form - see Ohio R.C. 731.23

Certification as to publication - see Ohio R.C. 731.24 et seq.

Posting - see Ohio R.C. 731.25

Initiative and referendum - see Ohio R.C. 731.28 et seq.

As evidence - see Ohio R.C. 731.42

Adoption of technical codes - see Ohio R.C. 731.231

Emergency measures - see Ohio R.C. 731.30

Codified Ordinances - see ADM. Ch. 202

Statute of limitations - see GEN. OFF. 606.06

222.01 POSTING PLACES.

(a) A succinct summary of each ordinance or resolution and all statements, orders, proclamations, notices, and reports required by law or ordinance to be published shall be published in a newspaper of general circulation in the Village of South Russell once a week for two consecutive weeks or as provided in R.C. § 7.16. Proof of the publication and required circulation of any newspaper used as a medium of publication as provided by this section shall be made by affidavit of the proprietor of the newspaper and shall be filed with the Fiscal Officer.

(b) The publication shall contain notice that the complete text of each such ordinance or resolution may be obtained or viewed at the office of the Fiscal Officer, online on the Village's website, or at any other location designated by Council. The Village Solicitor shall review the summary of an ordinance or resolution published under this section prior to forwarding it to the Fiscal Officer for publication, to ensure that the summary is legally accurate and sufficient.

(c) Upon publication of a summary of an ordinance or resolution in accordance with this section, the Fiscal Officer shall supply a copy of the complete text of each such ordinance or resolution to any person, upon request, and may charge a reasonable fee, set by Council, for each copy supplied. The Fiscal Officer shall post a copy of the text at the office of the Fiscal Officer, online on the Village's website, and at every other location designated by Council.

(Ord. 1973-13. Passed 5-14-73; Ord. 2022-80. Passed 9-26-22.)

222.02 PUBLIC RECORDS POLICY.

A public records policy applicable to the public records of the Village of South Russell is hereby adopted. A copy of such public records policy is attached to Ordinance 2007-43 as Exhibit "A". (Ord. 2007-43. Passed 12-10-07.)

CHAPTER 235

Investment of Village Funds

235.01	Investment of surplus funds.	235.04	Emergency medical services
235.02	Treasury Investment Board.		rates; exemptions.
235.03	Ohio Subdivision Fund.	235.05	Established.

CROSS REFERENCES

Loss of funds; release of liability - see Ohio R.C. 131.18 et seq.
 Uniform Depository Act - see Ohio R.C. Ch. 135
 Election and term - see Ohio R.C. 733.42
 Accounts - see Ohio R.C. 733.43, 733.45 et seq.
 Powers and duties - see Ohio R.C. 733.44
 Annual report to Council - see Ohio R.C. 733.45
 Bond - see ADM. 230.02
 Earned Income Tax - see B.R. & T. Ch. 880

235.01 INVESTMENT OF SURPLUS FUNDS.

Whenever there are moneys in the Treasury of the Village which will not be required to be used for a period of six months or more, such moneys may, in lieu of being deposited in a bank or banks, be invested in accordance with the provisions of Ohio R.C. 731.56 through 731.59. Investments so purchased shall be sold in accordance with Ohio R.C. 731.57.

(Ord. 1969-9. Passed 4-28-69.)

235.02 TREASURY INVESTMENT BOARD.

(a) There is hereby established for the Village a Treasury Investment Board consisting of the Mayor, the Fiscal Officer or Fiscal Auditor (if one is appointed), the Chair of the Finance Committee of Council, one resident of the Village with a background in finance which member is appointed by a majority of Council members upon the recommendation of the Treasury Investment Board, and the Solicitor of the Village. The Treasury Investment Board shall be scheduled to meet quarterly in every calendar year.

(b) If Council determines that public funds of the Village should be invested in eligible securities, the Treasury Investment Board shall consider such investments and recommend to the Fiscal Officer or Fiscal Auditor (if one is appointed) the advisability of such investments, which recommendation may be considered by the Fiscal Officer or Fiscal Auditor (if one is appointed) when the Fiscal Officer or Fiscal Auditor (if one is appointed) submits the recommendation to the Mayor and Solicitor as to whether such money shall be invested in accordance with R.C. § 731.57.

(c) The Fiscal Officer or Fiscal Auditor (if one is appointed) shall keep an account known as the Treasury Investment Account in which the Fiscal Officer or Fiscal Auditor (if one is appointed) shall enter all transactions related to the investment of treasury funds.

(d) No investment of Village funds in excess of twenty percent of the ending fund balance at the last day of the preceding calendar year may be made without approval of a majority of Council members.

(Ord. 1981-8. Passed 2-23-81; Ord. 2022-70. Passed 8-8-22; Ord. 2022-95. Passed 11-28-22.)

235.03 OHIO SUBDIVISION FUND.

(a) The Fiscal Officer or Fiscal Auditor (if one is appointed) for the Village is hereby authorized, pursuant to Amended House Bill No. 760, effective March 19, 1985, to pay public moneys of the Village into the Ohio Subdivision Fund which fund is in the custody of the Treasurer of the State.

(b) The Fiscal Officer or Fiscal Auditor (if one is appointed) is hereby authorized to enter into an agreement with the state, and the County of Geauga to have wired directly to the Custodian Bank for the Treasurer of the State for credit to the Village Investment Pool account any moneys due from the state or the County of Geauga in such manner as may be regulated by the Treasurer for the State.

(Ord. 1985-65. Passed 12-9-85; Ord. 1992-7B. Passed 2-10-92; Ord. 2022-70. Passed 8-8-22.)

235.04 EMERGENCY MEDICAL SERVICES RATES; EXEMPTIONS.

(a) Rates for emergency medical services shall be established by Council, by motion.

(b) Residents of the Village who are not delinquent in payment of their income taxes, if any, to the Village shall not be required to reimburse the Village for the provision of emergency medical services by the Village which are not covered by medical or other insurance and such requirement for reimbursement shall be deemed paid by the local taxes paid by such Village resident.

(Ord. 2003-20. Passed 7-14-03.)

235.05 ESTABLISHED.

The position of "Fiscal Auditor" is hereby created for the Village of South Russell. Said position may be filled by appointment by the Mayor, subject to confirmation by a majority of the members elected to Council. Said Fiscal Auditor, if one is appointed, shall serve at the pleasure of the Mayor and Council and may be removed, with or without cause. The Mayor may remove said individual with a concurrence of a majority of Council or said individual may be removed by a 3/4 majority of Council, with or without the concurrence of the Mayor. The Fiscal Auditor, if one is appointed, shall perform the duties as set forth by a job description adopted by motion by a majority of Council.

(Ord. 2007-17. Passed 4-23-07; Ord. 2022-70. Passed 8-8-22.)

(Next page is 20B-3)

CHAPTER 250
Zoning Inspector

250.01 Residency requirements.

CROSS REFERENCES

Specifications for excavation enclosures - see S.U. & P.S. 1014.01

Planning and zoning - see Part Twelve - Planning and Zoning Code

Issuance of occupancy permit - see B. & H. 1440.01

Fees of Zoning Inspector - see B. & H. 1466.09

250.01 RESIDENCY REQUIREMENT.

(EDITOR'S NOTE: An ordinance to waive the requirement that the Zoning Inspector be a resident of the Village is presently enacted by Council on an annual basis.)

CHAPTER 252

Employees Generally

EDITOR'S NOTE: Because of the frequency of change, provisions relating to general compensation are not codified. Copies of the latest relevant legislation may be obtained, at cost, from the Fiscal Officer.

252.01 Employee Handbook.

CROSS REFERENCES

Salaries not to be changed during term - see Ohio Const., Art. II, Sec. 20; Ohio R.C. 731.13
 Welfare - see Ohio Const., Art. II, Sec. 34
 Workers' compensation - see Ohio Const., Art. II, Sec. 35; Ohio R.C. Ch. 4123
 Wages and hours on public works - see Ohio Const., Art. II, Sec. 37; Ohio R.C. Ch. 4115
 Oath of office - see Ohio Const., Art. XV, Sec. 7; Ohio R.C. 3.20, 3.22, 733.68
 Public Employees Retirement System - see Ohio R.C. Ch. 145
 Officers to hold office until successor qualified - see Ohio R. C. 3.01
 Removal of officers from office - see Ohio R.C. 3.07 et seq.
 Use of facsimile signature - see Ohio R.C. 9.10 et seq.
 Deductions for labor dues and savings - see Ohio R.C. 9.41, 9.43
 Deductions for Municipal income tax - see Ohio R.C. 9.42
 Power to fix salaries - see Ohio R.C. 731.13
 Executive power - see Ohio R.C. 733.23
 Bonds - see Ohio R.C. 731.13, 733.69 et seq.
 Qualifications of officers - see Ohio R.C. 733.68
 Conduct and delinquent charges - see Ohio R.C. 733.34 et seq., 733.72 et seq.
 Expenses for attendance at conference or convention - see Ohio R.C. 733.79

252.01 EMPLOYEE HANDBOOK.

Pursuant to Ordinance Nos. 2017-39 and 2023-09, Council of the Village of South Russell has adopted the Village of South Russell's Employee Handbook, as amended from time to time and on file with the Village Fiscal Officer, for all public employees.
(Ord. 2023-09. Passed 2-13-23.)

[Text continues on Page 34E]

404.07 IMPOUNDING VEHICLES ON PRIVATE RESIDENTIAL OR AGRICULTURAL PROPERTY.

- (a) (1) The Chief of Police, upon complaint of any person adversely affected, may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in R.C. § 4513.63, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The Chief, upon complaint of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. When ordering a motor vehicle into storage pursuant to this division, the Chief may arrange for the removal of the motor vehicle by a towing service and shall designate a storage facility.
- (2) A towing service towing a motor vehicle under division (a)(1) of this section shall remove the motor vehicle in accordance with that division. The towing service shall deliver the motor vehicle to the location designated by the Chief not more than two hours after the time it is removed from the private property, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (3) Subject to subsection (b) of this section, the owner of a motor vehicle that has been removed pursuant to this subsection may recover the vehicle only in accordance with subsection (d) of this section.
- (4) As used in this section "private residential property" means private property on which is located one or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

(b) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to subsection (a)(1) of this section arrives after the motor vehicle has been prepared for removal, but prior to its actual removal from the property, the towing service shall give the owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the motor vehicle established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the motor vehicle. However, if the vehicle is within a municipal corporation and the municipal corporation has established a vehicle removal fee, the towing service shall give the owner or operator oral or written notification that the owner or operator may pay not more than one-half of that fee to obtain release of the motor vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction.

Upon payment of the applicable fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the motor vehicle to the owner or operator. Upon its release, the owner or operator immediately shall move it so that it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable.

- (c) (1) The Chief of Police shall maintain a record of motor vehicles that the Chief orders into storage pursuant to division (a)(1) of this section. The record shall include an entry for each such motor vehicle that identifies the motor vehicle's license number, make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. The Chief shall provide any information in the record that pertains to a particular motor vehicle to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (2) Any person who registers a complaint that is the basis of the Chief's order for the removal and storage of a motor vehicle under division (a)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (d) (1) The owner or lienholder of a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section may reclaim it upon both of the following:
 - A. Payment of all applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 or, if the vehicle was towed within a municipal corporation that has established fees for vehicle removal and storage, payment of all applicable fees established by the municipal corporation.
 - B. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement.
- (2) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
- (3) Upon presentation of proof of ownership as required under subsection (d)(1)B. of this section, the owner of a motor vehicle that is ordered into storage under subsection (a)(1) of this section may retrieve any personal items from the motor vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in rules adopted under Ohio R.C.

4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under division (B)(3) of Ohio R.C. 4513.69, if applicable. The owner of a motor vehicle shall not do either of the following:

- A. Retrieve any personal item that has been determined by the chief to be necessary to a criminal investigation;
- B. Retrieve any personal item from a vehicle if it would endanger the safety of the owner unless the owner agrees to sign a waiver of liability.

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

- (3) If a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by Ohio R.C. 4513.61 and 4513.62 apply.
- (e)
 - (1) No person shall remove, or cause the removal of, any motor vehicle from any private residential or private agricultural property other than in accordance with subsection (a)(1) of this section or Ohio R.C. 4513.61 to 4513.65.
 - (2) No towing service or storage facility shall fail to comply with the requirements of this section.
- (f) This section does not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with Section 404.08.
- (g) Whoever violates subsection (e) of this section is guilty of a minor misdemeanor.
(ORC 4513.60)

404.08 PRIVATE TOW-AWAY ZONES.

- (a) The owner of a private property may establish a private tow-away zone, but may do so only if all of the following conditions are satisfied:
 - (1) The owner of the private property posts on the property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that includes all of the following information:
 - A. A statement that the property is a tow-away zone;
 - B. A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner of the private property shall include on the sign the address of the property on which the private tow-away zone is located, or the name of the business that is located on the property designated as a private tow-away zone.
 - C. If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;

- D. The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;
- E. A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in division (B) of Ohio R.C. 4505.101.

In order to comply with the requirements of subsection (a)(1) of this section, the owner of a private property may modify an existing sign by affixing to the existing sign stickers or an addendum in lieu of replacing the sign.

- (2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:
 - A. It is located within twenty-five linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within twenty-five linear miles.
 - B. It is well-lighted.
 - C. It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

- (b) (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (a) of this section, without the consent of the owner of the private property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Ohio R.C. 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (c) of this section, may recover the vehicle in accordance with subsection (g) of this section.
- (2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.
- (3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.

(c) If the owner or operator of a vehicle that is being removed under authority of subsection (b) of this section, arrives after the vehicle has been prepared for removal, but prior to the actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the

transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner of the private property or in violation of any posted parking condition or regulation.

- (d) (1) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section.

The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.

- (2) A towing service shall deliver a vehicle towed under subsection (b) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (e) (1) If an owner of a private property that is established as a private tow-away zone in accordance with division (a) of this section causes the removal of a vehicle from that property by a towing service under division (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the Police Department concerning all of the following:
 - A. The vehicle's license number, make, model and color;
 - B. The location from which the vehicle was removed;
 - C. The date and time the vehicle was removed;
 - D. The telephone number of the person from whom the vehicle may be recovered;
 - E. The address of the place from which the vehicle may be recovered.
 - (2) The Chief of Police shall maintain a record of any vehicle removed from private property in the Chief's jurisdiction that is established as a private tow-away zone of which the chief has received notice under this section. The record shall include all information submitted by the towing service. The Chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator, or lienholder of the vehicle and requests information pertaining to the vehicle.

- (f) (1) When a vehicle is removed from private property in accordance with this section, within three business days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of either of the following to ascertain the identity of the owner and any lienholder of the vehicle:
 - A. The records of the Bureau of Motor Vehicles;
 - B. The records of any vendor or vendors, approved by the Registrar of Motor Vehicles, that are capable of providing real-time access to owner and lienholder information.
 - (2) The towing service or storage facility may search the National Motor Vehicle Title Information System in order to determine the state in which the vehicle is titled. The entity that provides the record of the owner and any lienholder under this division shall ensure that such information is provided in a timely manner.
 - (3) Subject to division (f)(6) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:
 - A. Within five business days after the applicable entity provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt;
 - B. If the vehicle remains unclaimed 30 days after the first notice is sent, in the manner required under division (f)(3)A. of this section.
 - (4) Sixty days after any notice sent pursuant to division (f)(3) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under R.C. § 4505.101(B), may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.
 - (5) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under R.C. § 4505.101(B).
 - (6) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under R.C. § 4505.101, the towing service or storage facility need only comply with the initial notice required under division (f)(3)A. of this section.
- (g) (1) The owner or lienholder of a vehicle that is removed under subsection (b) of this section may reclaim it upon both of the following:
 - A. Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement;

CHAPTER 408 Penalties

- 408.01 General Traffic Code penalties.** **408.02 Committing an offense while distracted penalty.**

CROSS REFERENCES

See section histories for similar State law
 Definition of "imprisoned" - see Ohio R.C. 1.05
 Commitment in lieu of fine; credit for time served - see Ohio R.C. 2947.20
 Criteria for probation; conditions for probation - see Ohio R.C. 2951.02
 Definition of "repeat offender" - see GEN. OFF. 698.01(a)
 Definition of "dangerous offender" - see GEN. OFF. 698.01(b)
 Imposing sentence for misdemeanor - see GEN. OFF. 698.03
 Organizational penalties - see GEN. OFF. 698.04
 Multiple sentences - see GEN. OFF. 698.05
 Modification of sentence - see GEN. OFF. 698.06

408.01 GENERAL TRAFFIC CODE PENALTIES.

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

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

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

(ORC 2929.24; 2929.28)

408.02 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.

(a) As used in this section and each section of the Traffic Code where specified, all of the following apply:

- (1) "Distracted" means doing either of the following while operating a vehicle:
 - A. Using an electronic wireless communications device, as defined in R.C. § 4511.204, in violation of that section.

- B. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.
 - (2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Section 432.43.
 - (3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage or a circumstance affecting the health or safety of individuals.
- As used in subsection (a)(3) of this section:
- A. "Utility" means an entity specified in division (A), (C), (D), (E) or (G) of Ohio R.C. 4905.03.
 - B. "Utility service vehicle" means a vehicle owned or operated by a utility.

(b) If an offender violates any section of this Traffic Code which provides for an enhanced penalty for an offense committed while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding Ohio R.C. 2929.28, is subject to an additional fine of not more than one hundred dollars (\$100.00) as follows:

- (1) A. Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation or summons for a violation of any section of the Traffic Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars (\$100.00).
- B. In lieu of payment of the additional fine of one hundred dollars (\$100.00), the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the Ohio Director of Public Safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars (\$100.00), so long as the offender submits to the court both the offender's payment in full and such written evidence.
- (2) A. If the offender appears in person to contest the ticket, citation or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars (\$100.00).

- B. If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars (\$100.00), the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars (\$100.00), the offender instead may elect to attend the distracted driving safety course described in subsection (b)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars (\$100.00), so long as the offender submits to the court the offender's payment and such written evidence.
- (3) If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of any of the sections of the Revised Code listed in division (b)(2) of this section that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the officer shall do both of the following:
 - A. Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;
 - B. Ensure that such report indicates the offender's race.
(ORC 4511.991)

TITLE SIX - Vehicles and Operation

- Chap. 432. Operation Generally.
- Chap. 434. OVI; Reckless Operation; Speed.
- Chap. 436. Licensing; Accidents.
- Chap. 438. Safety and Equipment.
- Chap. 440. Commercial and Heavy Vehicles.
- Chap. 442. Commercial Drivers.
- Chap. 444. Offenses Relating to Theft and Fraud.

CHAPTER 432 Operation Generally

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| <p>432.01 Driving upon right side of roadway; exceptions.</p> <p>432.02 Passing to right when proceeding in opposite directions.</p> <p>432.03 Overtaking, passing to left; driver's duties.</p> <p>432.04 Overtaking and passing upon right.</p> <p>432.05 Overtaking, passing to left of center.</p> <p>432.06 Additional restrictions on driving upon left side of roadway.</p> <p>432.07 Hazardous or no passing zones.</p> <p>432.08 Driving in marked lanes or continuous lines of traffic.</p> <p>432.09 Following too closely.</p> <p>432.10 Turning at intersections.</p> <p>432.11 Turning into private driveway, alley or building.</p> <p>432.12 "U" turns restricted.</p> <p>432.13 Starting and backing vehicles.</p> <p>432.14 Signals before changing course, turning or stopping.</p> <p>432.15 Hand and arm signals.</p> <p>432.16 Right of way at intersections.</p> <p>432.17 Right of way when turning left.</p> <p>432.18 Operation of vehicle at yield signs.</p> <p>432.19 Operation of vehicle at stop signs.</p> <p>432.20 Emergency or public safety vehicles at stop signals or signs.</p> | <p>432.21 Right of way of public safety or coroner's vehicle.</p> <p>432.211 Report of vehicle failing to yield right of way to public safety vehicle.</p> <p>432.22 Driving onto roadway from place other than roadway: duty to yield.</p> <p>432.23 Driving onto roadway from place other than roadway; stopping at sidewalk.</p> <p>432.24 Right of way of funeral procession.</p> <p>432.25 Driver's view and control to be unobstructed by load or persons.</p> <p>432.26 Driving upon street posted as closed for repair.</p> <p>432.27 Following and parking near emergency or safety vehicles.</p> <p>432.28 Driving over fire hose.</p> <p>432.29 Driving through safety zone.</p> <p>432.30 One-way streets and rotary traffic islands.</p> <p>432.31 Driving upon divided roadways.</p> <p>432.32 Entering and exiting controlled-access highway.</p> <p>432.33 Obstructing intersection, crosswalk or grade crossing.</p> <p>432.34 Failure to control; weaving; full time and attention.</p> <p>432.35 Occupying travel trailer, fifth wheel vehicle, or manufactured or mobile home while in motion.</p> |
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432.36	Squealing tires, "peeling", cracking exhaust noises.	432.41	Shortcutting; avoiding traffic control devices.
432.37	Driving upon sidewalks, street lawns or curbs.	432.42	Littering from motor vehicle.
432.38	Stopping for school bus; discharging children.	432.43	Wearing earplugs or earphones prohibited.
432.39	Driving across grade crossing.	432.44	Vehicular operation on street closed due to rise in water level.
432.40	Stopping at grade crossing.		

CROSS REFERENCES

See sectional histories for similar State law

Obedience to traffic control devices - see TRAF. 414.01

Operation of bicycles and motorcycles - see TRAF. 474.01 et seq.

School bus operation - see OAC Ch. 4501-3

432.01 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.

(a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

- (1) When overtaking and passing another vehicle proceeding in the same direction, or when making a left turn under the rules governing such movements;
- (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
- (3) When driving upon a roadway divided into three or more marked lanes for traffic under the rules applicable thereon;
- (4) When driving upon a roadway designated and posted with signs for one-way traffic;
- (5) When otherwise directed by a police officer or traffic control device.

(b) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, and far enough to the right to allow passing by faster vehicles if such passing is safe and reasonable, except under any of the following circumstances:

- A. When overtaking and passing another vehicle proceeding in the same direction;
 - B. When preparing for a left turn;
 - C. When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.
- (2) Nothing in subsection (b)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.02 of the Traffic Code. (ORC 4511.35)

432.32 ENTERING AND EXITING CONTROLLED-ACCESS HIGHWAY.

(a) No person shall drive a vehicle onto or from any controlled-access highway except at such entrances and exits as are established by public authority.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

432.33 OBSTRUCTING INTERSECTION, CROSSWALK OR GRADE CROSSING.

(a) No driver shall enter an intersection or marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, notwithstanding any traffic control signal indication to proceed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.02 of the Traffic Code. (ORC 4511.712)

432.34 FAILURE TO CONTROL; WEAVING; FULL TIME AND ATTENTION.

(a) No person shall operate a vehicle without exercising reasonable and ordinary control over such vehicle.

(b) No person shall operate a vehicle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.

(c) No person shall operate a vehicle without giving his full time and attention to the operation of such vehicle.

(d) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

432.35 OCCUPYING TRAVEL TRAILER, FIFTH WHEEL VEHICLE, OR MANUFACTURED OR MOBILE HOME WHILE IN MOTION.

(a) Except as provided in division (b) of this section, no person shall occupy any travel trailer, fifth wheel trailer, or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

- (b) (1) Division (a) of this section does not apply to a fifth wheel trailer when both of the following apply:
 - A. Any child riding in the fifth wheel trailer is properly secured in the manner provided in R.C. § 4511.81.
 - B. The operator of the vehicle towing the fifth wheel trailer has some means of viable communication with the passengers riding in the trailer.
- (2) As used in this division, "viable communication" includes a cellular or satellite telephone, a radio, or any other similar electronic wireless communications device.
- (c) (1) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (2) The offense established under this section is a strict liability offense and R.C. § 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
(R.C. § 4511.701)

432.36 SQUEALING TIRES, "PEELING," CRACKING EXHAUST NOISES.

(a) No person shall unnecessarily race the motor of any vehicle and no person shall operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the roadway, commonly called "peeling".

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

432.37 DRIVING UPON SIDEWALKS, STREET LAWNS OR CURBS.

- (a) (1) No person shall drive any vehicle, other than a bicycle or an electric bicycle if the motor is not engaged, upon a sidewalk or sidewalk area, except upon a permanent or duly authorized temporary driveway.
- (2) This prohibition does not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle with the motor engaged while in the performance of the officer's duties.
- (3) Nothing in this section shall be construed as prohibiting local authorities from regulating the operation of bicycles or electric bicycles, except that no local authority may require that bicycles or electric bicycles be operated on sidewalks.
(R.C. § 4511.711)

(b) No person shall drive a vehicle on a street lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(d) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.02 of the Traffic Code. (ORC 4511.711)

432.38 STOPPING FOR SCHOOL BUS; DISCHARGING CHILDREN.

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this subsection (a) hereof that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by subsection (b) hereof.

6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
8. Either of the following applies:
 - a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - b. The person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
9. The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
10. The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
11. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this

Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

- (2) No person who, within 20 years of the conduct described in division (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of this division or a substantially equivalent State law or municipal ordinance, division (a)(1) of this section or a substantially equivalent State law or municipal ordinance, or shall do both of the following:
 - A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
 - B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) Operation After Under-Age Consumption. No person under twenty-one years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

- (1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
- (2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
- (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
- (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)

(d) Physical Control.

- (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
- (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 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 at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.

As used in this subsection, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(h) Penalty for Driving Under the Influence.

- (1) Whoever violates any provisions of divisions (a)(1)A. through (a)(1)I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates division (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under R.C. Chapter 2929, except as otherwise authorized or required by divisions (h)(1)A. through (h)(1)E. of this section:
 - A. Except as otherwise provided in division (h)(1)B., (h)(1)C., (h)(1)D. or (h)(1)E. of this section, the offender is guilty of a misdemeanor of the first degree and the court shall sentence the offender to all of the penalties and sanctions provided in R.C. § 4511.19(G)(1)(a)(i) to (G)(1)(a)(iv).
 - B. Except as otherwise provided in division (h)(1)E. of this section, an offender who, within ten years of the offense previously has been convicted of or pleaded guilty to one violation of division (a) of this section, or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the penalties and sanctions provided in R.C. § 4511.19(G)(1)(b)(i) to (G)(1)(b)(v).
 - C. Except as otherwise provided in division (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of division (a) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the penalties and sanctions provided in R.C. § 4511.19(G)(1)(c)(i) to (G)(1)(c)(vi).
 - D. Except as otherwise provided in division (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or more violations of division (a) of this section or other equivalent offenses or an offender who, within 20 years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in R.C. § 2941.1413, is guilty of a felony to be prosecuted under appropriate state law.
 - E. An offender who previously has been convicted of or pleaded guilty to a violation of R.C. § 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony to be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of division (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section or R.C. § 4511.19 as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in R.C. § 4511.191(F)(2).
- (3) A. If an offender is sentenced to a jail term under R.C. § 4511.19(G)(1)(b)(i) or (G)(1)(b)(ii) or (G)(1)(c)(i) or (G)(1)(c)(ii) and if, within 60 days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the 60-day period following the date of sentencing, the court may

- impose an alternative sentence as specified in R.C. § 4511.19(G)(3) that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.
- B. As an alternative to the mandatory jail terms as required by R.C. § 4511.19(G)(1), the court may sentence the offender as provided in R.C. § 4511.19(G)(3).
- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under division (h) of this section or R.C. § 4511.19(G) and if R.C. § 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under R.C. § 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in R.C. § 4503.231(B).
- (5) Fines imposed under this section for a violation of division (a) of this section shall be distributed as provided in R.C. § 4511.19(G)(5).
- (6) If title to a motor vehicle that is subject to an order of criminal forfeiture under division (h)(1)C., (h)(1)D. or (h)(1)E. of this section is assigned or transferred and R.C. § 4503.234(B)(2) or (B)(3) applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the National Automobile Dealers Association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (7) In all cases in which an offender is sentenced under division (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to R.C. § 2929.18 or 2929.28 in an amount not exceeding \$5,000 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under division (h) of this section.
- (8) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
- A. The offender is convicted of or pleads guilty to a violation of division (a) of this section.
- B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
- C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.
- (9) As used in division (h) of this section, "electronic monitoring" has the same meaning as in R.C. § 2929.01.

(i) Penalty for Operating a Vehicle After Underage Alcohol Consumption. Whoever violates division (b) of this section is guilty of operating a motor vehicle after underage alcohol consumption and shall be punished as follows:

- (1) Except as otherwise provided in division (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(6). The court may grant limited driving privileges relative to the suspension under R.C. §§ 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under R.C. § 4510.022. If the court grants unlimited driving privileges under R.C. § 4510.022, the court shall suspend any jail term imposed under division (i)(1) of this section as required under that section.
- (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of division (a) of this section or other equivalent offense or offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(4). The court may grant limited driving privileges relative to the suspension under R.C. §§ 4510.021 and 4510.13.
- (3) The offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to R.C. § 2929.28 in an amount not exceeding \$5,000 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the violation of division (b) of this section.
(R.C. § 4511.19)

[Text continues on Page 82A]

(j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4511.194)

(k) Compliance With Ohio R.C. Chapter 5119 Standards.

- (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.
- (2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

- (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
- (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)

(p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars (\$25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193.
(ORC 4511.193)

(q) Definitions. As used in this section:

(1) "Equivalent offense" means any of the following:

- A. A violation of R.C. § 4511.19(A);
- B. A violation of a municipal OVI ordinance;
- C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
- D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
- E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
- F. A violation of R.C. § 1547.11(A);
- G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine;
- H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to R.C. § 4511.19(A) or 1547.11(A);
- I. A violation of a former law of this state that was substantially equivalent to R.C. § 4511.19(A) or 1547.11(A).

(2) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:

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

(g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.

(h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.

(i) As used in this section:

- (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.
- (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
- (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
- (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
- (5) "Rural" means an area outside urbanized areas and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
- (6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.
- (7) "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.

(j) (1) A violation of any provision of this section is one of the following:

- A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;
 - B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
 - C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.
- (2) If the offender operated a motor vehicle faster than 35 miles an hour in a business district of the municipality, faster than 50 miles an hour in other portions of the municipality, or faster than 35 miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree. This division does not apply if penalties may be imposed under division (j)(1)B. or (j)(1)C. of this section.

- (3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.
- (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.02 of the Traffic Code. (ORC 4511.21)

434.031 APPROACHING A STATIONARY PUBLIC SAFETY, EMERGENCY OR ROAD SERVICE VEHICLE.

(a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle that is displaying the appropriate visual signals by means of flashing, oscillating or rotating lights, as prescribed in Section 438.16, shall do either of the following:

- (1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
- (2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.

(b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.

434.08 VEHICULAR HOMICIDE.

EDITOR'S NOTE: See Section 636.02.

434.09 FAILURE TO CONTROL VEHICLE.

(a) No person shall operate a motor vehicle, agricultural tractor, or agricultural tractor that is towing, pulling, or otherwise drawing a unit of farm machinery on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle, agricultural tractor or unit of farm machinery.

(b) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor.
(ORC 4511.202)

434.10 OPERATION IN VIOLATION OF IMMOBILIZATION ORDER.

(a) No person shall operate a motor vehicle or permit the operation of a motor vehicle upon any public or private property used by the public for vehicular travel or parking knowing or having reasonable cause to believe that the motor vehicle has been ordered immobilized pursuant to an immobilization order issued under Ohio R.C. 4503.233.

(b) A motor vehicle that is operated by a person during a violation of subsection (a) hereof shall be criminally forfeited in accordance with the procedures contained in Ohio R.C. 4503.234.

(c) Whoever violates this section is guilty of a misdemeanor of the second degree.
(ORC 4503.236)

434.11 TEXTING WHILE DRIVING PROHIBITED.

(a) No person shall operate a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using, holding, or physically supporting with any part of the person's body an electronic wireless communications device.

(b) Division (a) of this section does not apply to any of the following:

- (1) A person using an electronic wireless communications device to make contact, for emergency purposes, with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
- (2) A person driving a public safety vehicle while using an electronic wireless communications device in the course of the person's duties;
- (3) A person using an electronic wireless communications device when the person's motor vehicle is in a stationary position and is outside a lane of travel, at a traffic control signal that is currently directing traffic to stop, or parked on a road or highway due to an emergency or road closure;
- (4) A person using and holding an electronic wireless communications device directly near the person's ear for the purpose of making, receiving, or conducting a telephone call, provided that the person does not manually enter letters, numbers, or symbols into the device;
- (5) A person receiving wireless messages on an electronic wireless communications device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle, provided that the person does not hold or support the device with any part of the person's body;

- (6) A person using the speaker phone function of the electronic wireless communications device, provided that the person does not hold or support the device with any part of the person's body;
 - (7) A person using an electronic wireless communications device for navigation purposes, provided that the person does not do either of the following during the use:
 - A. Manually enter letters, numbers, or symbols into the device;
 - B. Hold or support the device with any part of the person's body;
 - (8) A person using a feature or function of the electronic wireless communications device with a single touch or single swipe, provided that the person does not do either of the following during the use:
 - A. Manually enter letters, numbers, or symbols into the device;
 - B. Hold or support the device with any part of the person's body;
 - (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
 - (10) A person operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;
 - (11) A person using an electronic wireless communications device in conjunction with a voice-operated or hands-free feature or function of the vehicle or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;
 - (12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:
 - A. Manually enter letters, numbers, or symbols into the device;
 - B. Hold or support the device with any part of the person's body.
 - (13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.
- (c) If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of division (a) of this section, the officer shall do both of the following:
- (1) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;
 - (2) Ensure that such report indicates the offender's race.
- (d) (1) Whoever violates division (a) of this section is guilty of operating a motor vehicle while using an electronic wireless communication device, an unclassified misdemeanor.
- A. Except as provided in divisions (d)(1)B., (d)(1)C., (d)(1)D., and (d)(2) of this section, the court shall impose upon the offender a fine of not more than \$150.
 - B. If, within two years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section, R.C. § 4511.204, or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than \$250.
 - C. If, within two years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of this section, R.C. § 4511.204, or a substantially equivalent or municipal ordinance, the court shall impose upon the offender a fine of not more than \$500. The court also may impose a suspension of the offender's driver's license, commercial

driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for 90 days.

- D. Notwithstanding divisions (d)(1)A. to (d)(1)C. of this section, if the offender was operating the motor vehicle at the time of the violation in a construction zone where a sign was posted in accordance with R.C. § 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the amount imposed for the violation under division (d)(1)A., (d)(1)B., or (d)(1)C. of this section, as applicable.
- (2) In lieu of payment of the fine of \$150 under division (d)(1)A. of this section and the assessment of points under division (d)(4) of this section, the offender instead may elect to attend the distracted driving safety course, as described in R.C. § 4511.991. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court.
- (3) The court may impose any other penalty authorized under R.C. §§ 2929.21 to 2929.28. However, the court shall not impose a fine or a suspension not otherwise specified in division (d)(1) of this section. The court also shall not impose a jail term or community residential sanction.
- (4) Except as provided in division (d)(2) of this section, points shall be assessed for a violation of division (a) of this section in accordance with R.C. § 4510.036.
- (5) The offense established under this section is a strict liability offense and R.C. § 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
- (e) A prosecution for an offense in violation of this section does not preclude a prosecution for an offense in violation of R.C. § 4511.204 based on the same conduct. However, the two offenses are allied offenses of similar import under R.C. § 2941.25.
- (f) (1) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.
- (2) A law enforcement officer who stops the operator of a motor vehicle for a violation of division (a) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:
- A. Access the device without a warrant, unless the operator voluntarily and unequivocally gives consent for the officer to access the device;
- B. Confiscate the device while awaiting the issuance of a warrant to access the device;
- C. Obtain consent from the operator to access the device through coercion or any other improper means. Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.
- (g) As used in this section:
- (1) "Electronic wireless communications device."
- A. Includes any of the following:

1. A wireless telephone;
 2. A text-messaging device;
 3. A personal digital assistant;
 4. A computer, including a laptop computer and a computer tablet;
 5. Any device capable of displaying a video, movie, broadcast television image, or visual image;
 6. Any other substantially similar wireless device that is designed or used to communicate text, initiate or receive communication, or exchange information or data.
- B. An “electronic wireless communications device” does not include a two-way radio transmitter or receiver used by a person who is licensed by the federal communications commission to participate in the amateur radio service.
- (2) “Utility.” An entity specified in R.C. § 4905.03(A), (C), (D), (E), or (G).
 - (3) “Utility service vehicle.” A vehicle owned or operated by a utility.
 - (4) “Voice-operated or hands-free feature or function.” A feature or function that allows a person to use an electronic wireless communications device without the use of either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.
- (R.C. § 4511.204)

Statutory reference:

No preemption for local regulations imposing greater penalties, see R.C. § 4511.204(E)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.23)

438.22 WINDSHIELD AND WINDSHIELD WIPER; SIGN OR POSTER THEREON.

(a) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.

- (b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.
- (2) Division (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if either of the following apply to the device:
 - A. It is a “vehicle safety technology” as defined in 49 C.F.R. § 393.5 and complies with 49 C.F.R. § 393.60(e)(1)(ii).
 - B. It does not restrict the vehicle operator’s sight lines to the road and highway signs and signals, and it does not conceal the vehicle identification number.
- (3) Division (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if either of the following apply to the device:
 - A. It is a “vehicle safety technology” as defined in 49 C.F.R. § 393.5 and complies with 49 C.F.R. § 393.60(e)(1)(ii).
 - B. It does not restrict the vehicle operator’s sight lines to the road and highway signs and signals, and it is mounted not more than 8.5 inches below the upper edge of the windshield.

(c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.24)

438.23 LIMITED LOAD EXTENSION ON LEFT SIDE OF PASSENGER VEHICLE.

(a) No passenger-type vehicle shall be operated on a street with any load carried on such vehicle which extends more than six inches beyond the line of the fenders on the vehicle's left side. (ORC 4513.30)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

438.24 MOTOR VEHICLE STOP LIGHTS.

(a) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a street or highway shall be equipped with two or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least one stop light. Stop lights shall be mounted on the rear of the vehicle, actuated upon application of the service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the stop lights on the rear-most vehicle need be visible from the distance specified.

Such stop lights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.

When stop lights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under Ohio R.C. 4513.19.

Historical motor vehicles as defined in Ohio R.C. 4503.181, not originally manufactured with stop lights, are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.071)

CHAPTER 442 Commercial Drivers

442.01	Definitions.	442.04	Prohibitions.
442.02	Exemptions.	442.05	Criminal offenses.
442.03	Prerequisites to operation of a commercial motor vehicle.	442.06	Employment of drivers of commercial vehicles.

CROSS REFERENCES

See sectional histories for similar State law
 Disqualification - see Ohio R.C. 4506.16
 Suspension or revocation of license - see Ohio R.C. 4507.16
 Warning devices when disabled on freeways - see Ohio R.C. 4513.28
 Arrest notice of driver - see Ohio R.C. 5577.14
 Load limits - see TRAF. Ch. 440

442.01 DEFINITIONS.

As used in this chapter:

- (a) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:
 - (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
 - (2) Two hundred ten liters of breath;
 - (3) One hundred milliliters of urine.
- (b) "Commercial driver's license" means a license issued in accordance with Ohio R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle.
- (c) "Commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:
 - (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
 - (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of 26,001 pounds or more;
 - (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;
 - (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than sixteen passengers including the driver;
 - (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;

- (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.
- (d) "Controlled substance" means all of the following:
 - (1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;
 - (2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;
 - (3) Any drug of abuse.
- (e) "Disqualification" means any of the following:
 - (1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;
 - (2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;
 - (3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.
- (f) "Drive" means to drive, operate or be in physical control of a motor vehicle.
- (g) "Driver" means any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.
- (h) "Driver's license" means a license issued by the Ohio Bureau of Motor Vehicles that authorizes an individual to drive.
- (i) "Drug of abuse" means any controlled substance, dangerous drug as defined in R.C. § 4729.01, harmful intoxicant as defined in R.C. § 2925.01, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.
- (j) "Employer" means any person, including the Federal Government, any state and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.
- (k) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.
- (l) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor carrier, as defined in Ohio R.C. 4923.01.
- (m) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of a death.
- (n) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this State, regardless of the penalty that may be imposed.

- (15) Within one foot of another parked vehicle;
- (16) On the roadway portion of a freeway, expressway or thruway.

(b) A person is permitted, without charge or restriction, to stand or park on a sidewalk a motor-driven cycle or motor scooter that has an engine not larger than 150 cubic centimeters, a low-speed micromobility device, or a bicycle or electric bicycle, provided that the motor-driven cycle, motor scooter, low-speed micromobility device, bicycle, or electric bicycle does not impede the normal flow of pedestrian traffic. This division does not authorize any person to operate a vehicle in violation of R.C. § 4511.711, or any substantially equivalent municipal ordinance.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.68)

452.04 PARKING NEAR CURB; HANDICAPPED LOCATIONS ON PUBLIC AND PRIVATE LOTS AND GARAGES.

(a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the curb side wheels of the vehicle parallel with and not more than twelve inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.

- (b) (1) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a state route unless an unoccupied roadway width of not less than twenty-five feet is available for free-moving traffic.
- (2) A. No angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least twenty-five feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space.
- B. Replacement, repainting or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.

- (c) (1) A. Except as provided in subsection (c)(1)B. hereof, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.
- B. The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.
- (2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in subsection (c)(2) of this section irrespective of whether or not the space is metered.

(d) Notwithstanding any provision of this Code or any rule, air compressors, tractors, trucks and other equipment, while being used in the construction, reconstruction, installation, repair or removal of facilities near, on, over or under a street, may stop, stand or park where necessary in order to perform such work, provided a flagperson is on duty, or warning signs or lights are displayed as may be prescribed by the Ohio Director of Transportation.

(e) Accessible parking locations and privileges for persons with disabilities that limit or impair the ability to walk shall be provided and designated by all political subdivisions and by the state and all agencies and instrumentalities thereof at all offices and facilities where parking is provided, whether owned, rented or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators and ramps. All elevated signs posted in accordance with this division and R.C. § 3781.111(C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating an accessible parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the designated accessible parking location if the motor vehicle is not legally entitled to be parked in that location.

- (f) (1) A. No person shall stop, stand or park any motor vehicle at accessible parking locations provided under division (e) of this section, or at accessible clearly marked parking locations provided in or on privately owned parking lots, parking garages or other parking areas and designated in accordance with that division, unless one of the following applies:
 - 1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or accessible license plates; or
 - 2. The motor vehicle is being operated by or for the transport of a person with a disability and is displaying a parking card or accessible license plates.
- B. Any motor vehicle that is parked in an accessible marked parking location in violation of division (f)(1)A.1. or (f)(1)A.2. of this section may be towed or otherwise removed from the parking location by the law enforcement agency of the municipality. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles. If the motor vehicle is

a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles.

- C. If a person is charged with a violation of division (f)(1)A.1. or (f)(1)A.2. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than 72 hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in R.C. § 4503.44(A)(1).
- (2) No person shall stop, stand, or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal stripes and is located immediately adjacent to an accessible parking location provided under division (e) of this section or at an accessible clearly marked parking location provided in or on a privately owned parking lot, parking garage, or other parking area and designated in accordance with that division.

(g) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or accessible license plates, or when a motor vehicle is being operated by or for the transport of a person with a disability, and is displaying a parking card or accessible license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

(h) No owner of an office, facility or parking garage where accessible parking locations are required to be designated in accordance with division (e) of this section shall fail to properly mark the accessible parking locations in accordance with that division or fail to maintain the markings of the accessible locations, including the erection and maintenance of the fixed or movable signs.

(i) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or accessible license plates if the parking card or accessible license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(j) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) "Accessible license plates" and "removable windshield placard." Any license plates or removable windshield placard or temporary removable windshield placard issued under R.C. § 4503.41 or 4503.44, and also mean any substantially equivalent license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country or sovereignty.
 - (2) "Person with a disability." Any person who has lost the use of one or both legs or one or both arms, who is blind, deaf or unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other disabling condition.
 - (3) "Person with a disability that limits or impairs the ability to walk." Has the same meaning as in R.C. § 4503.44.
- (k) (1) Whoever violates subsection (a) or (c) of this section is guilty of a minor misdemeanor.
- (2) A. Whoever violates subsection (f)(1)A.1. or 2. of this section is guilty of a misdemeanor and shall be punished as provided in subsection (i)(2)A. and B. of this section. Except as otherwise provided in subsection (i)(2)A. of this section, an offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00). An offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not more than one hundred dollars (\$100.00) if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:
1. At the time of the violation of division (f)(1)A.1. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or accessible license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in division (f)(1)A.1. of this section.
 2. At the time of the violation of division (f)(1)A.2. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or accessible license plates that then were valid but the offender or the person neglected to display the card or license plates as described in division (f)(1)A.2. of this section.

- B. In no case shall an offender who violates subsection (f)(1)A.1. or 2. of this section be sentenced to any term of imprisonment.
- C. An arrest or conviction for a violation of subsection (f)(1)A.1. or 2. 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 in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.
- (3) Whoever violates subsection (f)(2) of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00). In no case shall an offender who violates subsection (f)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of subsection (f)(2) 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 in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.
(ORC 4511.69)

452.05 WILLFULLY LEAVING VEHICLES ON PRIVATE OR PUBLIC PROPERTY.

- (a) (1) No person shall willfully leave an abandoned junk motor vehicle, as defined in R.C. § 4513.63, on private property for more than 72 hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway for 48 hours or longer without notification to the chief of a law enforcement agency of the municipal corporation of the reason for leaving the motor vehicle in that place.
- (2) For purposes of this division (a) of this section, the fact that a motor vehicle has been so left without permission or notification is prima facie evidence of abandonment.
- (3) Nothing contained in this section and R.C. §§ 4513.60, 4513.61 and 4513.63 shall invalidate or prevent the enactment of further provisions of municipal ordinances regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property or private property within the municipality.

(b) Whoever violates this section is guilty of a minor misdemeanor and shall also be assessed any costs incurred by the municipality in disposing of the abandoned junk motor vehicle, less any money accruing to the municipality from the disposal.
(R.C. § 4513.64; Ord. 1974-13. Passed 9-9-74.)

452.06 UNATTENDED VEHICLE: DUTY TO STOP ENGINE, REMOVE KEY, SET BRAKE AND TURN WHEELS.

(a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake, and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.

The requirements of this section relating to the stopping of the engine, locking of the ignition and removing the key from the ignition of a motor vehicle do not apply to any of the following:

- (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 that involves some temporary, substantial incapacity;
 - (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
 - (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) "Serious physical harm to property" means any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) "Offense of violence" means any of the following:
 - (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.18, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2917.321, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2903.04(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in subsection (i)(1) hereof;
 - (3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof;
 - (5) A violation of division (C) of R.C. § 959.131.
- (j) (1) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

- (2) As used in this section, "trade secret" has the same meaning as in Ohio R.C. 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.
- (3) As used in this section, "cable television service", "computer", "computer software", "computer system", "computer network", "data", and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- (k) "Law enforcement officer" means any of the following:
 - (1) A sheriff, deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or State highway patrol trooper;
 - (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 is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;
 - (3) A mayor or manager in the mayor's or manager's capacity as chief conservator of the peace within the mayor's or manager's municipal corporation;
 - (4) A member of an auxiliary police force organized by county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission;
 - (5) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;
 - (6) A person appointed by a mayor pursuant to R.C. § 737.10 as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;
 - (7) A member of the organized militia of this State or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
 - (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor.
 - (9) A veterans' home police officer appointed under Ohio R.C. 5907.02;
 - (10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y);
 - (11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28;
 - (12) The Senate Sergeant of Arms and or Assistant Sergeant at Arms;
 - (13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States Department of Transportation as provided in Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.
- (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.

(d) A person acts negligently when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist.

(e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element.
(ORC 2901.22)

606.03 CLASSIFICATION OF OFFENSES.

As used in the Codified Ordinances:

- (a) Offenses include misdemeanors of the first, second, third and fourth degree, minor misdemeanors and offenses not specifically classified.
 - (b) Regardless of the penalty that 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 that may be imposed is one of the following:
 - (1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars (\$100.00);
 - (2) For an offense committed on or after January 1, 2004, a fine not exceeding one hundred fifty dollars (\$150.00), community service under division (D) of Ohio R.C. 2929.27, or a financial sanction other than a fine under Ohio R.C. 2929.28.
- (ORC 2901.02)

606.04 OFFENSES DEFINED.

(a) No conduct constitutes a criminal offense against the Municipality unless it is defined as an offense in this General Offenses Code or in any other ordinance or resolution, rule or regulation of the Municipality.

(b) An offense is defined when one or more sections of this General Offenses Code state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty. (ORC 2901.03; Ord. 1973-21. Passed 12-10-73.)

606.05 RULES OF CONSTRUCTION.

(a) Except as otherwise provided in subsection (c) hereof, sections of the Codified Ordinances 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 Codified Ordinances that refers to a previous conviction of or plea of guilty to a violation of a section of the Codified Ordinances or Ohio Revised Code or of a division of a section of the Codified Ordinances or 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 or former law of this State, another state, or the United States or under an existing or former municipal ordinance.

(d) Any provision of the Codified Ordinances that refers to a section, or to a division of a section, of the Codified Ordinances that defines or specifies a criminal offense shall be construed to also refer to an existing or 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)

606.06 LIMITATION ON CRIMINAL PROSECUTIONS.

- (a) (1) Except as provided in division (a)(2), (a)(3), (a)(4), or (a)(5) of this section or as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:
- A. For a felony, six years;
 - B. For a misdemeanor other than a minor misdemeanor, two years;
 - C. For a minor misdemeanor, six months.
- (2) There is no period of limitation for the prosecution of a violation of R.C. § 2903.01 or 2903.02 or for the prosecution of a conspiracy to commit, attempt to commit, or complicity in committing a violation of R.C. § 2903.01 or R.C. § 2903.02.
- (3) Except as otherwise provided in divisions (b) to (j) of this section, a prosecution of any of the following offenses shall be barred unless it is commenced within 20 years after the offense is committed:
- A. A violation of R.C. § 2903.03, 2903.04, 2905.01, 2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12 or 2917.02, a violation of R.C. § 2903.11 or 2903.12 if the victim is a peace officer, a violation of R.C. § 2903.13 that is a felony, or a violation of former R.C. § 2907.12.
 - B. A conspiracy to commit, attempt to commit, or complicity in committing a violation set forth in division (a)(3)A. of this section.
- (4) Except as otherwise provided in divisions (d) to (l) of this section, a prosecution of a violation of R.C. § 2907.02 or 2907.03 or a conspiracy to commit, attempt to commit, or complicity in committing a violation of either section shall be barred unless it is commenced within 25 years after the offense is committed.
- (5) A. Except as otherwise provided in divisions (a)(5)B. and (e) to (i) of this section, a prosecution of a violation of R.C. § 2907.13 shall be barred unless it is commenced within five years after the offense is committed.
- B. Prosecution that would otherwise be barred under division (a)(5)A. of this section may be commenced within five years after the date of the discovery of the offense by either an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.
- C. As used in division (a)(5)B. of this section, "aggrieved person" includes any of the following individuals with regard to a violation of R.C. § 2907.13:

1. A patient who was the victim of the violation;
 2. The spouse or surviving spouse of a patient who was the victim of the violation;
 3. Any child born as a result of the violation.
- (b) (1) Except as otherwise provided in division (b)(2) of this section, if the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of fiduciary duty within one year after discovery of the offense either by an aggrieved person or by the aggrieved person's legal representative who is not a party to the offense.
- (2) If the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution for a violation of R.C. § 2913.49 shall be commenced within five years after discovery of the offense either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.
- (c) (1) If the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:
- A. For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;
 - B. For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.
- (2) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- A. "Offense is directly related to the misconduct in office of a public servant." The phrase includes but is not limited to a violation of R.C. § 101.71, 101.91, 121.61 or 2921.13, 102.03(F) or (H), 2921.02(A), 2921.43(A) or (B), or 3517.13(F) or (G), that is directly related to an offense involving misconduct in office of a public servant, or a violation of any municipal ordinance substantially equivalent to those Ohio Revised Code sections listed in this division (c)(2)A.
 - B. "Public servant" has the same meaning as in R.C. § 2921.01.
- (d) (1) If a DNA record made in connection with the criminal investigation of the commission of a violation of R.C. § 2907.02 or 2907.03 is determined to match another DNA record that is of an identifiable person and if the time of the determination is later than 25 years after the offense is committed, prosecution of that person for a violation of the section may be commenced within five years after the determination is complete.
- (2) If a DNA record made in connection with the criminal investigation of the commission of a violation of R.C. § 2907.02 or 2907.03 is determined to match another DNA record that is of an identifiable person and if the time of the determination is within 25 years after the offense is committed, prosecution of that person for a violation of the section may be commenced within the longer of 25 years after the offense is committed or five years after the determination is complete.

- (3) As used in this division, “DNA record” has the same meaning as in R.C. § 109.573.

(e) 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 the course of conduct or the accused’s accountability for it terminates, whichever occurs first.

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

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

(h) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused departed this municipality or conceals the accused’s identity or whereabouts is prima facie evidence of the accused’s purpose to avoid prosecution.

(i) 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 that commenced the prosecution is quashed or the proceedings on the indictment, information or process are set aside or reversed on appeal.

(j) The period of limitation for a violation of this Part 6 or Title XXIX of the Ohio Revised Code that involves a physical or mental wound, injury, disability or condition of a nature that reasonably indicates abuse or neglect of a child under 18 years of age or of a child with a developmental disability or physical impairment under 21 years of age shall not begin to run until either of the following occurs:

- (1) The victim of the offense reaches the age of majority.
- (2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected or believed to have occurred.

(k) As used in this section, “peace officer” has the same meaning as in R.C. § 2935.01.

- (l) (1) The amendments to divisions (a) and (d) of this section that took effect on July 16, 2015, apply to a violation of R.C. § 2907.02 or 2907.03 committed on and after July 16, 2015, and apply to a violation of either of those sections committed prior to July 16, 2015, if prosecution for that violation was not barred under this section as it existed on July 16, 2015.
- (2) The amendment to division (a)(2) of this section that took effect on April 4, 2023, applies to a conspiracy to commit, attempt to commit, or complicity in committing a violation of R.C. § 2903.01 or R.C. § 2903.02 if the conspiracy, attempt, or

complicity is committed on or after April 4, 2023, and applies to a conspiracy to commit, attempt to commit, or complicity in committing a violation of either of those sections if the conspiracy, attempt, or complicity was committed prior to April 4, 2023, and prosecution for that conspiracy, attempt, or complicity was not barred under this section as it existed on the day prior to April 4, 2023.
(R.C. § 2901.13)

(m) This section shall not apply to prosecutions commenced within the period of limitations set forth in Ohio R.C. 718.12(B) for violations of the Municipal income tax ordinance.

606.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

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

- (1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person 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 language defining the offense.

(b) When the language defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. The fact that one subsection of a section plainly indicates a purpose to impose strict liability for an offense defined in that subsection does not by itself plainly indicate a purpose to impose strict criminal liability for an offense defined in other subsections of the section that do not specify a degree of culpability.

- (c) (1) When language defining an element of an offense that is related to knowledge or intent or to which mens rea could fairly be applied neither specifies culpability nor plainly indicates a purpose to impose strict liability, the element of the offense is established only if a person acts recklessly.
- (2) Subsection (c)(1) of this section does not apply to offenses defined in the Traffic Code.
- (3) Subsection (c)(1) of this section does not relieve the prosecution of the burden of proving the culpable mental state required by any definition incorporated into the offense.

(d) 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.

(e) 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 the possessor's control of the thing possessed for a sufficient time to have ended possession.
- (2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.

- (3) "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 606.08.
- (4) "Intoxication" includes, but is not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.
(ORC 2901.21)

606.08 ORGANIZATIONAL CRIMINAL LIABILITY.

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

- (1) The offense is a minor misdemeanor committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those 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 the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.

606.11 COMPOUNDING A CRIME.

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

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

- (1) The pending prosecution involved is for a violation of Section 642.02, 642.14, 642.15(b)(2) or 642.27 or Ohio R.C. 2913.02, 2913.11, 2913.21(B)(2) or 2913.47, of which the actor under this section was the victim.
- (2) The thing of value demanded, accepted or agreed to be accepted, in consideration of abandoning or agreeing to abandon the prosecution, did not exceed an amount that the actor reasonably believed due him as restitution for the loss caused him by the offense.

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

(d) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree. (ORC 2921.21)

Punishment shall be as provided in Section 698.02

606.12 FAILURE TO REPORT A CRIME, INJURY OR KNOWLEDGE OF DEATH.

(a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:

- (1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.
- (2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

(b) No person shall recklessly do any of the following:

- (1) Taunt, torment, or strike a police dog or horse;
- (2) Throw an object or substance at a police dog or horse;
- (3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:
 - A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;
 - B. Deprives the law enforcement officer of control of the police dog or horse;
 - C. Releases the police dog or horse from its area of control;
 - D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;
 - E. Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.
- (4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse.

- (5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct, the police dog or horse is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.
- (c) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:
- (1) The dog, at the time the physical harm is caused or attempted, is assisting or serving a person who is blind, deaf, or hearing impaired or a person with a mobility impairment.
 - (2) The dog, at the time the physical harm is caused or attempted, is not assisting or serving a person who is blind, deaf, or hearing impaired or a person with a mobility impairment, but the offender has actual knowledge that the dog is an assistance dog.
- (d) No person shall recklessly do any of the following:
- (1) Taunt, torment, or strike an assistance dog;
 - (2) Throw an object or substance at an assistance dog;
 - (3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a person who is blind, deaf, or hearing impaired or a person with a mobility impairment who is being assisted or served by an assistance dog, in a manner that does any of the following:
 - A. Inhibits or restricts the assisted or served person's control of the dog;
 - B. Deprives the assisted or served person of control of the dog;
 - C. Releases the dog from its area of control;
 - D. Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;
 - E. Inhibits or restricts the ability of the dog to assist the assisted or served person.
 - (4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;
 - (5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or serving a person who is blind, deaf, or hearing impaired or a person with a mobility impairment or that the person knows is an assistance dog.
- (e) (1) Whoever violates subsection (a) hereof is guilty of assaulting a police dog or horse. If the violation results in physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the police dog or horse, such violation is a felony and shall be prosecuted under appropriate State law.

- (2) Whoever violates subsection (b) hereof is guilty of harassing a police dog or horse. Except as otherwise provided in this subsection, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in the death of the police dog or horse or if the violation results in serious physical harm to the police dog or horse but does not result in its death, harassing a police dog or horse is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree.
- (3) Whoever violates subsection (c) hereof is guilty of assaulting an assistance dog. If the violation results in physical harm to the dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the dog, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the dog, such violation is a felony and shall be prosecuted under appropriate State law.
- (4) Whoever violates subsection (d) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this subsection, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in the death of or serious physical harm to the assistance dog but does not result in its death, harassing an assistance dog is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the assistance dog but does not result in its death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree.
- (5) In addition to any other sanction or penalty imposed for the offense under this section, whoever violates subsection (a), (b), (c) or (d) of this section is responsible for the payment of all of the following:
 - A. Any veterinary bill or bill for medication incurred as a result of the violation by the police department regarding a violation of division (a) or (b) of this section or by the person who is blind, deaf, or hearing impaired or the person with a mobility impairment assisted or served by the assistance dog regarding a violation of division (c) or (d) of this section;
 - B. The cost of any damaged equipment that results from the violation;
 - C. If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the person who is blind, deaf, or hearing impaired or the person with a mobility impairment assisted or served by the assistance dog;
 - D. If the violation resulted in the death of the assistance dog that was the subject of the violation or resulted in serious physical harm to the police dog or horse or the assistance dog or horse that was the subject of the violation to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the person who is blind, deaf, or hearing impaired or the person with a mobility impairment assisted or served by the

assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation

(f) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. Chapter 4741.

(g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or assistance dog.

(h) As used in this section:

- (1) "Assistance dog." Has the same meaning as in R.C. § 955.011.
- (2) "Blind." Had the same meaning as in R.C. § 955.011.
- (3) "Person with a mobility impairment." Has the same meaning as in R.C. § 955.011.
- (4) "Physical harm." Any injury, illness or other psychological impairment, regardless of its gravity or duration.
- (5) "Police dog or horse." A dog or horse that has been trained and may be used to assist law enforcement officers in the performance of their official duties.
- (6) "Serious physical harm." Any of the following:
 - A. Any physical harm that carries a substantial risk of death.
 - B. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming.
 - C. Any physical harm that causes acute pain of a duration that results in substantial suffering.(R.C. § 2921.321)

606.13 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 failure to aid a law enforcement officer, a minor misdemeanor. Punishment shall be as provided in Section 698.02.
(ORC 2921.23; Ord. 1973-21. Passed 12-10-73.)

606.14 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) Whoever violates this section is guilty of obstructing official business. Except as otherwise provided in this subsection (b), obstructing official business is a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm to any person, obstructing official business is a felony and shall be prosecuted under appropriate State law.
(ORC 2921.31)

CHAPTER 612 Alcoholic Beverages

612.01	Definitions.	612.05	Permit required.
612.02	Sales to and use by underage persons; prohibitions and misrepresentations.	612.06	Low-alcohol beverages: sale to and purchase by underage persons prohibited.
612.021	Purchase by minor; misrepresentation.	612.07	Open container prohibited.
612.03	Sales to intoxicated persons.	612.08	Allowing minors to drink on premises.
612.04	Liquor consumption in motor vehicle.	612.09	Hours of sale or consumption.
		612.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Prohibiting sale of intoxicating liquor on Sunday - see Ohio R.C. 4301.22(D)

Local option - see Ohio R.C. 4301.32 et seq., 4303.29

Disorderly conduct; intoxication - see GEN. OFF. 648.04

Using weapons while intoxicated - see GEN. OFF. 672.03

612.01 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" include all liquids and compounds, other than beer as defined in subsection (c) hereof, containing one half of one percent (0.5%) or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called and whether they are medicated, proprietary or patented. Such phrase includes cider and alcohol and all solids and confections which contain one-half of one percent or more of alcohol by volume.
- (c) (1) "Beer" includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of one percent (0.5%) or more, of alcohol by volume. (ORC 4301.01)
- (2) Beer, regardless of the percent of alcohol by volume, is not intoxicating liquor for purposes of this chapter. (ORC 4301.244)
- (d) "Person" includes firms and corporations.
- (e) "Low-alcohol beverage" means any brewed or fermented malt product, or any product made from the fermented juices of grapes, fruits, or other agricultural products, that contains either no alcohol or less than one-half of one percent (0.5%) of alcohol by volume. The beverages described in subsection (e) hereof do not include a soft drink such as root beer, birch beer, or ginger beer. (ORC 4301.01)

612.02 SALES TO AND USE BY UNDERAGE PERSONS; PROHIBITIONS AND MISREPRESENTATIONS.

(a) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, shall buy beer or intoxicating liquor for an underage person, or shall furnish it to an underage person unless given by a physician in the regular line of the physician's practice or given for established religious purposes or unless the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian. In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a permit holder, charged with a violation of this division shall be charged, for the same offense, with a violation of R.C. § 4301.22(A)(1) or a substantially equivalent municipal ordinance.

(b) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian and the parent, spouse who is not an underage person, or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor. An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(c) No person shall engage or use accommodations at a hotel, inn, cabin, campground or restaurant when the person knows or has reason to know either of the following:

- (1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and who is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person.
- (2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a licensed health professionals authorized to prescribe drugs and has the drug of abuse in the original container in which it was dispensed to the person.

- (d)
 - (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person, or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.
 - (2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin or campground by presenting identification that falsely indicates that the underage person is 21 years of age or older for the purpose of violating this section.

- (e)
 - (1) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess or consume any beer or 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. The prohibitions set forth in this division against an underage person knowingly possessing, consuming or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person,

or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

- (2) A. If a person is charged with violating division (e)(1) of this section in a complaint filed under R.C. § 2151.27, the court may order the child into a diversion program specified by the court and hold the complaint in abeyance pending successful completion of the diversion program. A child is ineligible to enter into a diversion program under this division if the child previously has been diverted pursuant to this division. If the child completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the child's record in the case sealed under R.C. §§ 2151.356 through 2151.358. If the child fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.
- B. If a person is charged in a criminal complaint with violating division (e)(1) of this section, R.C. § 2935.36 shall apply to the offense, except that a person is ineligible for diversion under that section if the person previously has been diverted pursuant to divisions (e)(2)A. or (e)(2)B. of this section. If the person completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the record in the case sealed under R.C. § 2953.33. If the person fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(f) No parent, spouse who is not an underage person, or legal guardian of a minor shall knowingly permit the minor to violate this section or R.C. § 4301.63, 4301.633 or 4301.634, or any substantially equivalent municipal ordinance.

(g) The operator of any hotel, inn, cabin or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin or campground.

(h) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) "Drug of abuse." Has the same meaning as in R.C. § 3719.011.
- (2) "Hotel." Has the same meaning as in R.C. § 3731.01.
- (3) "Licensed health professional authorized to prescribe drugs" and "prescription." Have the same meanings as in R.C. § 4729.01.
- (4) "Minor." A person under the age of 18 years.
- (5) "Underage person." A person under the age of 21 years.
(R.C. § 4301.69)

(i) Whoever violates division (a) of this section is guilty of a misdemeanor, shall be fined not less than \$500 nor more than \$1,000, and in addition to the fine, may be imprisoned for a definite term of not more than six months.
(R.C. § 4301.99(I))

(m) Whoever violates division (b), (c), (d), (f), or (g) of this section is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(C))

(n) Whoever violates division (e)(1) of this section is guilty of a misdemeanor of the third degree. If an offender who violates division (e)(1) of this section was under the age of 18 years at the time of the offense and the offense occurred while the offender was the operator of or a passenger in a motor vehicle, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit or probationary driver's license for a period of not less than six months and not more than one year. If the offender is 15 years and six months of age or older and has not been issued a temporary instruction permit or probationary

driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of 15 years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.

(R.C. § 4301.99(D))

612.021 PURCHASE BY MINOR; MISREPRESENTATION.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall purchase beer or intoxicating liquor.
(ORC 4301.63)

(b) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall knowingly furnish any false information as to the name, age or other identification of any person under twenty-one years of age for the purpose of obtaining or with the intent to obtain, beer or intoxicating liquor for a person under twenty-one years of age, by purchase, or as a gift.
(ORC 4301.633)

(c) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall knowingly show or give false information concerning the person's name, age or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place where beer or intoxicating liquor is sold under a permit issued by the Division of Liquor Control or sold by the Division of Liquor Control.
(ORC 4301.634)

- (d) (1) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the first degree.
- (2) Whoever violates subsection (a) hereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (a) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.
- (3) A. Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. If, in committing a first violation of that subsection, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000) and may be sentenced to a term of imprisonment of not more than six months.
- B. On a second violation in which, for the second time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).

(j) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the fourth degree.

(k) Whoever violates subsection (b) hereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (b) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed. (ORC 4301.99)

612.07 OPEN CONTAINER PROHIBITED.

(a) As used in this section:

- (1) "Chauffeured limousine" means a vehicle registered under Ohio R.C. 4503.24.
- (2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.

(b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

- (1) In a State liquor store;
- (2) Except as provided in division (c) or (j) 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 subsection (d) or (e) hereof, 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 subsection (d) or (e) hereof, 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.

(c) (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 the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, D-9, E, F, F-2, F-5, F-7 or F-8 permit;
 - B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2, A-2f, S-1, or S-2 permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
 - C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
 - D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
 - E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.
- (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 is 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. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

- (3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.
- B. As used in subsection (c)(3)A. of this section:
 - 1. "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.
 - 2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.
- (4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.
- (5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:
 - A. An orchestral performance and the F-9 permit holder grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;
 - B. An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises. As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.
- (6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:
 - 1. The person is attending a racing event at the facility; and
 - 2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;
- B. As used in subsection (c)(6)A. of this section:

CHAPTER 618 Animals

618.01	Dogs and other animals running at large.	618.12	Assistance dog with blind, deaf, or hearing impaired person, or person with a mobility impairment, or trainer.
618.02	Abandoning animals.		
618.03	Killing or injuring animals.		
618.04	Poisoning animals.	618.13	Animals prohibited; proximity to dwellings.
618.05	Cruelty to animals generally.	618.14	Barking or howling dogs.
618.051	Cruelty to companion animals.	618.15	Hunting.
618.06	Coloring rabbits and baby poultry; sale or display of poultry.	618.16	Dangerous wild animals and restricted snakes.
618.07	Animal fights.	618.17	Assaulting police dog or horse or an assistance dog.
618.08	Registration of dogs required.	618.18	Dangerous dogs.
618.09	Hindering capture of unlicensed dog.	618.19	Control of dogs, or other household pets or animals in any Village park or Village property.
618.10	Unlawful tags.		
618.11	Rabies quarantine.	618.20	Waste removal required.

CROSS REFERENCES

See section histories for similar State law

Power to restrain and impound animals - see Ohio R.C. 715.23

Driving animals upon roadway - see TRAF. 404.04, 404.05

Definitions generally - see GEN. OFF. 606.01

Offensive odors from places where animals are kept or fed - see GEN. OFF. 660.04

Discharging firearms - see GEN. OFF. 672.15

618.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person who is the owner or keeper of horses, mules, cattle, sheep, goats, swine, dogs, geese or other fowl or animals shall permit them to run at large upon any public way, upon any publicly or privately owned unenclosed land, or upon any private property where notice is posted that animals must be on a leash, other than such private property owned or possessed by the owner or person having control of such animal.
(Ord. 2019-37. Passed 6-10-19.)

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

(c) Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger of any dog shall fail at any time to do either of the following:

- (1) Keep the dog physically confined or restrained upon premises of the owner, keeper, or harbinger by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape.
- (2) Keep the dog under control of some person.

(d) For purposes of this section, "under control" is defined in Section 618.19(b)(1),(2), and (3) of these Codified Ordinances.

(e) Whoever violates subsections (a) or (c)(1) of this Section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

(f) Whoever violates subsections (c)(2) of this Section is guilty of the corresponding misdemeanor set forth in Section 618.19 (c). (Ord. 2016-26. Passed 9-12-16.)

618.02 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)

(b) Whoever violates this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense. (ORC 959.99)

618.03 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, kill or injure any animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity. (ORC 959.02)

(b) Whoever violates this section, if the value of the animal killed or the injury done amounts to less than three hundred dollars (\$300.00), is guilty of a misdemeanor of the second degree; if the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, such person is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 959.99(B))

618.04 POISONING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to any animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another. (ORC 959.03)

(b) Whoever violates any provision of this section is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (ORC 959.99(C); Ord. 1973-21. Passed 12-10-73.)

618.05 CRUELTY TO ANIMALS GENERALLY.

(a) No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;
- (2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This subsection does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means a man-made enclosure, windbreak or sunshade or a natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation;
- (3) Carry or convey an animal in a cruel or inhuman manner; or

- (4) Keep animals, other than cattle, poultry or fowl, swine, sheep or goats, in an enclosure without wholesome exercise and change of air, or feed cows on food that produces impure or unwholesome milk.
(ORC 959.13)

(b) Whoever violates this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this subsection, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(ORC 959.99(D))

Punishment shall be as provided in Section 698.02.

618.051 CRUELTY TO COMPANION ANIMALS.

(a) As used in this section:

- (1) "Animal rescue for dogs." Has the same meaning as in R.C. § 956.01.
- (2) "Boarding kennel." Has the same meaning as in R.C. § 956.01.
- (3) "Captive white-tailed deer." Has the same meaning as in R.C. § 1531.01.
- (4) "Companion animal." Any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in R.C. § 956.01. "Companion animal" does not include livestock or any wild animal.
- (5) "Cruelty." Has the same meaning as in R.C. § 1717.01.
- (6) "Dog kennel." Means an animal rescue for dogs, a boarding kennel, or a training kennel.
- (7) "Federal Animal Welfare Act." The "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C. §§ 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
- (8) "Livestock." Means horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae; poultry; alpacas; llamas; captive white-tailed deer; and any other animal that is raised or maintained domestically for food or fiber.
- (9) "Practice of veterinary medicine." Has the same meaning as in R.C. § 4741.01.
- (10) "Residential dwelling." A structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
- (11) "Serious physical harm." Means any of the following:
 - A. Physical harm that carries an unnecessary or unjustifiable substantial risk of death;
 - B. Physical harm that involves either partial or total permanent incapacity;
 - C. Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain.
- (12) "Torment." Has the same meaning as in R.C. § 1717.01.
- (13) "Torture." Has the same meaning as in R.C. § 1717.01.
- (14) "Training kennel." Means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.
- (15) "Wild animal." Has the same meaning as in R.C. § 1531.01.

(b) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill or commit an act of cruelty against a companion animal.

(c) No person shall knowingly cause serious physical harm to a companion animal.

(d) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Torture, torment, or commit an act of cruelty against the companion animal;
- (2) Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
- (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(e) No person who confines or who is the custodian or caretaker of a companion animal shall recklessly deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water.

(f) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall knowingly do any of the following:

- (1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;
- (2) Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering as a result of the deprivation or confinement;
- (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering as a result of or due to the lack of adequate shelter.

(g) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Torture, torment, or commit an act of cruelty against the companion animal;
- (2) Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
- (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(h) Divisions (b), (c), (d), (e), (f), and (g) of this section do not apply to any of the following:

- (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;

- (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under R.C. Chapter 4741;
- (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
- (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
- (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under R.C. Chapter 4741.

(i) Notwithstanding any section of the Ohio Revised Code that otherwise provides for the distribution of fine moneys, the Clerk of Court shall forward all fines the Clerk collects that are so imposed for any violation of this section to the Treasurer of the municipality, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The Treasurer shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys either to provide the training that is required for humane society agents under R.C. § 1717.061 or to provide additional training for humane society agents.
(R.C. § 959.131)

- (j)
 - (1) Whoever violates division (b) or (e) of this section is guilty of a misdemeanor of the first degree on a first offense and a felony to be prosecuted under appropriate state law on each subsequent offense.
 - (2) Whoever violates division (c) of this section is guilty of a felony to be prosecuted under appropriate state law.
 - (3) Whoever violates division (d) of this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
 - (4) Whoever violates division (f) of this section is guilty of a felony to be prosecuted under appropriate state law.
 - (5) Whoever violates division (g) of this section is guilty of a misdemeanor of the first degree.
 - (6)
 - A. A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in R.C. § 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.
 - B. A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under R.C. § 959.132.
 - (7) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section has a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological

evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(R.C. § 959.99(E))

Statutory reference:

Impoundment of companion animals; notice and hearing, see R.C. § 959.132

618.06 COLORING RABBITS OR BABY POULTRY; SALE OR DISPLAY OF POULTRY.

(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than three. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times. (ORC 925.62)

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

618.07 ANIMAL FIGHTS.

(a) No person shall knowingly do either of the following:

- (1) Engage in cockfighting, bearbaiting, or pitting an animal against another;
- (2) Use, train, or possess any animal for seizing, detaining, or mistreating a domestic animal.

(b) No person shall knowingly do either of the following:

- (1) Be employed at cockfighting, bearbaiting, or pitting an animal against another;
- (2) Do any of the following regarding an event involving cockfighting, bearbaiting, or pitting an animal against another:
 - A. Wager money or anything else of value on the results of the event;
 - B. Pay money or give anything else of value in exchange for admission to or being present at the event;
 - C. Receive money or anything else of value in exchange for the admission of another person to the event or for another person to be present at the event;
 - D. Use, possess, or permit or cause to be present at the event any device or substance intended to enhance an animal's ability to fight or to inflict injury on another animal;
 - E. Permit or cause a minor to be present at the event if any person present at or involved with the event is conducting any of the activities described in division (b)(1) or (b)(2)A., (b)(2)B., (b)(2)C., or (b)(2)D. of this section.

(c) A person who knowingly witnesses cockfighting, bearbaiting, or an event in which one animal is pitted against another when a violation of division (B) of this section is occurring at the cockfighting, bearbaiting, or event is an aider and abettor and has committed a violation of this division.

(R.C. § 959.15)

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

(ORC 959.99(C); Ord. 1973-21. Passed 12-10-73.)

618.08 REGISTRATION OF DOGS REQUIRED.

(a) No owner, keeper or harbinger of a dog more than three months of age, nor owner of a dog kennel, shall fail to file an application for registration required by Ohio R.C. 955.01, nor shall he fail to pay the legal fee thereof. (ORC 955.21)

(b) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.
(ORC 955.99(A); Ord. 1973-21. Passed 12-10-73.)

618.09 HINDERING CAPTURE OF UNLICENSED DOG.

(a) No person shall obstruct or interfere with anyone lawfully engaged in capturing an unlicensed dog or making an examination of a dog wearing a tag. (ORC 955.24)

(b) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02. (ORC 955.99(A); Ord. 1973-21. Passed 12-10-73.)

618.10 UNLAWFUL TAGS.

(a) No person shall own, keep or harbor a dog wearing a fictitious, altered or invalid registration tag or a registration tag not issued by the County Auditor in connection with the registration of such animal. (ORC 955.25)

(b) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.
(ORC 955.99(A); Ord. 1973-21. Passed 12-10-73.)

618.11 RABIES QUARANTINE.

(a) No person shall violate a rabies quarantine order issued under Ohio R.C. 955.26. (ORC 955.39)

(b) Whenever a dog or cat is required to be quarantined after biting a person pursuant to the provisions of Ohio R.C. 955.261, such animal may not be quarantined by its owner or by a harbinger in a private residence but shall only be quarantined in a pound or kennel. In all cases, said quarantine shall be under the supervision of the Health Commissioner of the health district in which the bite was inflicted and shall be at the expense of the owner or harbinger. Such quarantine shall otherwise be governed in accordance with the provisions of Ohio R.C. 955.261 and any applicable Ohio Administrative Code provisions not in conflict herewith. (Ord. 1994-27. Passed 5-23-94.)

(c) Whoever violates this section is guilty of a minor misdemeanor for a first offense; for each subsequent offense such person is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02.
(ORC 955.99(B); Ord. 1973-21. Passed 12-10-73.)

618.12 ASSISTANCE DOG WITH BLIND, DEAF, OR HEARING IMPAIRED PERSON, OR PERSON WITH A MOBILITY IMPAIRMENT, OR TRAINER.

(a) When a person who is blind, deaf, or hearing impaired, a person with a mobility impairment, or a trainer of an assistance dog is accompanied by an assistance dog, the person or trainer, as applicable, is entitled to the full and equal accommodations, advantages, facilities, and privileges of all public conveyances, hotels, and lodging places, all places of public accommodation, amusement, or resort, and other places to which the general public is invited, and may take the dog into such conveyances and places, subject only to the conditions and limitations applicable to all persons not so accompanied, except that:

- (1) The dog shall not occupy a seat in any public conveyance; and
- (2) The dog shall be leashed while using the facilities of a common carrier.
- (3) Any dog in training to become an assistance dog shall be covered by a liability insurance policy provided by the nonprofit special agency engaged in such work protecting members of the public against personal injury or property damage caused by the dog.

(b) No person shall deprive a person who is blind, deaf, or hearing impaired, a person who has a mobility impairment, or a trainer of an assistance dog when the person or trainer, as applicable, is accompanied by an assistance dog of any of the advantages, facilities, or privileges provided in division (A) of this section, and no person shall charge the person or trainer a fee or charge for the dog.

(R.C. § 955.43(A), (B))

(c) As used in this section:

- (1) "Assistance dog" means a guide dog, hearing dog, or service dog that has been trained by a nonprofit special agency.
- (2) "Blind" means either of the following:
 - A. Vision 20/200 or less in the better eye with proper correction;
 - B. Field defect in the better eye with proper correction that contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than 20 degrees.
- (3) "Guide dog" means a dog that has been trained or is in training to assist a blind person.
- (4) "Hearing dog" means a dog that has been trained or is in training to assist a deaf or hearing-impaired person.
- (5) "Institutions of education" means:
 - A. Any state university or college as defined in R.C. § 3345.32;
 - B. Any private college or university that holds a certificate of authorization issued by the Ohio Board of Regents pursuant to R.C. Chapter 1713;
 - C. Any elementary or secondary school operated by a board of education;
 - D. Any chartered or nonchartered nonpublic elementary or secondary school; or
 - E. Any school issued a certificate of registration by the state Board of Career Colleges and Schools.
- (6) "Person with a mobility impairment" means any person, regardless of age, who is subject to a physiological impairment regardless of its cause, nature, or extent that renders the person unable to move about without the aid of crutches, a wheelchair, or any other form of support, or that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any related function. The phrase includes a person with a neurological or psychological disability that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any related function. The phrase also includes a person with a seizure disorder and a person who is diagnosed with autism.
- (7) "Service dog" means a dog that has been trained or is in training to assist a person with a mobility impairment.

(R.C. §§ 955.011(B), 955.43(C))

(d) Whoever violates any provision of this section shall be guilty of a misdemeanor of the fourth degree.

(R.C. § 955.99(D))

618.13 ANIMALS PROHIBITED; PROXIMITY TO DWELLINGS.

- (a) No swine shall be kept in any of the residential areas of the village, except as follows:
 - (1) One mini pig may be kept in a residential structure and not more than two miniature mini pigs may be kept in a multi-unit residential structure provided that:
 - A. Each mini pig shall be a pet that is to be kept for personal enjoyment and not kept or raised for human consumption.
 - B. The maximum height of a mini pig shall not exceed 15." The maximum length of a mini pig shall not exceed 24." If either dimension is exceeded, the pig shall be removed from the Village.
 - C. Mini pigs shall not be bred within the Village;

- D. Mini pigs must be spayed or neutered if three months or older;
 - E. If a mini pig is taken off its owner's property, it shall be on a secure leash that is not more than six feet in length which is held in the hand of a person who is of suitable age and discretion.
 - F. Waste from mini pigs shall be removed in an appropriate manner to prevent health and odor problems;
 - G. Mini pigs shall reside in the residence of the owner as a house pet and shall not be kept in an outside pen, other than for brief periods;
 - H. If a mini pig becomes a nuisance, disturbs the tranquility of the surrounding neighborhood, or becomes a health problem, the Service Director and or the County Health Department shall have the authority to order and have the mini pig removed from the Village; and
 - I. Any person found guilty of violating the provisions of this section shall pay all expenses, including shelter, food and veterinary expenses necessitated by the seizure of any mini pig.
- (2) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor. Each day that this section is violated constitutes a separate offense. (Ord. 2014-52. Passed 12-12-14.)

(b) No person shall place or keep any horses, cattle, sheep, goats, ponies or similar livestock within a platted residential subdivision in sublots containing two acres or less. (Ord. 1968-9. Passed 6-24-68.)

(c) No person shall own, keep or maintain any horses, mules, cattle, sheep, goats, swine, rabbits, ducks, geese, chickens or other fowl within fifty feet of the margin of any street or within 100 feet of the dwelling of any other person, or in a manner as to permit the unreasonable emanation of noxious odors therefrom. (Ord. 1975-15. Passed 4-14-75.)

(d) Whoever violates any provision of this section not otherwise provided for is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

618.14 BARKING OR HOWLING DOGS.

(a) No person shall own, keep, maintain or harbor any dog or cat which continuously barks, howls, growls or emits any other disconcerting sound or otherwise conducts itself habitually in such a manner as to disturb the peace, good order and quiet of the Village and the inhabitants thereof. (Ord. 1968-9. Passed 6-24-68.)

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

618.15 HUNTING.

(a) No person shall hunt with any type of weapon within the Village except that hunting shall be permitted upon certain open territories within the Village. Open territories are defined as those land areas within the Village which are: not closer than 600 feet from any building; not closer than 600 feet from a street, road or highway; and not closer than 600 feet from the closest boundary of a subdivision. Hunting within the boundaries of a subdivision is prohibited. Each person hunting upon any permitted open territory shall obtain written permission of each landowner upon whose land the person is hunting, and each person hunting shall also obtain permission from the Chief of Police of the Village after showing the Chief written permission from the landowner or landowners involved. Such written permission from the landowner shall be dated and state the period of time during which such hunting will be permitted, or if there is no period of time indicated, then such written permission shall authorize hunting only for the day

indicated by the date. The permission issued by the Chief shall not be issued for a time period exceeding twenty-four hours. Only a shotgun using six number two shot or smaller, or a long bow and arrow shall be used for hunting in the restricted territories referred to above.

(b) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02. (Ord. 1974-21. Passed 12-9-74.)

618.16 DANGEROUS WILD ANIMALS AND RESTRICTED SNAKES.

(a) For purposes of this section, "dangerous wild animal" and "restricted snake" have the same meanings as set forth in Ohio R.C. 935.01.

- (b) (1) Except for a restricted snake specified in Ohio R.C. 935.01(L)(1), no person shall sell or offer for sale at auction a dangerous wild animal or restricted snake.
- (2) Except for a microchip removed for purposes of a medical emergency by a veterinarian that is qualified to provide veterinary care to the dangerous wild animal, no person shall knowingly remove a microchip that is implanted in a dangerous wild animal as required in Ohio R.C. 935.04.

forth in R.C. § 2925.11(C)(10)(b) and (C)(11) will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (1), (2), (3), (4), or (5) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.

- (e) “Certified grievance committee.” A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.
- (f) “Cocaine.” Any of the following:
 - (1) A cocaine salt, isomer or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.
 - (2) Coca leaves or a salt, compound, derivative or preparation of coca leaves, including ecgonine, a salt, isomer or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.
 - (3) A salt, compound, derivative or preparation of a substance identified in division (1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.
- (g) “Committed in the vicinity of a juvenile.” An offense is “committed in the vicinity of a juvenile” if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (h) “Committed in the vicinity of a school.” An offense is “committed in the vicinity of a school” if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.
- (i) “Committed in the vicinity of a substance addiction services provider or a recovering addict.” An offense is “committed in the vicinity of a substance addiction services provider or a recovering addict” if either of the following apply:
 - (1) The offender commits the offense on the premises of a substance addiction services provider’s facility, including a facility licensed prior to June 29, 2019, under R.C. § 5119.391 to provide methadone treatment or an opioid treatment program licensed on or after that date under R.C. § 5119.37, or within 500 feet of the premises of a substance addiction services provider’s facility and the offender knows or should know that the offense is being committed within the vicinity of the substance addiction services provider’s facility.
 - (2) The offender sells, offers to sell, delivers, or distributes the controlled substance or controlled substance analog to a person who is receiving treatment at the time of the commission of the offense, or received treatment within 30 days prior to the commission of the offense, from a substance addiction services provider and the offender knows that the person is receiving or received that treatment.
- (j) “Controlled substance.” Has the same meaning as in R.C. § 3719.01.
- (k) “Controlled substance analog.” Has the same meaning as in R.C. § 3719.01.

- (l) "Counterfeit controlled substance." Any of the following:
 - (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to the trademark, trade name or identifying mark.
 - (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it.
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.
 - (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its markings, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (m) "Cultivate." Includes planting, watering, fertilizing or tilling.
- (n) "Dangerous drug." Has the same meaning as in R.C. § 4729.01.
- (o) "Deception." Has the same meaning as in R.C. § 2913.01.
- (p) "Disciplinary counsel." The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.
- (q) "Dispense." Has the same meaning as in R.C. § 3719.01.
- (r) "Distribute." Has the same meaning as in R.C. § 3719.01.
- (s) "Drug." Has the same meaning as in R.C. § 4729.01.
- (t) "Drug abuse offense." Any of the following:
 - (1) A violation of R.C. § 2913.02(A) that constitutes theft of drugs, or any violation of R.C. § 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37.
 - (2) A violation of an existing or former law of any municipality, state or of the United States, that is substantially equivalent to any section listed in division (1) of this definition.
 - (3) An offense under an existing or former law of any municipality, state or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element.
 - (4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under division (1), (2) or (3) of this definition.
- (u) "Drug of abuse." Has the same meaning as in R.C. § 3719.011.
- (v) "Felony drug abuse offense." Any drug abuse offense that would constitute a felony under the laws of this state, any other state or the United States.
- (w) "Fentanyl-related compound." Any of the following:
 - (1) Fentanyl;
 - (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
 - (3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide);

- (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidiny)]-N-phenylpropanamide);
 - (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]]-phenylpropanamide);
 - (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-phenylpropanamide);
 - (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidiny]]-phenylpropanamide);
 - (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]]propanamide;
 - (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]]-propanamide;
 - (10) Alfentanil;
 - (11) Carfentanil;
 - (12) Remifentanil;
 - (13) Sufentanil;
 - (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]]-N-phenylacetamide); and
 - (15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:
 - A. A chemical scaffold consisting of both of the following:
 - 1. A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;
 - 2. An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.
 - B. A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;
 - C. An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and
 - D. The compound has not been approved for medical use by the United States food and drug administration.
- (x) "Harmful intoxicant." Does not include beer or intoxicating liquor, but means any of the following:
- (1) 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 but is not limited to any of the following:
 - A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline or other preparation containing a volatile organic solvent.
 - B. Any aerosol propellant.
 - C. Any fluorocarbon refrigerant.
 - D. Any anesthetic gas.
 - (2) Gamma Butyrolactone;
 - (3) 1,4 Butanediol.

- (y) "Hashish."
 - (1) A resin or a preparation of a resin to which both of the following apply:
 - A. It is contained in or derived from any part of the plant of the genus *cannabis*, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
 - B. It has a delta-9 tetrahydrocannabinol concentration of more than 0.3%.
 - (2) The term does not include a hemp byproduct in the possession of a licensed hemp processor under R.C. Chapter 928, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under R.C. § 928.03.
- (z) "Hypodermic." Has the same meaning as in R.C. § 3719.01.
- (aa) "Juvenile." A person under 18 years of age.
- (bb) "Licensed health professional authorized to prescribe drugs." Has the same meaning as in R.C. § 4729.01.
- (cc) "L.S.D." Lysergic acid diethylamide.
- (dd) "Major drug offender." Has the same meaning as in R.C. § 2929.01.
- (ee) "Mandatory prison term." Has the same meaning as in R.C. § 2929.01.
- (ff) "Manufacture." 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.
- (gg) "Manufacturer." Has the same meaning as in R.C. § 3719.01.
- (hh) "Marihuana." Has the same meaning as in R.C. § 3719.01, except that it does not include hashish.
- (ii) "Methamphetamine." Methamphetamine, any salt, isomer or salt of an isomer of methamphetamine, or any compound, mixture, preparation or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.
- (jj) "Minor drug possession offense." Either of the following:
 - (1) A violation of R.C. § 2925.11, as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
 - (2) A violation of R.C. § 2925.11, as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.
- (kk) "Official written order." Has the same meaning as in R.C. § 3719.01.
- (ll) "Person." Has the same meaning as in R.C. § 3719.01.
- (mm) "Person with a drug dependency." Has the same meaning as in R.C. § 3719.011.
- (nn) "Pharmacist." Has the same meaning as in R.C. § 3719.01.
- (oo) "Pharmacy." Has the same meaning as in R.C. § 3719.01.
- (pp) "Possess" or "possession." 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.
- (qq) "Premises of a substance addiction services provider's facility." Means the parcel of real property on which any substance addiction service provider's facility is situated.
- (rr) "Prescription." Has the same meaning as in R.C. § 4729.01.
- (ss) "Presumption for a prison term" or "presumption that a prison term shall be imposed." A presumption as described in R.C. § 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under R.C. § 2929.11.

- (tt) "Professional license." Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate or temporary registration that is described in R.C. § 2925.01(W)(1) to (W)(37) and that qualifies a person as a professionally licensed person.
- (uu) "Professionally licensed person." Any of the following:
- (1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;
 - (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under R.C. Chapter 4703;
 - (3) A person who is registered as a landscape architect under R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
 - (4) A person licensed under R.C. Chapter 4707;
 - (5) A person who has been issued a certificate of registration as a registered barber under R.C. Chapter 4709;
 - (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of R.C. Chapter 4710;
 - (7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under R.C. Chapter 4713;
 - (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license or a dental hygienist's teacher's certificate under R.C. Chapter 4715;
 - (9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under R.C. Chapter 4717;
 - (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under R.C. Chapter 4723;
 - (11) A person who has been licensed to practice optometry or to engage in optical dispensing under R.C. Chapter 4725;
 - (12) A person licensed to act as a pawnbroker under R.C. Chapter 4727;
 - (13) A person licensed to act as a precious metals dealer under R.C. Chapter 4728;
 - (14) A person licensed under R.C. Chapter 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;
 - (15) A person licensed under R.C. Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
 - (16) A person who is authorized to practice as a physician assistant under R.C. Chapter 4730;

- (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under R.C. Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist, independent school psychologist, or school psychologist under R.C. Chapter 4732;
- (19) A person registered to practice the profession of engineering or surveying under R.C. Chapter 4733;
- (20) A person who has been issued a license to practice chiropractic under R.C. Chapter 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under R.C. Chapter 4735;
- (22) A person registered as a registered environmental health specialist under R.C. Chapter 4736;
- (23) A person licensed to operate or maintain a junkyard under R.C. Chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under R.C. Chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under R.C. Chapter 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under R.C. Chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under R.C. Chapter 4747;
- (28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under R.C. Chapter 4749;
- (29) A person licensed to practice as a nursing home administrator under R.C. Chapter 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under R.C. Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under R.C. Chapter 4755;
- (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under R.C. Chapter 4757;
- (33) A person issued a license to practice dietetics under R.C. Chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under R.C. Chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under R.C. Chapter 4763;
- (36) A person who has been issued a home inspector license under R.C. Chapter 4764;
- (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.
- (vv) "Public premises." Any hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort.
- (ww) "Sale." Has the same meaning as in R.C. § 3719.01.

2. "Community control sanction" and "drug treatment program" have the same meanings as in Ohio R.C. 2929.01.
 3. "Health care facility" has the same meaning as in Ohio R.C. 2919.16.
 4. "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.
 5. "Post-release control sanction" has the same meaning as in Ohio R.C. 2967.28.
 6. "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
 7. "Public agency" has the same meaning as in Ohio R.C. 2930.01.
 8. "Qualified individual" means a person who is acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2)B. of this section.
 9. "Seek or obtain medical assistance" includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.
- B. Subject to division (b)(2)E. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted, or penalized pursuant to this chapter for a minor drug possession offense or a violation of R.C. § 2925.12, R.C. § 2925.14(C)(1), or R.C. § 2925.141 if all of the following apply:
1. The evidence of the obtaining, possession, or use of the controlled substance or controlled substance analog, drug abuse instruments, or drug paraphernalia that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
 2. Subject to division (b)(2)F. of this section, within 30 days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.
 3. Subject to division (b)(2)F. of this section, the qualified individual who obtains a screening and receives a referral for treatment under division (b)(2)B.2. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that division. The documentation shall be limited to the date and time of the screening obtained and referral received.
- C. If a person who is serving a community control sanction or is under a sanction on post-release control acts pursuant to division (b)(2)B. of this section, then R.C. § 2929.141(B), R.C. § 2929.15(B)(2), R.C. § 2929.25(D)(3), or R.C. § 2967.28(F)(3) applies to the person with respect to any violation of the sanction or post-release control sanction based on a minor drug possession offense, as defined in R.C. § 2925.11, or a violation of R.C. § 2925.12, R.C. § 2925.14(C)(1), or R.C. § 2925.141.
- D. Nothing in division (b)(2)B. of this section shall be construed to do any of the following:
1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of division (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense

- or a violation of R.C. § 2925.12, R.C. § 2925.14(C)(1), or R.C. § 2925.141 committed by a person who qualifies for protection pursuant to division (b)(2)B. of this section;
2. Limit any seizure of evidence or contraband otherwise permitted by law;
 3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;
 4. Limit, modify, or remove any immunity from liability available pursuant to law in effect prior to September 13, 2016 to any public agency or to an employee of any public agency.
- E. Division (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under division (b)(2)B. of this section. No person shall be granted an immunity under division (b)(2)B. of this section more than two times.
- F. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the “Health Insurance Portability and Accountability Act of 1996”, 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. §§ 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.

- (c) Whoever violates subsection (a) hereof is guilty of one of the following:
- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate State law.
 - (2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(2)B. hereof, possession of marihuana is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.
 - (3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(3)B. hereof, possession of hashish is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(d) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(e) 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 about the person's criminal record, including any inquiries contained in 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)

620.04 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 marihuana, 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

marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

- (b) (1) 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 Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.
- (2) Division (B)(2) of R.C. § 2925.11 applies with respect to a violation of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

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

- (d) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. 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 R.C. § 2925.38.
- (2) A. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- B. Upon the filing of a motion under division (d)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.
(R.C. § 2925.12)

620.05 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 Ohio R.C. 4501.01(A), 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.

620.12 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 or Ohio R.C. Chapter 2925. "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 designated 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, except for those exempted in division (d)(4) of this section;
- (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, marihuana;
- (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 or Ohio R.C. Chapter 2925;

- (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 or Ohio R.C. Chapter 2925. 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 or Ohio R.C. Chapter 2925, 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) Subject to divisions (d)(2), (d)(3), and (d)(4) of this section, 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 the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) 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 Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 620.10.
- (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.
- (3) Division (B)(2) of R.C. § 2925.11 applies with respect to a violation of division (c)(1) of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

- (4) Division (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound.
- (e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold or manufactured in 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 Ohio R.C. 2981.12.
- (f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
- (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
- (4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.
- (g) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. 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 R.C. § 2925.38.
- (2) A. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- B. Upon the filing of a motion under division (g)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.
(R.C. § 2925.14)

620.121 MARIHUANA DRUG PARAPHERNALIA.

- (a) As used in this section, "drug paraphernalia" has the same meaning as in Section 620.12.
- (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, all factors identified in subsection (b) of Section 620.12.
- (c) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

(d) This section does not apply to any person identified in subsection (d)(1) of Section 620.12 and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 620.10.

- (e) (1) Subsection (e) of Section 620.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.
- (2) Division (B)(2) of R.C. § 2925.11 applies with respect to a violation of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.
- (f) (1) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.
- (2) Arrest or conviction for a violation of division (c) 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 about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.
- (g) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall do the following, if applicable:
 - A. If the offender pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.
 - B. If the offender is a professionally licensed person, the court immediately shall comply with R.C. § 2925.38.
- (2) A. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- B. Upon the filing of a motion under division (g)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.
(R.C. § 2925.141)

620.13 COUNTERFEIT CONTROLLED SUBSTANCES.

- (a) No person shall knowingly possess any counterfeit controlled substance.
- (b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. (ORC 2925.37)
- (c) The court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.37)

620.14 OFFENDER MAY BE REQUIRED TO PAY FOR CONTROLLED SUBSTANCE TESTS.

In addition to the financial sanctions authorized or required under Ohio R.C. 2929.18 and 2929.28 and to any costs otherwise authorized or required under any provision of law, the court imposing sentence upon an offender who is convicted of or pleads guilty to a drug abuse offense may order the offender to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution all of the costs that the state, municipal corporation, or county reasonably incurred in having tests performed under Ohio R.C. 2925.51, or in any other manner on any substance that was the basis of, or involved in, the offense to determine whether the substance contained any amount of a controlled substance if the results of the tests indicate that the substance tested contained any controlled substance. No court shall order an offender under this section to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance.

The court shall hold a hearing to determine the amount of costs to be imposed under this section. The court may hold the hearing as part of the sentencing hearing for the offender. (ORC 2925.511)

620.15 SALE OF DEXTROMETHORPHAN.

(a) As used in this section:

- (1) "Dextromethorphan." Means the dextrorotatory isomer of 3-methoxy-N-methylmorphinan, including its salts, but not including its racemic or levorotatory forms.
- (2) "Evidence of majority and identity." Means a document issued by the federal government or a state, county, or municipal government, or a subdivision or agency of any of the foregoing, including a driver's or commercial driver's license, an identification card issued under R.C. §§ 4507.50 to 4507.52, a military identification card, or any other form of identification that bears the name, date of birth, description, and picture of the person identified.
- (3) "Retailer." Means a place of business that offers consumer products for sale to the general public, including a terminal distributor of dangerous drugs that is licensed under R.C. Chapter 4729 and operated as a pharmacy.

(b) No retailer or employee of a retailer shall knowingly supply, deliver, give, or otherwise provide a drug, material, compound, mixture, preparation, or substance containing any quantity of dextromethorphan through the sale of any product to a person under 18 years of age, unless the person has been issued a prescription for the product being purchased.

(c) For purposes of division (b) of this section, the person making the sale of a product containing dextromethorphan shall require and obtain evidence of majority and identity from the purchaser, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be 25 years of age or older. Proof that the person making the sale demanded, was shown, and acted in reasonable reliance on the purchaser's evidence of majority and identity is a defense to any charge of a violation of division (b) of this section.

(d) A retailer or employee of a retailer is not liable for damages in a civil action for injury, death, or loss to person or property that allegedly arises from an act or omission associated with a failure to prevent the sale of a product containing dextromethorphan to a person under 18 years of age, unless the act or omission constitutes willful or wanton misconduct.

(e) Whoever violates division (b) of this section is guilty of illegally selling dextromethorphan, a minor misdemeanor. (R.C. § 2925.62)

620.99 PENALTY.
(EDITOR'S NOTE: See Section 606.99 for penalties applicable to any misdemeanor classification.)

- instant bingo game. In no case shall an instant bingo ticket or card be sold or provided for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare.
- (13) Fail to display its bingo license, and the serial numbers of the deal of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards;
 - (14) Possess a deal of instant bingo tickets or cards that was not purchased from a distributor licensed under Ohio R.C. 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Section 624.11(e);
 - (15) Fail, once it opens a deal of instant bingo tickets or cards, to continue to sell the tickets or cards in that deal until the tickets or cards with the top two highest tiers of prizes in that deal are sold;
 - (16) Possess bingo supplies that were not obtained in accordance with Ohio R.C. 2915.01 to 2915.13.

(b) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards.

(c) Whoever violates subsection (a) of this section or a rule adopted under Ohio R.C. 2915.091(C) is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (a) of this section or of such a rule, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law. (ORC 2915.091)

624.08 RAFFLES.

- (a) (1) Subject to division (a)(2) of this section, a person or entity may conduct a raffle to raise money for the person or entity and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit if the person or entity is any of the following:
 - A. Exempt from federal income taxation under IRC § 501(a) and described in IRC § 501(c)(3);
 - B. A school district, community school established under R.C. Chapter 3314, STEM school established under R.C. Chapter 3326, college-preparatory boarding school established under R.C. Chapter 3328, or chartered nonpublic school;
 - C. Exempt from federal income taxation under IRC § 501(a) and described in IRC § 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19).
- (2) If a person or entity that is described in division (a)(1)C. of this section conducts a raffle, the person or entity shall distribute at least 50% of the net profit from the raffle to a charitable purpose described in R.C. § 2915.01(V) or to a department or agency of the federal government, the state, or any political subdivision.

(b) Except as provided in division (a) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.

(c) Whoever violates division (b) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this division, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (b) of this section, illegal conduct of a raffle is a felony to be prosecuted under appropriate state law. (R.C. § 2915.092)

624.09 CHARITABLE INSTANT BINGO ORGANIZATIONS.

(a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.

- (b) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session under a type III license issued under R.C. § 2915.08, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.
- (2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session under a type III license issued under R.C. § 2915.08 is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted, provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.

(c) Except as provided in subsection (f) of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.

(d) The owner or lessor of a location that enters into a contract pursuant to subsection (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

The charitable instant bingo organization shall pay six per cent of the total gross receipts of any deal of instant bingo tickets for the purpose of reimbursing the owner or lessor for expenses described in this subsection.

CHAPTER 630
Minors

630.01	Endangering children.	630.03	Contributing to unruliness or delinquency of a child.
630.02	Interference with custody.	630.04	Minors' curfew.

CROSS REFERENCES

See sectional histories for similar State law

Juvenile Court - see Ohio R.C. Ch. 2151

Parents' liability for destructive acts of their children - see Ohio R.C. 3109.09

Sale of alcoholic beverages to minors; prohibitions and misrepresentations - see GEN. OFF. 612.02, 612.08

Child stealing - see GEN. OFF. 636.07

Nonsupport of dependents - see GEN. OFF. 636.10, 636.11

Materials or performances harmful to juveniles - see GEN. OFF. 666.01(e), 666.11, 666.13

Juvenile defined - see GEN. OFF. 666.01(i)

Corruption of a minor - see GEN. OFF. 666.02

Sexual imposition - see GEN. OFF. 666.03

Improperly furnishing firearms to a minor - see GEN. OFF. 672.10

630.01 ENDANGERING CHILDREN.

EDITOR'S NOTE: See Section 636.07

630.02 INTERFERENCE WITH CUSTODY.

(a) No person, knowing that he or she is without privilege to do so or being reckless in that regard, shall entice, take, keep or harbor a person identified in division (a)(1), (a)(2) or (a)(3) of this section from the parent, guardian or custodian of the person identified in division (a)(1), (a)(2) or (a)(3) of this section:

- (1) A child under the age of 18, or a child with a mental or physical disability under the age of 21;
- (2) A person committed by law to an institution for delinquent, unruly, neglected, abused or dependent children;
- (3) A person committed by law to an institution for persons with mental illnesses or an institution for persons with intellectual disabilities.

(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 his or her conduct was necessary to preserve the child's health or safety. It is an affirmative defense to a 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 his or her shelter, protection, or influence.

(d) Whoever violates this section is guilty of interference with custody.

- (1) Except as otherwise provided in this subdivision, a violation of division (a)(1) above is a misdemeanor of the first degree. If the child who is the subject of a violation of division (a)(1) is removed from the state or if the offender previously has been convicted of an offense under this section or a substantially equivalent state law or municipal ordinance, a violation of division (a)(1) of this section is a felony to be prosecuted under appropriate state law. If the child who is the subject of a violation of division (a)(1) suffers physical harm as a result of the violation, a violation of division (a)(1) of this section is a felony to be prosecuted under appropriate state law.
- (2) A violation of division (a)(2) or (a)(3) of this section is a misdemeanor of the third degree.
- (3) A violation of division (b) of this section is a misdemeanor of the first degree. Each day of a violation of division (b) is a separate offense.
(ORC 2919.23; Ord. 1973-21. Passed 12-10-73.)

630.03 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

- (a) As used in this section:
 - (1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.
 - (2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.
- (b) No person, including a parent, guardian or other custodian of a child, shall do any of the following:
 - (1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child or a delinquent child;
 - (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child or a delinquent child;
 - (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;
 - (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.
- (c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense. (ORC 2919.24)

630.04 MINORS' CURFEW.

- (a) No child, unless accompanied by a parent, guardian or another adult approved by a parent or guardian, shall enter or remain on any street, sidewalk or other public place, either on foot or any type of vehicle, during the following hours:
 - (1) A child under the age of sixteen between 11:00 p.m. and 6:00 a.m.;
 - (2) A child the age of sixteen or seventeen, between 1:00 a.m. and 6:00 a.m.

(b) It shall be an affirmative defense to prosecution under subsection (a) hereof that the minor child was in attendance or traveling to or from a school, religious or civic function; or traveling to or from employment, or otherwise engaged in the course of their employment; or responding to a medical or other emergency or when accompanied by a parent or guardian or a member of the immediate family that is eighteen years of age or older.

(c) No parent, guardian or other adult person having the care and/or control of a child with the consent of the child's parent, guardian or court order shall negligently permit or allow the child to violate subsection (a) hereof.

(d) It shall be an affirmative defense to prosecution under subsection (a) hereof that the parent, guardian or other adult person having the care and/or control of a child with the consent of the child's parent, guardian or court order, immediately reported to the police the child's refusal or failure to comply with subsection (a) hereof.

(e) Any child violating subsection (a) hereof shall be dealt with in accordance with Juvenile Court laws and procedure. Any parent or guardian who violates subsection (c) hereof shall be guilty of a minor misdemeanor. (Ord. 2015-1. Passed 1-26-15.)

privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10.

(d) Subsection (a)(1)B. does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27. The failure to erect signs of the type described in Ohio R.C. 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of subsections (a)(1)A. or (a)(2) of this section in that construction zone or the prosecution of any person who violates any of those subsections in that construction zone.

(e) As used in this section:

- (1) "Mandatory prison term" and "mandatory jail term" have the same meanings as in Ohio R.C. 2929.01.
- (2) "Traffic-related homicide, manslaughter or assault offense" means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of Ohio R.C. 2903.06 or 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07 or 2903.08 as they existed prior to March 23, 2000.
- (3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.
- (4) "Speeding offense" means a violation of Ohio R.C. 4511.21 or a municipal ordinance pertaining to speed.

(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States. (ORC 2903.06)

(g) The court imposing a sentence upon an offender for any violation of this section also shall impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (B) of Ohio R.C. 4510.02 that is equivalent in length to the suspension required for a violation of Ohio R.C. 2903.06 under similar circumstances. (ORC 4510.07)

636.021 VEHICULAR ASSAULT IN A CONSTRUCTION ZONE.

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause serious physical harm to another person or another's unborn as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense. This subsection applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) hereof.

(b) Whoever violates this section is guilty of vehicular assault. Except as provided in this subsection, vehicular assault is a misdemeanor of the first degree. Vehicular assault is a felony if, at the time of the offense, the offender was driving under a suspension imposed under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any

traffic-related homicide, manslaughter, or assault offense, and shall be prosecuted under appropriate state law.

In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02.

(c) The court shall impose a mandatory jail term of at least seven days on an offender who is convicted of or pleads guilty to a violation of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99.

(d) This section does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27.

(e) As used in this section:

- (1) "Mandatory jail term" has the same meaning as in Ohio R.C. 2929.01.
- (2) "Traffic-related homicide, manslaughter or assault offense" has the same meaning as in Ohio R.C. 2903.06.
- (3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.
- (4) "Speeding offense" has the same meaning as in Ohio R.C. 2903.06.

(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States. (ORC 2903.08)

636.03 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) Whoever violates division (a) or (b) of this section is guilty of assault. Except as provided in R.C. § 2903.13(C), assault is a misdemeanor of the first degree.

(d) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in R.C. § 2941.1423 (victim of the offense was a woman whom the defendant knew was pregnant at the time of the offense) that was included in the indictment, count in the indictment or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in R.C. § 2929.24(F).

(e) A prosecution for a violation of division (a) or (b) of this section does not preclude a prosecution of a violation of any other section of the Ohio Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under division (a) or (b) of this section or any other section of the Ohio Revised Code may be prosecuted under division (a) or (b) of this section, the other section of the Ohio Revised Code, the municipal ordinance, or both sections. However, if an offender is convicted of or pleads guilty to a violation of division (a) or (b) of this section and also is convicted of or pleads guilty to a violation of R.C. § 2903.22, or any substantially equivalent municipal ordinance, based on the same conduct involving the same victim

that was the basis of the violation of division (a) or (b) of this section, the offenses are allied offenses of similar import under R.C. § 2941.25.

(R.C. § 2903.13)

Statutory reference:

Aggravated and felonious assault, see R.C. §§ 2903.11 and 2903.12

Felony assault offenses, see R.C. § 2903.13(C)

Permitting child abuse, felony offense, see R.C. § 2903.15

Persons who may seek relief under anti-stalking protection order; ex parte orders, see R.C. § 2903.214

Protection order as pretrial condition of release, see R.C. § 2903.213

Strangulation, felony offense, see R.C. § 2903.18

Vehicular assault and aggravated vehicular assault, felony offenses, see R.C. § 2903.08

636.04 NEGLIGENT ASSAULT.

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

- (2) Subsection (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
- (3) Subsection (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature. (ORC 2903.211)

636.06 MENACING.

- (a) (1) 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. In addition to any other basis for the other person's belief 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, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.
- (2) No person shall knowingly place or attempt to place another in reasonable fear of physical harm or death by displaying a deadly weapon, regardless of whether the deadly weapon displayed is operable or inoperable, if either of the following applies:
 - A. The other person is an emergency service responder, the person knows or reasonably should know that the other person is an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against an emergency service responder.
 - B. The other person is a family or household member or co-worker of an emergency service responder, the person knows or reasonably should know that the other person is a family or household member or co-worker of an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against a family or household member or co-worker of an emergency service responder.

(b) Whoever violates this section is guilty of menacing. Except as otherwise provided in this division, menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties or if the victim of the offense is an emergency service responder in the performance of the responder's official duties, menacing is one of the following:

- (1) Except as otherwise provided in division (b)(2) of this section, a misdemeanor of the first degree;
- (2) If the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency or an emergency service responder, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties or to the responder's performance of the responder's official duties, a felony to be prosecuted under appropriate state law.

(c) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Ohio Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Ohio

Revised Code may be prosecuted under this section, the other section of the Ohio Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of this section and also is convicted of or pleads guilty to a violation of R.C. § 2903.13, or any substantially similar municipal ordinance, based on the same conduct involving the same victim that was the basis of the violation of this section, the offenses are allied offenses of similar import under R.C. § 2941.25.

(d) As used in this section:

- (1) "Co-worker." Has the same meanings as in R.C. § 2903.13.
- (2) "Emergency service responder." Has the same meanings as in R.C. § 2903.13.
- (3) "Family or household member." Has the same meanings as in R.C. § 2903.13.
- (4) "Organization." Includes an entity that is a governmental employer.
(R.C. § 2903.22)

636.07 ENDANGERING CHILDREN.

(a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under 18 years of age or a child with a mental or physical disability under 21 years of age, shall create a substantial risk to the health or safety of the 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 disability of the 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 18 years of age or a child with a mental or physical disability under 21 years of age:

- (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 a child when there is a substantial risk that this 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.
- (6) Allow the child to be on the same parcel of real property and within 100 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 100 feet of, any act in violation of R.C. § 2925.04 or 2925.041 when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of R.C. § 2925.04 or 2925.041 that is the basis of the violation of this division.

- (c) (1) No person shall operate a vehicle in violation of Section 434.01(a) of the Traffic Code when one or more children under eighteen years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 434.01(a) of the Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle

while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

- (2) As used in subsection (c) hereof:
 - A. "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.
 - B. "Vehicle" has the same meaning as in Ohio R.C. 4511.01.
- (d) Whoever violates this section is guilty of endangering children.
 - (1) Whoever violates subsection (a) or (b) hereof is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, Ohio R.C. 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate State law.
 - (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate State law if either of the following applies:
 - A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under Ohio R.C. 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.
 - B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.
 - (3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).
- (e)
 - (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.
 - (2) A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty

to a separate charge charging the violation of Section 434.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:

1. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 434.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 434.01(a) of the Traffic Code.
 2. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 434.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 434.01(a) of the Traffic Code.
- B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 434.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 434.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 434.01(a) of the Traffic Code.
(ORC 2919.22)

636.08 UNLAWFUL RESTRAINT.

(a) No person, without privilege to do so, shall knowingly restrain another of the other person's liberty.

(b) No person, without privilege to do so and with a sexual motivation, shall knowingly restrain another of the other person's liberty.

(c) Whoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree.

(d) As used in this section, "sexual motivation" has the same meaning as in Ohio R.C. 2971.01. (ORC 2905.03)

636.09 COERCION.

(a) No person, with purpose to coerce another into taking or refraining from action concerning which the other person 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, to damage any person's personal or business repute, or to impair any person's credit;
- (4) Institute or threaten criminal proceedings against any person;
- (5) Take or withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

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

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

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

- (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 the other person to be disqualified;
- (4) Compelling another to take action that the actor reasonably believed the other person to be under a duty to take.

(d) Whoever 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 R.C. 2929.01. (ORC 2905.12)

636.10 TELECOMMUNICATION HARASSMENT.

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

- (1) Makes the telecommunication with purpose to harass, intimidate, 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;

- A. A violation of a protection order issued or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;
 - B. Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 or any combination of those offenses that involved the same person who is the subject of the protection order or consent agreement;
 - C. One or more violations of this section.
- (4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.
 - (5) If the protection order violated by the offender was an order issued pursuant to R.C. § 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this division that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device.

(c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).

(d) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.

(e) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or

physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child. (ORC 2919.27)

636.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS.

(a) As used in this section:

- (1) "Age verification." A service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is 21 years of age or older.
- (2) "Alternative nicotine product."
 - A. Subject to division B. of this definition, an electronic smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.
 - B. The phrase does not include any of the following:
 1. Any cigarette or other tobacco product;
 2. Any product that is a "drug" as that term is defined in 21 U.S.C. § 321(g)(1);
 3. Any product that is a "device" as that term is defined in 21 U.S.C. § 321(h);
 4. Any product that is a "combination product" as described in 21 U.S.C. § 353(g).
- (3) "Cigarette" includes clove cigarettes and hand-rolled cigarettes.
- (4) "Distribute" means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.
- (5) "Electronic smoking device." Means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. The phrase includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device.

- (cc) "Elderly person" means a person who is sixty-five years of age or older.
- (dd) "Disabled adult" means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this State or the United States that has the function of so classifying persons.
- (ee) "Firearm" and "dangerous ordnance" have the same meanings as in Ohio R.C. 2923.11.
- (ff) "Motor vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (gg) "Dangerous drug" has the same meaning as in Ohio R.C. 4729.01.
- (hh) "Drug abuse offense" has the same meaning as in Ohio R.C. 2925.01.
- (ii) "Police dog or horse" and "service dog" have the same meanings as in Ohio R.C. 2921.321.
- (jj) "Anhydrous ammonia" is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this subsection. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two per cent nitrogen to eighteen per cent hydrogen.
- (kk) "Assistance dog" has the same meaning as in Ohio R.C. 955.011.
- (ll) "Active duty service member" means any member of the armed forces of the United States performing active duty under Title 10 of the United States Code. (ORC 2913.01)

642.02 THEFT.

(a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(b) Whoever violates this section is guilty of theft. Except as otherwise provided in this division, a violation of this section is misdemeanor theft, a misdemeanor of the first degree. If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:

- (1) The value of the property or services stolen is one thousand dollars (\$1,000) or more; or
- (2) The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, or
- (3) The property stolen is a firearm or dangerous ordnance, or
- (4) The property stolen is a motor vehicle, or
- (5) The property stolen is any dangerous drug, or
- (6) The property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, or
- (7) The property stolen is anhydrous ammonia, or
- (8) The property stolen is a special purpose article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.

(c) In addition to the penalties described in subsection (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

- (1) Unless subsection (c)(2) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
- (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to subsection (c)(1) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be for at least six months.
- (3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to subsections (c)(1) or (2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.

(d) In addition to the penalties described in subsection (b) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of Ohio R.C. 2913.72.

(e) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under subsection (c) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Ohio R.C. Chapter 4510. (ORC 2913.02)

642.03 DEGREE OF OFFENSE WHEN CERTAIN PROPERTY INVOLVED.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Section 642.05 or 642.18 do not apply if the property involved is any of the following:

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;
- (c) A firearm or dangerous ordnance as defined in Ohio R.C. 2923.11;
- (d) A motor vehicle identification license plate as prescribed by R.C. § 4503.22, a temporary motor vehicle license registration as prescribed by R.C. § 4503.182, or any comparable temporary motor vehicle license registration as prescribed by the applicable law of another state or the United States;
- (e) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;

CHAPTER 648
Peace Disturbances

648.01	Riot.	648.09	Misconduct at an emergency.
648.011	Inciting to violence.	648.08	Inducing panic
648.02	Failure to disperse.	648.09	Making false alarms.
648.03	Justifiable use of force to suppress riot.	648.10	Loitering.
648.04	Disorderly conduct.	648.11	Disturbing sounds or noises in public places.
648.05	Disturbing the peace.	648.12	Impeding public passage of an emergency service responder.
648.08	Disturbing a lawful meeting.		

CROSS REFERENCES

See section histories for similar State law

Power to regulate peace disturbances - see Ohio R.C. 715.49, 715.55 et seq.

Cordoning off riot areas; prohibiting sales of firearms and explosives - see Ohio R.C. 3761.16

Suspension of beer and liquor sales by Ohio Director of Liquor Control during emergency - see Ohio R.C. 4301.251

Riot and civil disorder assistance by State Highway Patrol - see Ohio R.C. 5503.02(B)

648.01 RIOT.

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

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

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

(c) Whoever violates this section is guilty of riot, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.
(ORC 2917.03; Ord. 1973-21. Passed 12-10-73.)

648.011 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) Whoever violates this section is guilty of inciting to violence. If the offense of violence that the other person is being urged or incited to commit is a misdemeanor, inciting to violence is a misdemeanor of the first degree. (ORC 2917.01)

648.02 FAILURE TO DISPERSE.

(a) Where five or more persons are participating in a course of disorderly conduct in violation of Section 648.02, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance or alarm, a law enforcement officer or other public official may order the participants and such other persons to disperse. No person shall knowingly fail to obey such order.

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

- (c) (1) Whoever violates this section is guilty of failure to disperse.
- (2) Except as otherwise provided in subsection (c)(3) hereof, failure to disperse is a minor misdemeanor.
- (3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in subsection (a) hereof, 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. (ORC 2917.04)

648.03 JUSTIFIABLE USE OF FORCE TO SUPPRESS RIOT.

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

- (a) Is justified in using force, other than deadly force, when and to the extent he has probable cause to believe such force is necessary to disperse or apprehend rioters;
- (b) Is justified in using force, including deadly force, when and to the extent he has probable cause to believe such force is necessary to disperse or apprehend rioters whose conduct is creating a substantial risk of serious physical harm to persons. (ORC 2917.05; Ord. 1973-21. Passed 12-10-73.)

648.04 DISORDERLY CONDUCT.

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

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

648.06 DISTURBING A LAWFUL MEETING.

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

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

(b) Whoever violates this section is guilty of disturbing a lawful meeting. Except as otherwise provided in this division, disturbing a lawful meeting is a misdemeanor of the fourth degree. Disturbing a lawful meeting is a misdemeanor of the first degree if either of the following applies:

- (1) The violation is committed with the intent to disturb or disquiet any assemblage of people met for religious worship at a tax-exempt place of worship, regardless of whether the conduct is within the place at which the assemblage is held or is on the property on which that place is located and disturbs the order and solemnity of the assemblage.
- (2) The violation is committed with the intent to prevent, disrupt, or interfere with a virtual meeting or gathering of people for religious worship, through use of a computer, computer system, telecommunications device, or other electronic device or system, or in any other manner.

(c) As used in this section:

- (1) "Computer." Has the same meaning as in R.C. § 2913.01.
- (2) "Computer system." Has the same meaning as in R.C. § 2913.01.
- (3) "Telecommunications device." Has the same meaning as in R.C. § 2913.01.
- (4) "Virtual meeting or gathering." A meeting or gathering by interactive video conference or teleconference, or by a combination thereof.
(ORC 2917.12; Ord. 1973-21. Passed 12-10-73.)

648.07 MISCONDUCT AT AN 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;

- (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;
- (4) 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 impede the operation of a critical infrastructure facility.

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

(c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. If a violation of this section results in economic harm of one thousand dollars (\$1,000) or more, or if a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony and shall be prosecuted under appropriate State law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section:

- (1) "Critical infrastructure facility." Has the same meaning as in R.C. § 2911.21.
- (2) "Economic harm" and "weapon of mass destruction." Have the same meaning as in R.C. § 2917.31.
(R.C. § 2917.32)

648.10 LOITERING.

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

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

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

(c) Unless flight by the actor or other circumstances make it impracticable, a police officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain

his presence and conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and if believed by the police officer at the time, would have dispelled the alarm.

(d) As used in this section:

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

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

648.11 DISTURBING SOUNDS OR NOISES IN PUBLIC PLACES.

(a) No owner, keeper, manager or other person in charge or control of a hotel, night club, restaurant, dance or amusement hall, tavern or other public places, 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 manner as to disturb the peace and quiet of the neighborhood during the night season after 9:00 p.m. The affidavit charging an offense under this section shall state the hour at which the offense is alleged to have occurred.

(b) No owner, keeper, manager or other 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 rioting, reveling, intoxication or drunkenness in or about his place of business or premises. (Ord. 1968-9. Passed 6-24-68.)

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

648.12 IMPEDING PUBLIC PASSAGE OF AN EMERGENCY SERVICE RESPONDER.

(a) No person, without privilege to do so, shall recklessly obstruct any highway, street, sidewalk, or any other public passage in such a manner as to render the highway, street, sidewalk, or passage impassable without unreasonable inconvenience or hazard if both of the following apply:

- (1) The obstruction prevents an emergency vehicle from accessing a highway or street, prevents an emergency service responder from responding to an emergency, or prevents an emergency vehicle or an emergency service responder from having access to an exit from an emergency.

- (2) Upon receipt of a request or order from an emergency service responder to remove or cease the obstruction, the person refuses to remove or cease the obstruction.

(b) Division (a) of this section does not limit or affect the application of R.C. § 2921.31 or any other section of the Ohio Revised Code. Any conduct that is a violation of division (a) of this section and that also is a violation of R.C. § 2921.31 or any other section of the Ohio Revised Code may be prosecuted under this section, the other section of the Ohio Revised Code, or both sections.

(c) Whoever violates this section is guilty of unlawfully impeding public passage of an emergency service responder, a misdemeanor of the first degree.

(d) As used in this section, “emergency service responder” has the same meaning as in R.C. § 2921.01.
(R.C. § 2917.14)

(h) No device that prohibits any safety feature on a kerosene, natural gas or liquid petroleum gas space heater from operating shall be sold, offered for sale or used in connection with any kerosene, natural gas or liquid petroleum gas space heater.

(i) No person shall sell or offer for sale any kerosene-fired, natural gas or liquid petroleum gas-fired heater that is not exempt from subsection (a) hereof unless it is marked conspicuously by the manufacturer on the container with the phrase "Not Approved For Home Use".

(j) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82. (ORC 3701.82)

(k) Whoever violates this section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 3701.99(C))

660.02 SPREADING CONTAGION.

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

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

(c) No person, having charge of a public conveyance or place of public accommodation, amusement, resort or trade, and knowing or having reasonable cause to believe that persons using such conveyance or place have been or are being exposed to a dangerous, contagious disease, shall negligently fail to take reasonable measures to protect the public from exposure to the contagion, and to inform health authorities of the existence of the contagion. (ORC 3701.81)

(d) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02. (ORC 3701.99(D); Ord. 1973-21. Passed 12-10-73.)

660.03 PERMITS FOR BOXING OR WRESTLING MATCHES; SAFETY RULES.

(a) No person shall sponsor or promote any prize fight or public sparring, boxing or wrestling match or exhibition, without having a permit issued and in effect pursuant to Ohio R.C. 3773.08(A). No person shall provide physical facilities for, or act as second or principal in any prize fight or public sparring, boxing or wrestling match or exhibition, knowing or having reasonable cause to believe that the sponsor or promoter does not have a permit issued and in effect pursuant to Ohio R.C. 3773.08(A). No person shall recklessly violate any regulation adopted pursuant to Ohio R.C. 3773.08(B).

(b) Nothing in this section shall be construed to require a permit for sparring, boxing or wrestling matches or exhibitions held as part of an organized amateur athletic program, or as part of the athletic program of a school or college, provided such match or exhibition is conducted fairly and with reasonable measures to protect the health and safety of the participants.

(c) Nothing in this section shall be construed to limit the authority of the Municipality to prohibit or regulate prize fights or public sparring, boxing or wrestling matches or exhibitions, except that the Municipality may not permit the same unless conducted under Municipal regulations meeting or exceeding the minimum standards required under Ohio R.C. 3773.08(B) for regulations of a board of county commissioners. If a prize fight or public sparring, boxing or wrestling match or exhibition is lawfully permitted by the Municipality pursuant to this subsection the sponsor or promoter thereof is not required to have a permit issued pursuant to Ohio R.C. 3773.08(A). (ORC 3773.08)

(d) Whoever violates any of the provisions of subsection (a) hereof is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 3773.99(E); Ord. 1973-21. Passed 12-10-73.)

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

(a) No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public. No person shall cause or allow offal, filth or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public. No person shall unlawfully obstruct or impede the passage of a navigable river, harbor or collection of water, or corrupt or render unwholesome or impure, a watercourse, stream or water, or unlawfully divert such watercourse from its natural course or state to the injury or prejudice of others. (ORC 3767.13)

(b) Whoever violates any of the provisions of this section shall be fined not more than five hundred dollars (\$500.00). (ORC 3767.99(C); Ord. 1973-21. Passed 12-10-73.)

660.05 DUTY TO KEEP STREETS AND SIDEWALKS IN REPAIR AND CLEAN.

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

(b) No person shall cause any snow to be moved from any premises, drive, parking area or sidewalk, onto or to be placed upon any portion of the traveled surface of any public street within South Russell Village, including pushing or mechanically blowing snow across Village streets. (Ord. 1999-5. Passed 1-25-99.)

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

- (j) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch 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, computer 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.
- (l) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:
 - (1) When the parties have entered into a written separation agreement authorized by Ohio R.C. 3103.06;
 - (2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;
 - (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.
- (m) "Minor" means a person under the age of eighteen years.
- (n) "Mental health client or patient" has the same meaning as in Ohio R.C. 2305.51.
- (o) "Mental health professional" has the same meaning as in Ohio R.C. 2305.115.
- (p) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.
- (q) "Place where a person has a reasonable expectation of privacy" means a place where a reasonable person would believe that the person could fully disrobe in private.
- (r) "Private area" means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.
(ORC 2907.01)

666.02 PRESUMPTION OF KNOWLEDGE; ACTUAL NOTICE AND DEFENSE.

(a) An owner or manager, or agent or employee of an owner or manager, of a bookstore, newsstand, theater, or other commercial establishment engaged in selling materials or exhibiting performances, who, in the course of business does any of the acts prohibited by Section 666.11, is presumed to have knowledge of the character of the material or performance involved, if the owner, manager, or agent or employee of the owner or manager has actual notice of the nature of such material or performance, whether or not the owner, manager, or agent or employee of the owner or manager has precise knowledge of its contents.

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

(c) Section 666.11 does not apply to a motion picture operator or projectionist acting within the scope of employment as an employee of the owner or manager of a theater or other place for the showing of motion pictures to the general public, and having no managerial responsibility or financial interest in the operator's or projectionist's place of employment, other than wages.

- (d) (1) Sections 666.11, 666.12(a) and 666.13 do not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection.
- (2) Subsection (d)(1) of this section does not apply to a person who conspires with an entity actively involved in the creation or knowing distribution of material in violation of Section 666.11, 666.12 or 666.13, or who knowingly advertises the availability of material of that nature.
- (3) Subsection (d)(1) of this section does not apply to a person who provides access or connection to an electronic method of remotely transferring information that is engaged in the violation of Section 666.11, 666.12 or 666.13, and that contains content that person has selected and introduced into the electronic method of remotely transferring information or content over which that person exercises editorial control.

(e) An employer is not guilty of a violation of Section 666.11, 666.12, or 666.13 based on the actions of an employee or agent of the employer unless the employee's or agent's conduct is within the scope of employee's or agent's employment or agency, and the employer does either of the following:

- (1) With knowledge of the employee's or agent's conduct, the employer authorizes or ratifies the conduct.
- (2) The employer recklessly disregards the employee's or agent's conduct.

(f) It is an affirmative defense to a charge under Section 666.11 or 666.13 as the section applies to an image transmitted through the internet or another electronic method of remotely transmitting information that the person charged with violating the section has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by juveniles to material that is harmful to juveniles, including any method that is feasible under available technology.

(g) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.
(ORC 2907.35)

666.03 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.

(a) No person, who is eighteen years of age or older, shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the 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) Whoever violates this section is guilty of unlawful sexual conduct with a minor, a misdemeanor of the first degree. If the offender is four years older or more than the other person, or if the offender has previously been convicted of or pleaded guilty to a violation of Ohio R.C.

2907.02, 2907.03 or 2907.04, or former Ohio R.C. 2907.12, unlawful sexual conduct with a minor is a felony and shall be prosecuted under appropriate State law.

(ORC 2907.04)

666.04 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 or more persons to have sexual contact when any of the following applies:

- (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, 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 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 years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person.
- (5) The offender 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) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06 or former Section 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 2907.02, 2907.03, 2907.04 or 2907.05, 2907.06 or former Section 2907.12 or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in Ohio R.C. 2929.24, the court may impose on the offender a definite jail term of not more than one year.

(ORC 2907.06)

666.05 IMPORTUNING.

(EDITOR'S NOTE: Former Section 666.05 has been deleted from the Codified Ordinances. Section 666.05 was identical to Ohio R.C. 2907.07(B) which the Ohio Supreme Court held to be unconstitutional in *State v. Thompson*, 95 Ohio St. 3rd 264 (2002).)

666.06 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 shall knowingly commit trespass or otherwise secretly or surreptitiously videotape, film, photograph, broadcast, stream, or otherwise record another person, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of that person.

(c) No person shall knowingly commit trespass or otherwise secretly or surreptitiously videotape, film, photograph, broadcast, stream, or otherwise record a minor, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of the minor.

(d) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person above, 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) Whoever 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 (d) of this section is a misdemeanor of the first degree.

(4) A violation of division (c) of this section is a felony to be prosecuted under appropriate state law.

(R.C. § 2907.08)

666.07 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 in the person's physical proximity, who is a minor, and who is not the spouse of the offender:

(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) Whoever violates this section is guilty of public indecency and shall be punished as provided in subsections (c)(2), (3), (4) and (5) of this section.

(2) Except as otherwise provided in subsection (c)(2) of this section, a violation of subsection (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 subsection (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 subsection (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 subsection (a)(1) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.

- (3) Except as otherwise provided in subsection (c)(3) of this section, a violation of subsection (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 subsection (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 subsection (a)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.
 - (4) Except as otherwise provided in subsection (c)(4) of this section, a violation of subsection (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 subsection (b)(1), (2) or (3) of this section is 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 subsection (b)(1), (2) or (3) of this section is a felony and shall be prosecuted under appropriate state law.
 - (5) A violation of subsection (b)(4) of this section is a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to any violation of this section in which case the violation is a felony and shall be prosecuted under appropriate state law.
- (d) (1) If either of the following applies, the court may determine at the time of sentencing whether to classify the offender as a tier I sex offender/child-victim offender for a violation of subsection (b)(4) of this section:
- A. The offender is less than ten years older than the other person.
 - B. The offender is ten or more years older than the other person and the offender has not previously been convicted of or pleaded guilty to any violation of this section.
- (2) If the offender is convicted of or pleads guilty to a violation of subsection (b)(4) of this section, is ten or more years older than the other person, and previously has been convicted of or pleaded guilty to any violation of this section, the court shall issue an order at the time of sentencing that classifies the offender as a tier I sex offender/child-victim offender subject to registration under Ohio R.C. 2950.04, 2950.041, 2950.05 and 2950.06.
(ORC 2907.09)

666.08 PROCURING; ENGAGEMENT IN SEXUAL ACTIVITY FOR HIRE.**(a) Procuring.**

- (1) No person, knowingly and for gain, shall do either of the following:
 - A. Entice or solicit another to patronize a prostitute or brothel;
 - B. Procure a prostitute for another to patronize, or take or direct another at the other's request to any place for the purpose of patronizing a prostitute.
- (2) No person, having authority or responsibility over the use of premises, shall knowingly permit the premises to be used for the purpose of engaging in sexual activity for hire.
- (3) Whoever violates division (a)(1)A. or (a)(1)B. of this section is guilty of procuring. Except as otherwise provided in this division, procuring is a misdemeanor of the first degree. If the prostitute who is procured, patronized, or otherwise involved in a violation of division (a)(1)B. of this section is under 18 years of age at the time of the violation, regardless of whether the offender who violates division (a)(1)B. of this section knows the prostitute's age, or if a prostitute who engages in sexual activity for hire in premises used in violation of division (a)(2) of this section is under 18 years of age at the time of the violation, regardless of whether the offender who violates division (a)(2) of this section knows the prostitute's age, procuring is a felony to be prosecuted under appropriate state law.
(R.C. § 2907.23)

(b) Engagement in Sexual Activity for Hire.

- (1) As used in this division (b):
 - A. "Person with a developmental disability." Has the same meaning as in R.C. § 2905.32.
 - B. "Sexual activity for hire." An implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.
- (2) No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person.
- (3) No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person if the other person is a person with a developmental disability and the offender knows or has reasonable cause to believe that the other person is a person with a developmental disability.
- (4) Whoever violates division (b)(2) of this section is guilty of engaging in prostitution, a misdemeanor of the first degree. Whoever violates division (b)(3) of this section is guilty of engaging in prostitution with a person with a developmental disability, a felony to be prosecuted under appropriate state law. In sentencing the offender under this division, the court shall require the offender to attend an education or treatment program aimed at preventing persons from inducing, enticing, or procuring another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person and, notwithstanding the fine specified in R.C. § 2929.28(A)(2)(a) for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than \$1,500.
(R.C. § 2907.231)

666.09 SOLICITING.

(a) No person shall knowingly solicit another to engage in sexual activity for hire in exchange for the person receiving anything of value from the other person.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of division (a) of this section.

(c) As used in division (a) of this section, "sexual activity for hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.

- (d) (1) Whoever violates division (a) of this section is guilty of soliciting. Soliciting is a misdemeanor of the third degree.
- (2) Whoever violates division (b) of this section is guilty of engaging in solicitation after a positive HIV test, a felony to be prosecuted under appropriate state law.
(R.C. § 2907.24)

666.091 LOITERING TO ENGAGE IN SOLICITATION.

(a) No person, with purpose to solicit another to engage in sexual activity for hire and while in or near a public place, shall do any of the following:

- (1) Beckon to, stop or attempt to stop another;
- (2) Engage or attempt to engage another in conversation;
- (3) Stop or attempt to stop the operator of a vehicle or approach a stationary vehicle;
- (4) If the offender is the operator of or a passenger in a vehicle, stop, attempt to stop, beckon to, attempt to beckon to, or entice another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger;
- (5) Interfere with the free passage of another.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of division (a) of this section.

(c) As used in this section:

- (1) "Vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (2) "Public place" means any of the following:
 - A. A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot, or transportation facility;
 - B. A doorway or entrance way to a building that fronts on a place described in subsection (b)(2)A. hereof;
 - C. A place not described in subsection (b)(2)A. or B. hereof that is open to the public.

- (d) (1) Whoever violates this section is guilty of loitering to engage in solicitation, a misdemeanor of the third degree.
- (2) Whoever violates division (b) of this section is guilty of loitering to engage in solicitation after a positive HIV test, a felony to be prosecuted under appropriate state law.
(R.C. § 2907.241)

666.10 PROSTITUTION.

- (a) No person shall engage in sexual activity for hire.
- (b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in sexual activity for hire.
- (c)
 - (1) Whoever violates division (a) of this section is guilty of prostitution, a misdemeanor of the third degree.
 - (2) Whoever violates division (b) of this section is guilty of engaging in prostitution after a positive HIV test, a felony to be prosecuted under appropriate state law. (R.C. § 2907.25)

666.11 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;
 - (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, that involves material or a performance that 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 of the conduct in question, 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 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 the juvenile was eighteen years of age or over or married, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of eighteen and unmarried.
- (c)
 - (1) It is an affirmative defense to a charge under this section, involving material or a performance that is obscene or harmful to juveniles, that the material or

- if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;
- (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
 - (3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.
- (c) (1) This section does not apply to any of the following:
- A. An officer, agent or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.
 - C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;
 - D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.
- (2) Division (a)(2) of this section does not apply to any person who has been issued a concealed handgun license that is valid at the time of the alleged carrying or possession of a handgun or who, at the time of the alleged carrying or possession of a handgun, is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in R.C. § 2923.125(G)(1), unless the person knowingly is in a place described in R.C. § 2923.126(B).
- (d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:

- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.
 - (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
 - (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.
- (e) (1) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (b)(1) of this section as it existed prior to June 13, 2022, the person may file an application under R.C. § 2953.35 requesting the expungement of the record of conviction.
- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.
- (2) A person shall not be arrested for a violation of division (a)(2) of this section solely because the person does not promptly produce a valid concealed handgun license. If a person is arrested for a violation of division (a)(2) of this section and is convicted of or pleads guilty to the violation, the offender shall be punished as follows:

- (g) (1) The affirmative defenses authorized in R.C. § 2923.12(D)(1) and (D)(2) are affirmative defenses to a charge under division (b) or (c) of this section that involves a firearm other than a handgun.
- (2) It is an affirmative defense to a charge under division (b) or (c) of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division (b) or (c) of this section while the motor vehicle was being operated on a street, highway or other public or private property used by the public for vehicular traffic.
- (h) (1) No person who is charged with a violation of division (b), (c) or (d) of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (2) A. If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (e) of this section as it existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of division (e) of this section on or after September 30, 2011, or if a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (e)(1) or (e)(2) of this section as it existed prior to June 13, 2022, the person may file an application under R.C. § 2953.35 requesting the expungement of the record of conviction.
- B. If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (b) or (c) of this section as the division existed prior to September 30, 2011 and if the conduct that was the basis of the violation no longer would be a violation of division (b) or (c) of this section on or after September 30, 2011 due to the application of division (f)(5) of this section as it exists on and after September 30, 2011, the person may file an application under R.C. § 2953.35 requesting the expungement of the record of conviction.
- (i) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. A violation of division (a) of this section is a felony to be prosecuted under appropriate state law. A violation of division (c) of this section is a misdemeanor of the fourth degree. A violation of division (d) of this section is a felony to be prosecuted under appropriate state law and, if the loaded handgun is concealed on the person's person, it is also a felony to be prosecuted under appropriate state law. A violation of division (e)(1) or (e)(2) of this section is a misdemeanor of the second degree. A violation of division (e)(4) of this section is a felony to be prosecuted under appropriate state law. A violation of division (e)(3) or (e)(5) of this section is a misdemeanor

of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (e)(3) or (e)(5) of this section or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (e)(3) or (e)(5) of this section, the offender's concealed handgun license shall be suspended pursuant to R.C. § 2923.128(A)(2). A violation of division (b) of this section is a felony to be prosecuted under appropriate state law.

(j) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, R.C. § 2923.163(B) applies.

(k) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) "Agriculture." Has the same meaning as in R.C. § 519.01.
- (2) "Commercial motor vehicle." Has the same meaning as in R.C. § 4506.25(A).
- (3) "Motor carrier enforcement unit." The Motor Carrier Enforcement Unit in the Department of Public Safety, Division of State Highway Patrol, that is created by R.C. § 5503.34.
- (4) "Motor vehicle," "street" and "highway." Have the same meaning as in R.C. § 4511.01.
- (5) "Occupied structure." Has the same meaning as in R.C. § 2909.01.
- (6) "Tenant." Has the same meaning as in R.C. § 1531.01.
- (7) "Unloaded."

A. With respect to a firearm other than a firearm described in division D. of this definition, means that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm, and one of the following applies:

1. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.
2. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.

B. For the purposes of division A.2. of this definition, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

CHAPTER 698

Penalties and Sentencing

698.01	Definitions.	698.04	Organizational penalties.
698.02	Penalties for misdemeanor.	698.05	Multiple sentences.
698.03	Imposing sentence for misdemeanor.	698.06	Modification of sentence.

CROSS REFERENCES

See section histories for similar State law
 Definition of "imprisoned" - see Ohio R.C. 1.05
 Burden and degree of proof - see Ohio R.C. 2901.05
 Criminal law prosecution - see Ohio R.C. 2901.11
 Venue - see Ohio R.C. 2901.12
 Procedure on change of venue - see Ohio R.C. 2931.29
 Transfer of prisoner on change of venue - see Ohio R.C. 2931.30
 Payment of costs and expenses on change of venue - see Ohio R.C. 2931.31
 Degree of offense; charge and verdict; prior conviction - see Ohio R.C. 2945.75
 Commitment in lieu of fine; credit for time served - see Ohio R.C. 2947.20
 Psychiatric examination before sentence - see Ohio R.C. 2947.25
 Criteria for probation; conditions for probation - see Ohio R.C. 2951.02

698.01 DEFINITIONS.

As used in this chapter:

- (a) "Repeat offender" means a person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that he will commit another offense. It is prima-facie evidence that a person is a repeat offender if any of the following applies:
 - (1) Having been convicted of one or more offenses of violence, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent offense of violence;
 - (2) Having been convicted of one or more sex offenses, as defined in Ohio R.C. 2950.01, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent sex offense;
 - (3) Having been convicted of one or more theft offenses, as defined in Section 642.01(k) and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent theft offense;
 - (4) Having been convicted of one or more felony drug abuse offenses, as defined in Ohio R.C. Chapter 2925, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent felony drug abuse offense;
 - (5) Having been convicted of two or more felonies, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent offense;
 - (6) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors, and

having been imprisoned pursuant to sentence for any such offense, he commits a subsequent offense.

- (b) "Dangerous offender" means a person who has committed an offense, whose history, character and condition reveal a substantial risk that he will be a danger to others, and whose conduct has been characterized by a pattern of repetitive, compulsive or aggressive behavior with heedless indifference to the consequences. (ORC 2929.01)

698.02 PENALTIES FOR MISDEMEANORS.

(a) Financial Sanctions. In addition to imposing court costs pursuant to R.C. § 2947.23, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division (a) and, if the offender is being sentenced for a criminal offense as defined in R.C. § 2930.01, shall sentence the offender to make restitution pursuant to this division (a) and R.C. § 2929.281. If the court, in its discretion or as required by this division (a), imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this division (a) include, but are not limited to, the following:

(1) Restitution.

- A. Unless the misdemeanor offense could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or the victim's estate, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.
- B. The court shall determine the amount of restitution to be paid by the offender. The victim, victim's representative, victim's attorney, if applicable, the prosecutor or the prosecutor's designee, and the offender may provide information relevant to the determination of the amount of restitution. The amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result of the offense. If the court decides to or is required to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, victim's representative, victim's attorney, if applicable, or victim's estate disputes the amount of restitution. The court shall determine the amount of full restitution by a preponderance of the evidence.
- C. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or the victim's estate against the offender. No person may introduce evidence of an award of restitution under this division (a) in a civil action for purposes of imposing liability against an insurer under R.C. § 3937.18.
- D. The court may order that the offender pay a surcharge, of not more than 5% of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

- E. The victim, victim's attorney, if applicable, or the attorney for the victim's estate may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate but shall not reduce the amount of restitution ordered, except as provided in R.C. § 2929.281(A).
- (2) Fines. A fine in the following amount:
- A. For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000);
 - B. For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
 - C. For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
 - D. For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
 - E. For a minor misdemeanor, not more than one hundred fifty dollars (\$150.00).
- (3) Reimbursement of costs of sanctions.
- A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
 - 1. All or part of the costs of implementing any community control sanction, including a supervision fee under R.C. § 2951.021 and the costs of global positioning system device monitoring;
 - 2. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.
 - B. The amount of reimbursement ordered under subsection (a)(3)A. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section.
(ORC 2929.28)
- (b) Jail Terms.
- (1) Except as provided in R.C. § 2929.22 or 2929.23 or division (b)(5) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:
- A. For a misdemeanor of the first degree, not more than one hundred eighty days;
 - B. For a misdemeanor of the second degree, not more than ninety days;
 - C. For a misdemeanor of the third degree, not more than sixty days;
 - D. For a misdemeanor of the fourth degree, not more than thirty days.
- (2) A. A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in Ohio R.C.

2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

- B.
 - 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.
 - 2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.
- (3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.
- (4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
 - A. The court shall specify both of the following as part of the sentence:
 - 1. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
 - 2. If the person does not dispute the bill described in subsection (b)(4)A.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.
 - B. The sentence automatically includes any certificate of judgment issued as described in subsection (b)(4)A.2. of this section.
- (5) A. If an offender is convicted of or pleads guilty to a misdemeanor violation of R.C. § 2907.23, 2907.24, 2907.241 or 2907.25, or any substantially equivalent municipal ordinance, and to a specification of the type described in R.C. § 2941.1421 and if the court imposes a jail term on the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:
 - 1. Subject to division (b)(5)A.2. of this section, an additional definite jail term of not more than 60 days;
 - 2. If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of R.C. § 2907.22, 2907.23, 2907.24, 2907.241 or 2907.25, or any substantially equivalent municipal ordinance, and also was convicted of or pleaded guilty to a

specification of the type described in R.C. § 2941.1421 regarding one or more of those violations, an additional definite jail term of not more than 120 days.

- B. In lieu of imposing an additional definite jail term under division (b)(5)A. of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (b)(5)A. of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of R.C. § 2907.23, 2907.24, 2907.241 or 2907.25, or any substantially equivalent municipal ordinance, and any residential sanction imposed for the violation under R.C. § 2929.26. A sanction imposed under this division shall be considered to be a community control sanction for purposes of R.C. § 2929.25, and all provisions of this Code and the Ohio Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.
- (6) If an offender is convicted of or pleads guilty to a misdemeanor violation of R.C. § 2903.13 and also is convicted of or pleads guilty to a specification of the type described in R.C. § 2941.1423 that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least 30 days.
- (7) If a court sentences an offender to a jail term under this division (b), the sentencing court retains jurisdiction over the offender and the jail term. Upon motion of either party or upon the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may substitute one or more community control sanctions under R.C. § 2929.26 or § 2929.27 for any jail days that are not mandatory jail days.
(R.C. § 2929.24)

(c) Organizations. Regardless of the penalties provided in subsections (a) and (b) hereof, an organization convicted of an offense pursuant to Section 501.11 shall be fined, in accordance with this section. The court shall fix the fine 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 that is not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then the penalty so provided shall be imposed in lieu of the penalty provided in this subsection (c).
- (2) When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is provided in this subsection (c), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.
- (3) This subsection (c) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to this subsection (c). (ORC 2929.31)

698.03 IMPOSING SENTENCE FOR MISDEMEANOR.

- (a) (1) Unless a mandatory jail term is required to be imposed by R.C. § 1547.99(G), 4510.14(B) or 4511.19(G), or any other provision of the Revised Code, or any municipal ordinance, a court that imposes a sentence under this chapter upon an offender for a misdemeanor or minor misdemeanor has discretion to determine the most effective way to achieve the purposes and principles of sentencing set forth in § 698.02.
 - (2) Unless a specific sanction is required to be imposed or is precluded from being imposed by the section setting forth an offense or the penalty for an offense or by any provision of R.C. §§ 2929.23 to 2929.28, a court that imposes a sentence upon an offender for a misdemeanor may impose on the offender any sanction or combination of sanctions under § 698.02(b). The court shall not impose a sentence that imposes an unnecessary burden on local government resources.
- (b) (1) In determining the appropriate sentence for a misdemeanor, the court shall consider all of the following factors:
 - A. The nature and circumstances of the offense or offenses;
 - B. Whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense;
 - C. Whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive or aggressive behavior with heedless indifference to the consequences;
 - D. Whether the victim's youth, age, disability or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious;
 - E. Whether the offender is likely to commit future crimes in general, in addition to the circumstances described in divisions (b)(1)B. and (b)(1)C. of this section;
 - F. Whether the offender has an emotional, mental, or physical condition that is traceable to the offender's service in the armed forces of the United States and that was a contributing factor in the offender's commission of the offense or offenses;

G. The offender's military service record.

- (2) In determining the appropriate sentence for a misdemeanor, in addition to complying with division (b)(1) of this section, the court may consider any other factors that are relevant to achieving the purposes and principles of sentencing set forth in R.C. § 2929.21.

(c) Before imposing a jail term as a sentence for a misdemeanor, a court shall consider the appropriateness of imposing a community control sanction or a combination of community control sanctions under § 698.02(a) or R.C. §§ 2929.25, 2929.26, and 2929.27. A court may impose the longest jail term authorized under § 698.02(b) only upon offenders who commit the worst forms of the offense or upon offenders whose conduct and response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future criminal offense.

- (d) (1) A sentencing court shall consider any relevant oral and written statement made by the victim, the victim's representative, the victim's attorney, if applicable, the defendant, the defense attorney, and the prosecuting authority regarding sentencing for a misdemeanor. This division does not create any rights to notice other than those rights authorized by R.C. Chapter 2930.
- (2) At the time of sentencing for a misdemeanor or as soon as possible after sentencing, the court shall notify the victim of the offense of the victim's right to file an application for an award of reparations pursuant to R.C. §§ 2743.51 to 2743.72.
(R.C. § 2929.22)

698.04 ORGANIZATIONAL PENALTIES.

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

- (1) For a misdemeanor of the first degree, not more than five thousand dollars (\$5,000);
- (2) For a misdemeanor of the second degree, not more than four thousand dollars (\$4,000);
- (3) For a misdemeanor of the third degree, not more than three thousand dollars (\$3,000);
- (4) For a misdemeanor of the fourth degree, not more than two thousand dollars (\$2,000);
- (5) For a minor misdemeanor, not more than one thousand dollars (\$1,000);
- (6) For a misdemeanor not specifically classified, not more than two thousand dollars (\$2,000);
- (7) For a minor misdemeanor not specifically classified, not more than one thousand dollars (\$1,000).

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

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

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

(ORC 2929.31; Ord. 1973-21. Passed 12-10-73.)

698.05 MULTIPLE SENTENCES.

(a) Except as provided in subsection (b) hereof, a sentence of imprisonment shall be served concurrently with any other sentence of imprisonment imposed by this Municipality, the State, another state, or a court of the United States. In any case, a sentence of imprisonment for misdemeanor shall be served concurrently with a sentence of imprisonment for felony served in a State or Federal penal or reformatory institution.

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

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

(d) Consecutive terms of imprisonment imposed shall not exceed an aggregate term of eighteen months, when the consecutive terms imposed are for misdemeanors. When consecutive terms aggregating more than one year are imposed for misdemeanors under the Ohio Revised Code or these Codified Ordinances, and at least one such consecutive term is for a misdemeanor of the first degree, the trial court may order the aggregate term imposed to be served in a State penal or reformatory institution. (ORC 2929.41)

698.06 MODIFICATION OF SENTENCE.

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

- (1) Suspend the sentence and place the offender on probation pursuant to Ohio R.C. 2951.02;
- (2) Permit the offender to serve his sentence in intermittent confinement, overnight, or on weekends, or both, or at such other time or times as will allow him to continue at his occupation or care for his family;
- (3) Require the offender to serve a portion of his sentence, which may be served in intermittent confinement, suspend the balance of the sentence and place the offender on probation pursuant to Ohio R.C. 2951.02.

(b) At the time of sentencing and thereafter when a fine is imposed, the court may:

- (1) Suspend all or any portion of the fine, upon such conditions as the court imposes in the interests of justice and the correction and rehabilitation of the offender;
- (2) Permit payment of all or any portion of the fine in installments, or by such other method and in such time and on such terms as the court considers just, except that the maximum time permitted for payment shall not exceed two years.

(ORC 2929.51; Ord. 1973-21. Passed 12-10-73.)

CHAPTER 1066 Village Hall

- 1066.01 Intent. 1066.03 Village Campus use regulations.
1066.02 Village Hall use regulations.

CROSS REFERENCES

Sale or lease of Municipal property - see Ohio R.C. 721.01 et seq.
Management of property in Villages - see Ohio R.C. 735.27
Disturbing a lawful meeting - see GEN. OFF. 648.06

1066.01 INTENT.

(a) Village Hall. It is the intent of Council to provide the Village Hall as a meeting place for organizations that are composed primarily of South Russell residents, or in which the meeting provides a substantial benefit for South Russell residents, including but not limited to homeowners' associations, organizations interested in the history of the Village of South Russell, organizations interested in the Village of South Russell planning and zoning, or similar purposes. It is further the intent of Council to protect the Village Hall from physical damage.

(b) Village Campus. It is the intent of Council to provide, on a case by case basis, the Village Campus, which is comprised of the Village parking lot located at 5205 Chillicothe Road, for use by organizations for temporary events. It is further the intent of Council to protect the Village and Village Campus from damage and to allow such use as long as it does not interfere or interrupt Village business and operations.
(Ord. 1977-26. Passed 7-11-77; Ord. 2022-94. Passed 11-14-22.)

1066.02 VILLAGE HALL USE REGULATIONS.

The following regulations are hereby adopted respecting the use of the Village Hall:

- (a) All requests to use Village Hall shall be made by submitting a completed Application for Reservation and Use for South Russell Village Hall, which application is available on the southrussell.com website and also available upon request, by email to fiscalofficer@southrussell.com, in person to Village Hall, or by mail to the Fiscal Officer. The completed Application for Reservation and Use for South Russell Village Hall must be submitted at least two weeks before the desired date of use; provided however, that if the desired use requires Council approval, the completed application shall be submitted at least one week prior to the regularly scheduled Council meeting prior to the desired date of use.
- (b) A twenty-five dollar (\$25.00) fee shall be submitted to the Fiscal Officer if Council approves an organization's Application for Reservation and Use for South Russell

Village Hall. No fee shall be charged to any homeowners' association in the Village of South Russell for such use of Village Hall; provided however, that Council retains discretion to require future approval of a requested use by and/or impose a fee to any homeowners' association.

- (c) Requests to use Village Hall for any commercial, business, or for any sales or promotional purposes shall not be permitted. The Village of South Russell may require applicants to show evidence of their non-profit status.
- (d) Users of Village Hall are responsible for the proper care of the premises as follows:
 - (1) Food and drink are NOT permitted.
 - (2) Use of Village electronics, including television screens, computer, and sound system/microphones, etc. is NOT permitted.
 - (3) User is to return tables and chairs to their original location, (i.e., stacked if they were stacked, etc.).
 - (4) Books on the shelves are for reference only and may not be removed from Council Chambers.
 - (5) User must close and lock all windows.
 - (6) User must turn off all lights.
 - (7) User must lock the door when exiting and the Police Department will set the alarm after everyone has left.
- (e) Users of Village Hall agree to adhere to the following fire safety regulations:
 - (1) The occupancy limit is 47.
 - (2) There is no smoking in Village Hall or on Village Campus.
 - (3) No doorways or exits are to be blocked.
 - (4) No candles or open flames of any kind are permitted.
- (f) Users of Village Hall shall indemnify and hold harmless the Village of South Russell, its elected and/or appointed officials, employees, and agents from any and all actions, claims, losses, expenses, and demands on account of any injuries, property damage or any other claims whatsoever arising from the use of Village Hall.
- (g) The Village of South Russell reserves the right to limit availability of the Village Hall for use by community groups based upon the need to use Village Hall for official Village business and the Village of South Russell reserves the right to cancel any Village Hall reservation in the event of an emergency.
(Ord. 1977-26. Passed 7-11-77; Ord. 2022-94. Passed 11-14-22.)

1066.03 VILLAGE CAMPUS USE REGULATIONS.

The Village Campus, which is comprised of the Village parking lot located at 5205 Chillicothe Road, may be provided by Council, at its sole discretion, for use by organizations for temporary events; provided however, that the terms of such use of Village Campus must be memorialized in an operating agreement or use agreement that is accepted and executed by the authorized representative of the organization and the authorized representative of the Village of South Russell, and which operating agreement or use agreement is approved as to form by the Village Solicitor and accompanied by the organization's certificate of insurance evidencing the Village of South Russell as an additional insured for the relevant time period covering the desired use of the Village Campus.

(Ord. 2022-94. Passed 11-14-22.)

- (b) Establishing Costs. Where a permit fee is based upon the cost of the work done under the permit, such costs shall be the actual cost as certified by the owner or the authorized representative of the owner and as approved by the Building Inspector. The Building Inspector, may, at any time up to three months after the completion of the building, require the submission of authoritative estimates or actual cost data to substantiate the estimated cost stated in the application for a permit, and require the payment of additional fees when it is demonstrated that the actual cost of the work is in excess of the estimated cost upon which permit fees were based.
- (c) Time Limitations. Any permit issued shall become invalid if the work authorized by it has not been commenced within six months after its issuance or if the work authorized by such permit is suspended or abandoned for a period of one year after the time the work is commenced. All permits so issued shall expire twelve calendar months from the date of issuance. For cause, one extension not exceeding forty-five days may be allowed, in writing, by the Building Inspector.

The approval of plans or drawings and specifications for any building subject to the Ohio Building Code is invalid if construction, erection, alteration, or other work upon the building has not commenced within twelve months of the approval of the plans or drawings and specifications. One extension shall be granted for an additional twelve month period if requested by the applicant at least ten days in advance of the expiration of the permit and upon payment of a fee in the amount of one hundred dollars (\$100.00). If in the course of construction, work is delayed or suspended for more than six months, the approval of plans or drawings and specifications or data is invalid. Two extensions shall be granted for six months each if requested by the applicant at least ten days in advance of the expiration of the permit and upon payment of a fee for each extension of one hundred dollars (\$100.00). Before any work may continue on the construction, erection, alteration or equipment of any building for which the approval is invalid, the applicant shall resubmit the plans and drawings and specifications for approval pursuant to this section.

(Ord. 1982-34. Passed 11-8-82; Ord. 1984-49. Passed 9-10-84.)

- (d) No Refund of Permit Fees. Whenever the work for which a permit has been issued has been abandoned and is not to be done, such permit may be returned to the Building Inspector for cancellation and, if no construction has started, after a deduction of one hundred dollars (\$100.00) for administrative expenses, one-half of the balance of the permit fee, if any, shall be refunded. If actual construction has commenced, no refund of any permit fee shall be allowed.

(Ord. 1985-69. Passed 12-9-85.)

- (e) Refund of Cash Deposits. Cash deposits shall be refunded only after the Building Inspector and the Street Commissioner have deducted all charges for all damages or inspections and after a determination is made that no further damages or inspections will be necessary or are reasonably foreseeable.

Upon receipt and approval of as-built grade plans by the Village Engineer and upon the receipt by the Fiscal Officer or Fiscal Auditor, if one is appointed, of forms established by the Tax Administrator showing proof of filing of wage statement and withholding of income tax for income earned within the Village by all contractors, the Fiscal Officer or Fiscal Auditor, if one is appointed, shall authorize release of any remaining deposit.

(Ord. 1982-34. Passed 11-8-82; Ord. 1984-20. Passed 3-26-84; Ord. 2022-74. Passed 9-12-22.)

- (f) Certificates of Occupancy. The builder, owner or other person having control of a building under construction is prohibited from allowing such building to be occupied

until it has been finally inspected and approved by the Building Inspector and a certificate of occupancy has been applied for, in writing, and has been issued by the Building Inspector.

- (g) Deposits. All deposits shall be cash and subject to an increase if the nature of the work warrants or if damage during construction exceeds the deposit. Deposits for tree lawn, walk and road openings, tunneling, etc., depend upon the nature of the work and shall be estimated by the Village Engineer.
(Ord. 1982-34. Passed 11-8-82; Ord. 1985-69. Passed 12-9-85.)
- (h) Inspection Fees. Except as otherwise provided for, the following inspection fees are established. The inspection fees shall be charged and collected by the Building Inspector or deducted from the deposit when a deposit is required.
 - (1) Each additional inspection, when requested by the owner or made necessary by incomplete work, faulty construction, need of correction or inaccurate information, or a special inspection, when requested, which is not a routine inspection of work \$25.00
 - (2) Change of occupancy 25.00
 - (3) Extra inspections or inspected requested beyond those normal or special inspections made, each 25.00
 - (4) Unsafe or unsanitary inspection caused by fire or abandoned structures which may or may not need to be demolished 30.00
 (Ord. 1992-18. Passed 3-23-92.)

1440.05 BUILDING FEES.

Building fees which are to be rounded to the nearest one hundred square feet for calculation, are as follows:

- (a) One and two-family dwellings, including condominium units:
 - (1) New houses: Fifty cents (\$.50) per square foot of aggregate floor area. Size shall be determined by calculating aggregate floor area as defined in 1440.04(a).
 - (2) Habitable addition: Fifty cents (\$.50) per square foot of aggregate floor area, minimum fee of one-hundred dollars (\$100.00). Size shall be determined by calculating aggregate floor area as defined in 1440.04(a).
 - (3) Non-habitable addition: Twenty cents (\$.20) per square foot of aggregate floor area, minimum fee of one-hundred dollars (\$100.00). Decks included in this category. Size shall be determined by calculating aggregate floor area as defined in 1440.04(a).
 - (4) Detached structure: 200 square foot or less, with the owner-occupant doing his own work: Permit required, but no fee.
 - (5) Detached structures: Twenty cents (\$.20) per square foot of aggregate floor area, minimum of one-hundred dollars (\$100.00). Size shall be determined by calculating aggregate floor area as defined in 1440.04(a).
 - (6) Alteration, repair or replacement: Internally or externally in any one and two family dwelling: Twenty-five cents (\$.25) per square feet of aggregate floor area as defined in Section 1440.04(a), minimum fee of one hundred dollars (\$100.00).
 - (7) Sidewalks, drives and insulation. One-hundred dollars (\$100.00) basic fee, repairs and replacements require a permit, but no fee.

- (8) Siding, roofing or fencing, and detached structures less than 200 square feet. One-hundred dollars (\$100.00). Basic fee.
- (9) Swimming pools: Above ground, fifty dollars (\$50.00); in-ground, one hundred dollars (\$100.00).
- (10) Heating, ventilating and air conditioning work: One-hundred dollars (\$100.00) basic fee.
- (11) Other work. For which a permit is necessary and which is not otherwise set forth in this section, including, but not limited to electrical, sewer work, carpentry, and all other work for which a license or registration is necessary: One-hundred dollars (\$100.00) basic fee, plus one dollar and fifty cents (\$1.50) per 100 square or lineal feet of affected area or portion thereof when applicable.
- (b) Multifamily (three units or more), commercial, industrial and all other types of occupancies under the Ohio Building Code:
 - (1) New structures: Fifty cents (\$.50) per square foot of aggregate floor area, as defined in 1440.04(a).
 - (2) Additions: Twenty-five cents (\$.25) per square foot of aggregate floor area, as defined in 1440.04(a). Minimum fee of one hundred dollars (\$100.00).
 - (3) Alterations and repairs: Same fees as set forth in subsection (b)(2) hereof.
 - (4) Garages, storage sheds and other accessory buildings: Fifteen cents (\$.15) per square foot. Minimum fee of one-hundred dollars (\$100.00). Square footage shall be determined by using aggregate floor areas as defined in 1440.04(a).
 - (5) Other work for which a permit is necessary and which is not otherwise set forth in this section including, but not limited to plumbing, heating, ventilation and air conditioning, sewer work, carpentry, and all other work for which a license or registration is necessary except for electrical work: One-hundred dollars (\$100.00) basic fee, plus one dollar and fifty cents (\$1.50) per 100 square feet of affected area or portion thereof when applicable. For electrical work, a permit fee of one hundred dollars (\$100.00) and two dollars (\$2.00) per 100 square foot per unit.
- (c) Signs:
 - (1) New or relocated external: Twenty-five dollars (\$25.00) plus twenty-five cents (25¢) per square foot.
 - (2) Necessary repair, maintenance or replacement of components. No minimum size: Fifteen dollars (\$15.00).
- (d) Sidewalks, drives, parking areas and other hard surfaces: Village Engineer costs. Grade plan required.
- (e) Radio or television towers - commercial or residential 1-2-3: Sixty dollars (\$60.00) per fifty foot or fraction thereof in height.
- (f) Demolition of commercial, industrial and residential buildings 1-2-3: One-hundred dollars (\$100.00) plus twenty-five dollars (\$25.00) for each story over one, basement or cellar.

Excluding single-family detached 1-2-3 accessory structures, with the owner-occupant doing his own work: Permit required, but no fee.
- (g) Moving buildings, in addition to fees for alterations and repairs:
 - (1) On rollers on any public street: One thousand dollars (\$1,000) minimum.
 - (2) Without traversing any public street or portion thereof: Five hundred dollars (\$500.00) minimum.
 - (3) On a carryall on any public street or portion thereof: Five hundred dollars (\$500.00) minimum.

- (h) Public utility charges or special work. Supervision and additional inspections: Up to one thousand dollars (\$1,000), depending on the nature of the work and the time involved.

The fees provided for in subsections (a) through (g) hereof do not include public utility charges or special work required of other departments or divisions of the Village Engineer or the Street Commissioner.

(Ord. 2017-33. Passed 10-23-17.)

1440.06 CONSTRUCTION DEPOSITS AND CERTIFICATES.

- (a) Deposits, prior to construction, for single-family, two-family dwellings and multi-family dwellings, including condominium units are as follows:

- (1) All new house construction for single family, five times the permit fee.
- (2) Addition to above construction. Five times the permit fee or one thousand dollars (\$1,000), whichever is greater.
- (3) Alterations to all above construction except for roofing. Five times the permit fee or one thousand dollars (\$1,000).
- (4) Two-family dwellings and multi-family dwellings. Five times the permit fee or one thousand dollars (\$1,000), whichever is greater.
- (5) Single Family Condominium Units. Five times the permit fee or one thousand dollars (\$1,000), whichever is greater.

- (b) Deposits, prior to construction, for commercial, industrial and other types of occupancies are as follows:

- (1) New buildings, five times the building permit or three thousand dollars (\$3,000), whichever is greater.
- (2) Additions, five times the permit fee or two thousand dollars (\$2,000) minimum.
- (3) Alterations, and repair, five times the permit fee, or one thousand dollars (\$1,000), whichever is greater. (Ord. 2001-7. Passed 1-22-01.)

- (c) Certificate of occupancy fees under the Ohio Building Code are as follows:

- (1) Original: Twenty-five dollars (\$25.00).
- (2) Duplicate: Five dollars (\$5.00).

(d) Irrespective of the foregoing deposit reimbursements, any owner occupying a residential dwelling and who is performing all work for which a permit is sought or who is the general contractor for which a permit is sought shall be exempt from the requirements of making any cash deposit hereunder. A personal bond only shall be required of such owner-occupant. Such bond shall be on a form prescribed by the Solicitor and shall contain therein an authorization to charge such owner-occupant for any sum necessary to replace and/or restore any damage caused to Village property during construction, or for the proper grading or draining of the premises, if not completed as required by this Building and Housing Code and the Planning and Zoning Code.

(e) Deductions from the above deposits shall be made for all sums necessary to replace and/or restore any damage to Village property, or for grading or drainage, if not completed as required by this Building and Housing Code and the Planning and Zoning Code. Such deposit shall also be a guarantee for repair of any damage done to public or private property and/or cleaning required to be done to public or private property by reason of such construction operation. If any damage occurs during the construction operation which shall not immediately be remedied by the owner or his agent, the Village shall have the right, without notice to the owner or his agent to repair such damage or to do any cleaning and reimburse itself from such deposits for all expenses so incurred. In such event, the owner or agent shall upon demand immediately reimburse the deposit fund to bring it up to its full original amount. If the owner or agent fails to make such reimbursement, the Building Inspector may issue an order stopping all work on the project until reimbursement is made. After construction work has been completed and any necessary repairs or cleaning are completed to the satisfaction of the Building Inspector, the deposit shall be refunded.

(Ord. 1987-37. Passed 8-10-87.)

(f) Whether or not the deposit was made prior to the effective date of this subsection, when more than twelve months have passed since the making of any initial deposit required under this Chapter 1440, and further, where no significant activity is occurring with regard to the construction activities associated with such deposit, then the Building Inspector shall cause a notice to be sent to the depositor and owner setting forth any Village requirements then outstanding, and allowing said depositor and/or owner 30 days to remedy such deficiencies. After the expiration of such 30 days, if the deficiencies have not been remedied, the Building Inspector shall cause a notice of forfeiture to be sent by certified mail and regular mail to the depositor and/or owner, which forfeiture may be appealed by the depositor and/or owner by submitting an appeal in writing and emailing, hand-delivering, or mailing such appeal to the Village: (i) within ten business days not including weekend days or holidays from the date that the certified mail return receipt of the notice of forfeiture was signed, or if such signature date is not evident from the certified mail return receipt, then the date the certified mail return receipt of the notice of forfeiture was received by the Village; or (ii) in the event that no certified return receipt of the notice of forfeiture is received by the Village and the notice of forfeiture sent by regular mail was not returned to the Village for failure to forward or other reason, within 20 business days not including weekend days or holidays from the date that the Village mailed the notice of forfeiture by regular mail. If no such appeal is timely received by the Village, said deposit shall be forfeited to the Village. At Council's discretion, all or a portion of such deposit may be refunded to said depositor and/or owner. In such event, Council may also determine to retain a portion of such deposit in order to defray any reasonable cost to the Village associated with the forfeiture procedure, including, but not limited to, office overhead, postage, labor, and legal expenses.

(Ord. 2003-25. Passed 8-11-03; Ord. 2022-25. Passed 3-14-22; Ord. 2022-102. Passed 12-12-22; Ord. 2023-14. Passed 2-13-23.)

1440.07 ELECTRICAL INSTALLATION FEES. (REPEALED)

(EDITOR'S NOTE: Section 1440.07 has been repealed pursuant to Ordinance 1985-69, passed December 9, 1985.)

1440.08 RESIDENTIAL PLUMBING INSTALLATION FEES. (REPEALED)

(EDITOR'S NOTE: Section 1440.08 has been repealed pursuant to Ordinance 1985-69, passed December 9, 1985.)

1440.09 HEATING INSTALLATION FEES. (REPEALED)

(EDITOR'S NOTE: Section 1440.09 has been repealed pursuant to Ordinance 1985-69, passed December 9, 1985.)

1440.10 GAS PIPING INSTALLATION FEES. (REPEALED)

(EDITOR'S NOTE: Section 1440.10 has been repealed pursuant to Ordinance 1985-69, passed December 9, 1985.)

**1440.11 AIR CONDITIONING AND VENTILATING INSTALLATION FEES.
(REPEALED)**

(EDITOR'S NOTE: Section 1440.11 has been repealed pursuant to Ordinance 1985-69, passed December 9, 1985.)

1440.12 SURCHARGE FOR UNAUTHORIZED WORK.

Where work for which a permit required by this chapter is started prior to obtaining the permit, the fees required for the permit shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the lawful requirements of any State law or Village ordinance. The penalties provided in Chapter 1450 shall be in addition to such double fee. (Ord. 1982-34. Passed 11-8-82.)

1440.99 PENALTY. (REPEALED)

(EDITOR'S NOTE: Section 1440.99 was repealed by Ordinance 1980-32, passed June 10, 1980. See Chapter 1450 for general Code penalty.)