

ORDINANCE NO.	2024- <u>73</u>	FIRST READING	<u>August 12, 2024</u>
		SECOND READING	<u>Waived</u>
INTRODUCED BY:	<u>RUTH CAVANAGH</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 2024 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. 2024 - 73 was duly enacted on the 12th day of August, 2024, by the Council of the Village of South Russell, and published in accordance with the Codified Ordinances of the Village.

Daniele Romanowski  
Fiscal Officer





INSTRUCTIONS FOR INSERTING  
2024 REPLACEMENT PAGES  
FOR THE CODIFIED ORDINANCES OF SOUTH RUSSELL, OHIO

All new replacement pages bear the footnote “2024 Replacement.” Please discard old pages and insert these new replacement pages as directed in the following table.

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OF  
SOUTH RUSSELL  
OHIO**

Local legislation current through December 11, 2023  
State legislation current through February 28, 2024

CERTIFICATION

We, William Koons, Mayor, and Danielle Romanowski, Fiscal Officer of the Village of South Russell, Ohio, pursuant to Ohio R.C. 731.23 and 731.42, hereby certify that the general and permanent ordinances of the Village of South Russell, Ohio, as revised, rearranged, compiled, renumbered as to sections, recodified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of the Village of South Russell, Ohio, 1974, complete to December 11, 2023.

/s/ William Koons  
Mayor

/s/ Danielle Romanowski  
Fiscal Officer

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EDITOR'S NOTE: Source material for the 1974 Codified Ordinances of South Russell was ordinances or resolutions enacted by Council or new matter ordained by the Adopting Ordinance. Sections of the 1974 Codified Ordinances without any history indicate that such sections contain new matter ordained by the Adopting Ordinance. In the following table the disposition of all source material in the 1974 South Russell Codified Ordinances is indicated.

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					444.03, 452.02 to
					452.05, 474.01,
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					474.05, 476.01
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					(a), (d), 618.14(b),
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			1984-48	9-10-84	Part 12 - Ed. Note
			1984-49	9-10-84	1440.04(c)
			1984-54	9-24-84	474.11
			1984-58	10-8-84	1406.03(b)
			1984-60	10-22-84	Part 12 - Ed. Note
			1984-62	11-12-84	1440.06(b)(2)
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1983-51	12-19-83	660.19	1985-42	8-12-85	Part 12 - Ed. Note
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			2021-36	5-10-21	1602.04, 1602.05, 1602.11, 1602.12, 1602.99
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2024 Replacement

CHAPTER 222  
Ordinances and Resolutions

222.01 Publication.

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

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Emergency measures - see Ohio R.C. 731.30

Codified Ordinances - see ADM. Ch. 202

Statute of limitations - see GEN. OFF. 606.06

222.01 PUBLICATION.

- (a) (1) 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 using at least one of the following methods:

- A. In a newspaper of general circulation in the Village;
- B. On the official public notice web site established under R.C. § 125.182;
- C. On the web site and social media account of the Village.

- (2) Summaries of ordinances or resolutions, and proclamations of election shall be published once a week for two consecutive weeks, notices shall be published not less than two nor more than four consecutive weeks, and all other matters shall be published once. Proof of the publication shall be made by affidavit of the proprietor of the newspaper or operator of the official public notice web site, as applicable, and shall be filed with the Fiscal Officer of the Village.

(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 web site, or at any other location designated by Council. The Village Solicitor shall review the summary of an ordinance or resolution published under this section before 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 web site, and at every other location designated by the Council. (Ord. 2023-56. Passed 9-25-23.)

#### 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	State Treasury Asset Reserve of	235.05	Established.
	Ohio (STAR Ohio) Program.		

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

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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 STATE TREASURY ASSET RESERVE OF OHIO (STAR OHIO) PROGRAM.

(a) The Village of South Russell is authorized to participate in the State Treasury Asset Reserve of Ohio (STAR Ohio), a statewide investment pool managed by the Treasurer of the State of Ohio, and the successor to the Ohio Subdivision Fund.

(b) The Fiscal Officer or Fiscal Auditor (if one is appointed) for the Village, and the two Council members of the then-current standing Finance Committee of Village Council, are hereby designated as authorized signatories of STAR Ohio for the Village, which authority includes acting with full power to purchase, transfer, or redeem investments in STAR Ohio on behalf of the Village and to execute and deliver any instrument necessary to effectuate the authority hereby conferred.

(Ord. 2023-70. Passed 11-13-23.)

#### 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)



**252.01 EMPLOYEE HANDBOOK.**

Pursuant to Ordinance No. 2023-85, passed December 11, 2023, 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; Ord. 2023-85. Passed 12-11-23.)

[Text continues on Page 34E]



TITLE EIGHT - Boards and Commissions

Chap. 260.	Planning Commission.
Chap. 262.	Board of Zoning Appeals.
Chap. 264.	Architectural Board of Review.
Chap. 266.	Board of Building Code Appeals.
Chap. 268.	Records Commission.
Chap. 270.	Board of Cemetery Trustees. (Repealed)
Chap. 272.	Parks Committee.

CHAPTER 260  
Planning Commission

260.01	Establishment.	260.04	Filing fee for minor subdivision review.
260.02	Membership.		
260.03	Clerk; duties, bond and compensation.	260.05	Appeal of professional fees.

CROSS REFERENCES

Established - see Ohio R.C. 713.01

Powers and duties - see Ohio R.C. 713.02, 713.06

Planning Commission shall be Platting Commission - see Ohio R.C. 713.03

Zoning Inspector - see ADM. Ch. 250

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

**260.01 ESTABLISHMENT.**

A Planning Commission, with the powers provided by Ohio R.C. 713.01 et seq. is hereby established for the Village. (Ord. 1942-1. Passed 1-6-42. )

**260.02 MEMBERSHIP.**

(a) The Planning Commission shall be composed of five members as follows: the Mayor, who shall be ex officio a member of the Commission during his term of office as Mayor; one member of Council, to be selected by Council for the remainder of his term as a member of Council, and three citizens of the Municipality, to be appointed by the Mayor, subject to confirmation by Council, for terms of six years each, except that the term of one of the members of the first Commission shall be four years, and one shall be for two years. All of such members shall serve without compensation.

(b) The Mayor, with the approval of the majority of Council, may appoint up to three residents of the Village to serve as alternate members of the Planning Commission for a term of six years each. Any alternate member appointed by the Mayor, with the approval of the majority of Council, shall be in addition to the regular members and may substitute for any regular member of the Planning Commission who is unable to attend a meeting of or participate in a matter before the Planning Commission; provided however, that no more than a total of two alternate members may serve simultaneously at the same meeting of the Planning Commission for regular members unable to attend a meeting of or participate in a matter before the Planning Commission. Any alternate member at such meeting or such matter shall have all the powers and duties of a regular member of the Planning Commission, including but not limited to, the ability to vote. In the event any alternate member participates in a matter which does not conclude at such meeting, but is continued for further deliberations, the alternate member shall remain in substitution for the regular member(s) until the conclusion of such matter and the substituted member(s) shall not participate in such matter.

(Ord. 1942-1. Passed 1-6-42; Ord. 2020-03. Passed 1-13-20; Ord. 2023-32. Passed 6-12-23.)

#### 260.03 CLERK; DUTIES, BOND AND COMPENSATION.

(a) The duties of the Clerk of the Planning Commission shall be to attend all meetings of the Commission, to attend all meetings of the Board of Zoning Appeals, to handle all correspondence related to Commission and Board activities, and to perform such other duties and functions as may be required by law.

(b) The Clerk of the Planning Commission shall execute and file with the Clerk of the Village a bond in such amount and with such sureties as may be required by Council, conditioned upon the faithful performance of his or her duties.

(Ord. 1977-10. Passed 3-28-77.)

(c) The Planning Commission Clerk shall be compensated for the above duties as provided for from time to time by Council

#### 260.04 FILING FEE FOR MINOR SUBDIVISION REVIEW.

(EDITOR'S NOTE: Ordinance 1974-14, passed September 9, 1974, is no longer codified herein since it has been superseded by later ordinances establishing fee schedules, reference to which is made under Part Twelve - Planning and Zoning Code.)

#### 260.05 APPEAL OF PROFESSIONAL FEES.

(a) Whenever a person, firm, corporation, or other entity (the "applicant") is required by ordinance, rule or regulation of this Village to pay to the Village the fees for review or inspection of a project involving the applicant by any professional on the Village's behalf (such as the Village's Engineer, Solicitor, Architect, Landscape Architect, or Hydrogeologist, hereinafter the "professional") such applicant shall have the right to appeal to the Planning Commission the amount of such professional's fees charged to the applicant.

(b) The appeal shall be initiated within thirty days after the fees are invoiced to the applicant by the Village, by the filing of a written Notice of Appeal with the Secretary of the Planning Commission, together with a deposit of an official bank check or certified check, or cash, in the full amount of the professional's fees which the applicant disputes. Such deposits shall thereafter be held by the Village until such time as the Planning Commission renders its decision as set forth below. The Notice of Appeal shall set forth a written summary of the applicant's grounds for disputing such fees. The professional involved shall thereafter file within fifteen days, a written response to the applicant's appeal.

(c) No later than fifteen days after the filing of such response, the Planning Commission shall conduct a hearing relative to the applicant's appeal. The Planning Commission shall afford both the applicant and the professional the opportunity to present witnesses on its own behalf and to cross-examine evidence of the other.

(d) The Planning Commission shall thereafter determine, by a majority vote, whether the applicant has demonstrated, by a preponderance of the evidence, that the professional's fees are unreasonable. Reasonableness shall be determined based upon the following factors:

- (1) The terms of the contract between the Village and the professional.
- (2) The complexity of the matter under review by the professional.
- (3) Any events or circumstances affecting the professional's review which were beyond the reasonable control of the professional.
- (4) The amount of time expended on the review by the professional and the nature of the issues under review.

(e) In the event the Planning Commission denies the appeal, the Village shall immediately utilize the deposit previously referred to herein for the payment of the professional's fees. In the event the Planning Commission agrees with the applicant that the professional's fees are unreasonable, then the Planning Commission shall determine a reasonable amount for such professional fees and shall thereafter direct the Village to pay to such professional the amount so determined from the deposit previously referred to herein. The balance remaining in such deposit shall be remitted to the applicant. Either the professional or the applicant or both, may appeal the decision of the Planning Commission to the Court of Common Pleas under Ohio R.C. Chapter 2506. The Village shall have no liability to the professional for services rendered on any project of an applicant for any sums determined under this section to have been unreasonably charged for such professional's services. (Ord. 1993-47. Passed 11-8-93.)



## CODIFIED ORDINANCES OF SOUTH RUSSELL

### PART FOUR - TRAFFIC CODE

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#### TITLE TWO - Administration, Enforcement and Penalties

Chap. 402. Definitions.

Chap. 404. Enforcement; Impounding.

Chap. 406. Traffic Control.

Chap. 408. Penalties.

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#### CHAPTER 402

##### Definitions

402.01	Meaning of words and phrases.	402.201	Operate.
402.02	Agricultural tractor.	402.21	Park or parking.
402.03	Alley.	402.22	Pedestrian.
402.031	Beacon; hybrid beacon.	402.23	Person.
402.04	Bicycle; motorized bicycle; moped; electric bicycle.	402.24	Pole trailer.
402.05	Bus.	402.25	Police officer.
402.06	Business district.	402.251	Predicate motor vehicle or traffic offense.
402.061	Child care center and Type A family child care home.	402.26	Private road or driveway.
402.07	Commercial tractor.	402.27	Public safety vehicle.
402.08	Controlled-access highway.	402.28	Railroad.
402.09	Crosswalk.	402.29	Railroad sign or signal.
402.10	Driver or operator.	402.30	Railroad train.
402.11	Emergency vehicle.	402.31	Residence district.
402.12	Explosives.	402.32	Right of way.
402.13	Expressway.	402.321	Road service vehicle.
402.14	Flammable liquid.	402.33	Roadway.
402.15	Freeway.	402.34	Safety zone.
402.16	Gross weight.	402.35	School bus.
402.161	Highway maintenance vehicle.	402.36	Semitrailer.
402.162	Highway traffic signal.	402.361	Shared-use path.
402.17	Intersection.	402.37	Sidewalk.
402.18	Laned street or highway.	402.38	State route.
402.181	Low-speed micromobility device.	402.39	Stop (when required).
402.182	Median.	402.40	Stopping or standing.
402.19	Motorcycle.	402.41	Stop intersection.
402.20	Motor vehicle.	402.42	Street or highway; arterial street.
		402.43	Through street or highway.

402.44	Thruway.	402.49	Truck.
402.45	Traffic.	402.50	Urban district.
402.46	Traffic control devices.	402.51	Vehicle.
402.47	Traffic control signal.	402.52	Wheelchair, motorized.
402.48	Trailer.	402.53	Waste collection vehicle.

#### CROSS REFERENCES

See sectional histories for similar State law  
Funeral procession defined - see TRAF. 432.24  
Street racing defined - see TRAF. 434.07  
Studded tire defined - see TRAF. 440.11  
Blind person defined - see TRAF. 416.02  
Snowmobile, off-highway motorcycle and all purpose vehicle  
defined - see TRAF. 476.01  
School zones defined - see TRAF. 434.03(b)

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#### 402.01 MEANING OF WORDS AND PHRASES.

The following words and phrases when used in this Traffic Code, except as otherwise provided, shall have the meanings respectively ascribed to them in this chapter.

#### 402.02 AGRICULTURAL TRACTOR.

"Agricultural tractor" means every self-propelling vehicle designed or used for drawing other vehicles or wheeled machinery but having no provision for carrying loads independently of such other vehicles, and used principally for agricultural purposes. (ORC 4511.01(J))

#### 402.03 ALLEY.

"Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic, and includes any street or highway that has been declared an "alley" by Council. (ORC 4511.01(XX))

#### 402.031 BEACON; HYBRID BEACON.

(a) "Beacon" means a highway traffic signal with one or more signal sections that operate in a flashing mode. (ORC 4511.01(KKK))

(b) "Hybrid beacon" means a type of beacon that is intentionally placed in a dark mode between periods of operation where no indications are displayed and, when in operation, displays both steady and flashing traffic control signal indications.  
(ORC 4511.01(LL))



(c) "Electric bicycle" means a "class 1 electric bicycle", a "class 2 electric bicycle", or a "class 3 electric bicycle" as defined in this section. (ORC 4511.01(RRR))

- (1) "Class 1 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(SSS))
- (2) "Class 2 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that may provide assistance regardless of whether the rider is pedaling and is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(TTT))
- (3) "Class 3 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty-eight miles per hour. (ORC 4511.01(UUU))

#### 402.05 BUS.

"Bus" means every motor vehicle designed for carrying more than nine passengers and used for the transportation of persons other than in a ridesharing arrangement as defined in Ohio R.C. 4511.01, and every motor vehicle, automobile for hire or funeral car, other than a taxicab or motor vehicle used in a ridesharing arrangement, designed and used for the transportation of persons for compensation. (ORC 4511.01(L))

#### 402.06 BUSINESS DISTRICT.

"Business district" means the territory fronting upon a street or highway, including the street or highway, between successive intersections where fifty percent or more of the frontage between such successive intersections is occupied by buildings in use for business, or where fifty percent or more of the frontage for a distance of 300 feet or more is occupied by buildings in use for business, and the character of such territory is indicated by official traffic control devices. (ORC 4511.01(NN))

#### 402.061 CHILD CARE CENTER AND TYPE A FAMILY CHILD CARE HOME.

"Child care center" and "Type A family child care home" have the same meaning as set forth in R.C. § 5104.01. (R.C. § 4511.01(FFF))

#### 402.07 COMMERCIAL TRACTOR.

"Commercial tractor" means every motor vehicle having motive power designed or used for drawing other vehicles and not so constructed as to carry any load thereon, or designed or used for drawing other vehicles while carrying a portion of such other vehicles, or the load thereon, or both. (ORC 4511.01(I))

#### 402.08 CONTROLLED-ACCESS HIGHWAY.

"Controlled-access highway" means every street or highway in respect to which owners or occupants of abutting lands and other persons have no legal right or access to or from the same

except at such points only and in such manner as may be determined by the public authority having jurisdiction over such street or highway. (ORC 4511.01(CC))

#### 402.09 CROSSWALK.

"Crosswalk" means:

- (a) That part of a roadway at intersections ordinarily included within the real or projected prolongation of property lines and curb lines or, in the absence of curbs, the edges of the traversable roadway;
- (b) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface;
- (c) Notwithstanding subsections (a) and (b) hereof, there shall not be a crosswalk where authorized signs have been placed indicating no crossing.

(ORC 4511.01(LL))

#### 402.10 DRIVER OR OPERATOR.

"Driver" or "operator" means every person who drives or is in actual physical control of a vehicle. (ORC 4511.01(Y))

#### 402.11 EMERGENCY VEHICLE.

"Emergency vehicle" means emergency vehicles of municipal, township or county departments or public utility corporations when identified as such as required by law, the Ohio Director of Public Safety or local authorities, and motor vehicles when commandeered by a police officer. (ORC 4511.01(D))

#### 402.12 EXPLOSIVES.

"Explosives" means any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion that contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by a detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb.

Manufactured articles shall not be held to be explosives when the individual units contain explosives in such limited quantities, of such nature or in such packing, that it is impossible to procure a simultaneous or a destructive explosion of such units, to the injury of life, limb or property by fire, by friction, by concussion, by percussion or by a detonator, such as fixed ammunition for small arms, firecrackers or safety fuse matches. (ORC 4511.01(T))

#### 402.13 EXPRESSWAY.

"Expressway" means a divided arterial highway for through traffic with full or partial control of access with an excess of fifty percent of all crossroads separated in grade. (ORC 4511.01(ZZ))

#### 402.14 FLAMMABLE LIQUID.

"Flammable liquid" means any liquid that has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed cup test device. (ORC 4511.01(U))

**402.15 FREEWAY.**

"Freeway" means a divided multi-lane highway for through traffic with all crossroads separated in grade and with full control of access.

(ORC 4511.01(Y))

**402.16 GROSS WEIGHT.**

"Gross weight" means the weight of a vehicle plus the weight of any load thereon.

(ORC 4511.01(V))

**402.161 HIGHWAY MAINTENANCE VEHICLE.**

"Highway maintenance vehicle" means a vehicle used in snow and ice removal or road surface maintenance, including a snow plow, traffic line striper, road sweeper, mowing machine, asphalt distributing vehicle, or other such vehicle designed for use in specific highway maintenance activities. (ORC 4511.01(Q))



- (c) A violation of any provision of Ohio R.C. 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
- (d) A violation of Ohio R.C. 4511.214.
- (e) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in subsection (a) to (d) of this section.  
(ORC 4511.01(III))

#### 402.26 PRIVATE ROAD OR DRIVEWAY.

(a) "Private road or driveway" means every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons. (ORC 4511.01(DD))

(b) "Private road open to public travel" means a private toll road or road, including any adjacent sidewalks that generally run parallel to the road, within a shopping center, airport, sports arena, or other similar business or recreation facility that is privately owned but where the public is allowed to travel without access restrictions. "Private road open to public travel" includes a gated toll road but does not include a road within a private gated property where access is restricted at all times, a parking area, a driving aisle within a parking area, or a private grade crossing. (ORC 4511.01(OOO))

#### 402.27 PUBLIC SAFETY VEHICLE.

"Public safety vehicle" means any of the following:

- (a) Ambulances, including private ambulance companies under contract to a municipal corporation, township or county and private ambulances and transport vehicles bearing license plates issued under Ohio R.C. 4503.49;
- (b) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the State or the Municipality;
- (c) Any motor vehicle when properly identified as required by the Ohio Director of Public Safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The Ohio Fire Marshal shall be designated by the Ohio Director of Public Safety as the certifying agency for all public safety vehicles described in this subsection (c);
- (d) Vehicles used by fire departments, including motor vehicles when used by volunteer fire fighters responding to emergency calls in the fire department service when identified as required by the Ohio Director of Public Safety.

Any vehicle used to transport or provide emergency medical service to an ill or injured person, when certified as a public safety vehicle, shall be considered a public safety vehicle when transporting an ill or injured person to a hospital regardless of whether such vehicle has already passed a hospital.

(ORC 4511.01(E))

- (e) Vehicles used by the Commercial Motor Vehicle Safety Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission as specified in Ohio R.C. 5503.34.

**402.28 RAILROAD.**

"Railroad" means a carrier of persons or property operating upon rails placed principally on a private right of way. (ORC 4511.01(P))

**402.29 RAILROAD SIGN OR SIGNAL.**

"Railroad sign or signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.  
(ORC 4511.01(SS))

**402.30 RAILROAD TRAIN.**

"Railroad train" means a steam engine, or an electric or other motor, with or without cars coupled thereto, operated by a railroad. (ORC 4511.01(Q))

**402.31 RESIDENCE DISTRICT.**

"Residence district" means the territory, not comprising a business district, fronting on a street or highway, including the street or highway, where, for a distance of 300 feet or more, the frontage is improved with residences or residences and buildings in use for business.  
(ORC 4511.01(OO))

**402.32 RIGHT OF WAY.**

"Right of way" means either of the following, as the context requires:

(a) The right of a vehicle or pedestrian to proceed uninterruptedly in a lawful manner in the direction in which it or the individual is moving in preference to another vehicle or pedestrian approaching from a different direction into its or the individual's path;

(b) A general term denoting land, property or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation purposes. When used in this context, right of way includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the State or local authority. (ORC 4511.01(UU))

**402.321 ROAD SERVICE VEHICLE.**

"Road service vehicle" means wreckers, utility repair vehicles, and state, county, and municipal service vehicles equipped with visual signals by means of flashing, rotating, or oscillating lights. (ORC 4511.01(JJJ))

**402.33 ROADWAY.**

"Roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, except the berm or shoulder. If a street or highway includes two or more separate roadways, the term "roadway" means any such roadway separately but not all such roadways collectively. (ORC 4511.01(EE))

**402.34 SAFETY ZONE.**

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and protected or marked or indicated by adequate signs as to be plainly visible at all times. (ORC 4511.01(MM))

**402.35 SCHOOL BUS.**

"School bus." Every bus designed for carrying more than nine passengers which is owned by a public, private or governmental agency or institution of learning, and operated for the transportation of children to or from a school session or a school function, or owned by a private person and operated for compensation for the transportation of children to or from a school session or a school function; provided, "school bus" does not include a bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of a municipality, or within those limits and the territorial limits of municipalities immediately contiguous to the municipality, nor a common passenger carrier certified by the Public Utilities Commission unless the bus is devoted exclusively to the transportation of children to and from a school session or a school function, and "school bus" does not include a van or bus used by a licensed child care center or type A family child care home to transport children from the child care center or type A family child care home to a school if the van or bus does not have more than 15 children in the van or bus at any time.

(R.C. § 4511.01(F))

**402.36 SEMITRAILER.**

"Semitrailer" means every vehicle designed or used for carrying persons or property with another and separate motor vehicle so that in operation a part of its own weight or that of its load, or both, rests upon and is carried by another vehicle. (ORC 4511.01(N))

**402.361 SHARED-USE PATH.**

"Shared-use path" means a bikeway outside the traveled way and physically separate from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. A shared-use path also may be used by pedestrians, including skaters, joggers, users of manual and motorized wheelchairs, and other authorized motorized and non-motorized users. A shared-use path does not include any trail that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use.

(ORC 4511.01(PPP))

**402.37 SIDEWALK.**

"Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians. (ORC 4511.01(FF))

**402.38 STATE ROUTE.**

"State route" means every highway that is designated with an official State route number and so marked. (ORC 4511.01(JJ))

**402.39 STOP (WHEN REQUIRED).**

"Stop" when required means a complete cessation of movement.

**402.40 STOPPING OR STANDING.**

(a) "Stop or stopping" when prohibited means any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device.

(b) "Stand or standing" means the halting of a vehicle, whether occupied or not, otherwise then temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

**402.41 STOP INTERSECTION.**

"Stop intersection" means any intersection at one or more entrances of which stop signs are erected. (ORC 4511.01(BBB))

**402.42 STREET OR HIGHWAY; ARTERIAL STREET.**

(a) "Street" or "highway" are synonymous and mean the entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel. (ORC 4511.01(BB))

(b) "Arterial street" means any United States or State numbered route, controlled access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways. (ORC 4511.01(CCC))

**402.43 THROUGH STREET OR HIGHWAY.**

"Through street or highway" means every street or highway as provided in Section 414.02. (ORC 4511.01(HH))

**402.44 THRUWAY.**

"Thruway" means a through street or highway whose entire roadway is reserved for through traffic and on which roadway parking is prohibited. (ORC 4511.01(AAA))

**402.45 TRAFFIC.**

"Traffic" means pedestrians, ridden or herded animals, vehicles and other devices, either singly or together, while using for purposes of travel any street or highway or private road open to public travel. (ORC 4511.01(TT))

**402.46 TRAFFIC CONTROL DEVICE.**

"Traffic control device" means a flagger, sign, signal, marking, or other device used to regulate, warn or guide traffic, placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction. (ORC 4511.01(QQ))

**402.47 TRAFFIC CONTROL SIGNAL.**

"Traffic control signal" means any highway traffic signal by which traffic is alternately directed to stop and permitted to proceed. (ORC 4511.01(RR))



**402.48 TRAILER.**

"Trailer" means every vehicle designed or used for carrying persons or property wholly on its own structure and for being drawn by a motor vehicle, including any such vehicle when formed by or operated as a combination of a semitrailer and a vehicle of the dolly type, such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a street or highway at a speed greater than twenty-five miles per hour and a vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour.

(ORC 4511.01(M))

**402.49 TRUCK.**

"Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property. (ORC 4511.01(K))

**402.50 URBAN DISTRICT.**

"Urban district" means the territory contiguous to and including any street or highway which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than 100 feet for distance of a quarter of a mile or more, and the character of such territory is indicated by official traffic control devices. (ORC 4511.01(PP))

**402.51 VEHICLE.**

"Vehicle" means every device, including a motorized bicycle and an electric bicycle, in, upon or by which any person or property may be transported or drawn upon a highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, any low-speed micromobility device, any personal delivery device as defined in R.C. § 4511.513, any device that is moved by power collected from overhead electric trolley wires or that is used exclusively upon stationary rails or tracks or any device, other than a bicycle, that is moved by human power.

(R.C. § 4511.01(A))

**402.52 WHEELCHAIR, MOTORIZED.**

"Motorized wheelchair" means any self-propelled vehicle designed for, and used by, a handicapped person and that is incapable of a speed in excess of eight miles per hour.

(ORC 4511.01(EEE))

**402.53 WASTE COLLECTION VEHICLE.**

"Waste collection vehicle" means a vehicle used in the collection of garbage, refuse, trash or recyclable materials. (ORC 4511.01(RRR))



**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 within 90 days of the underlying violation that resulted in the imposition of the additional fine under division (b) of this section.
- (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 within 90 days of the underlying violation that resulted in the imposition of the additional fine under division (b) of this section.
- (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)



(b) Every school bus shall be equipped with amber and red visual signals meeting the requirements of R.C. § 4511.771 or a substantially equivalent municipal ordinance, and an automatically extended stop warning sign of a type approved by the Ohio Department of Education and Workforce, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and county boards of developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and county boards of developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are loading or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by the Ohio Administrative Code.

(c) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle overtaking the school bus shall comply with subsection (a) hereof.

(d) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(e) No school bus driver shall start the driver's bus until after any 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 who may have alighted therefrom has reached a place of safety on the child or person's residence side of the road.

(f) As used in this section:

- (1) "Head start agency" has the same meaning as in Ohio R.C. 3301.32.
- (2) "School bus." As used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the Ohio Department of Education and Workforce, is painted the color and displays the markings described in R.C. § 4511.77, and is equipped with amber and red visual signals meeting the requirements of R.C. § 4511.77, irrespective of whether or not the bus has 15 or more children aboard at any time. The term does not include a van owned and operated by a head start agency, irrespective of its color, lights or markings.

(g) (1) Whoever violates subsection (a) of this section may be fined an amount not to exceed five hundred dollars (\$500.00). A person who is issued a citation for a violation of subsection (a) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.

- (2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section 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. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court's action. (ORC 4511.75)

**432.39 DRIVING ACROSS GRADE CROSSING.**

- (a) (1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad, if any of the following circumstances exist at the crossing:
- A. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.
  - B. A crossing gate is lowered.
  - C. A flagperson gives or continues to give a signal of the approach or passage of a train.
  - D. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.
  - E. An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
  - F. There is insufficient undercarriage clearance to safely negotiate the crossing.
- (2) A person who is driving a vehicle and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (a)(1)A. to F. of this section exist at the crossing.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 4511.62)

**432.40 STOPPING AT GRADE CROSSING.**

- (a) (1) Except as provided in subsection (a)(2) hereof, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle, and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.



- (3) "Municipal OVI ordinance" and "municipal OVI offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from 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.
- (4) "Community residential sanction", "continuous alcohol monitoring", "jail", "mandatory prison term", "mandatory term of local incarceration", "sanction" and "prison term" have the same meanings as in Ohio R.C. 2929.01.
- (5) "Drug of abuse" has the same meaning as in Ohio R.C. 4506.01.
- (6) "Equivalent offense that is vehicle-related" means an equivalent offense that is any of the following:
  - A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
  - B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;
  - C. A violation of a former law of this state that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19.  
(ORC 4511.181)

#### 434.02 OPERATION IN WILLFUL OR WANTON DISREGARD OF SAFETY.

(a) No person shall operate a vehicle on any street or highway in willful or wanton disregard of the safety of persons or property. (ORC 4511.20)

(b) No person shall operate a vehicle on any public or private property other than streets or highways, in willful or wanton disregard of the safety of persons or property.

This subsection does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.

(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) Whenever a person is found guilty under this section of operating a motor vehicle in violation of this section relating to reckless operation, the trial court of any court of record, in addition to or independent of all other penalties provided by law, may impose a class five suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02.  
(ORC 4510.15)

#### 434.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.

(a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.

(b) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to Ohio R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

- (1) A. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when twenty miles per hour school speed limit signs are erected; except, that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(7) hereof. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.

B. As used in this section, "school" means all of the following:

1. Any school chartered under R.C. § 3301.16;
2. Any nonchartered school that during the preceding year filed with the Ohio Department of Education and Workforce in compliance with O.A.C. 3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets state minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone;
3. Any special elementary school that in writing requests the County Engineer to create a school zone at the location of the school. Upon receipt of the written request, the County Engineer shall create a school zone at that location by erecting appropriate signs;
4. Any preschool education program operated by an educational service center that is located on a street or highway with a speed limit of 45 miles per hour or more, when the educational service center in writing requests that the County Engineer create a school zone at the location of that program. Upon receipt of such a written request, the County Engineer shall create a school zone at that location by erecting the appropriate signs.

C. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway. Upon request from the Municipality for streets and highways under its jurisdiction, the Ohio Director of Transportation may extend the traditional school zone boundaries. The distances in subsections (b)(1)C.1. to 3. hereof shall not exceed 300 feet per approach per direction and are

**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) Whoever violates division (a) of this section is guilty of operating a motor vehicle while using an electronic wireless communication device, an unclassified misdemeanor, and shall be punished as provided in divisions (d)(1) to (d)(5) of this section.
- (1) The offender shall be fined, and is subject to a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, as follows:
    - 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) If the offender is in the category of offenders to whom division (d)(1)A. of this section applies, 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 within 90 days of the violation of division (a) of this section. However, successful completion of the course does not result in a dismissal of the charges for the violation, and the violation is a prior offense under divisions (d)(1)B. and (d)(1)C. of this section if the offender commits a subsequent violation or violations of division (a) of this section within two years of the offense for which the course was completed. This division does not apply with respect to any offender in the category of offenders to whom division (d)(1)B., (d)(1)C., or (d)(1)D. of this section applies.
  - (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)*

- (5) Violate any rules adopted pursuant to Ohio R.C. Chapter 4505;
- (6) Except as otherwise provided in Ohio R.C. Chapter 4505 and Chapter 4517, sell at wholesale a motor vehicle the ownership of which is not evidenced by an Ohio certificate of title, or the current certificate of title issued for the motor vehicle, or the manufacturer's certificate of origin, and all title assignments that evidence the seller's ownership of the motor vehicle, and an odometer disclosure statement that complies with Ohio R.C. 4505.06 and subchapter IV of the "Motor Vehicle Information and Cost Savings Act", 86 Stat. 961 (1972), 15 U.S.C. 1981;
- (7) Operate in this Municipality a motor vehicle knowing that the certificate of title to the vehicle or ownership of the vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) This section does not apply to persons engaged in the business of warehousing or transporting motor vehicles for the purpose of salvage disposition.

(c) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both. (ORC 4505.18)

#### 436.09 DISPLAY OF LICENSE PLATES.

- (a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker when required by and issued under R.C. §§ 4503.19 and 4503.191. However, a commercial tractor shall display the license plate on the front of the commercial tractor.
- (2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.
- (3) No person to whom a temporary motor vehicle license registration has been issued for the use of a motor vehicle under R.C. § 4503.182, and no operator of that motor vehicle, shall fail to display the temporary motor vehicle license registration in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle.
- (4) No person shall cover a temporary motor vehicle license registration by any material that obstructs its visibility.  
(R.C. § 4503.21(A))

(b) Except as otherwise provided by R.C. §§ 4503.103, 4503.107, 4503.173, 4503.41, 4503.43 and 4503.46, no person who is the owner or chauffeur of a motor vehicle operated or driven upon the public roads or highways shall fail to file annually the application for registration or to pay the tax therefor.  
(R.C. § 4503.11(A))

- (c) (1) Within 30 days of becoming a resident of this state, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this state. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this state under a license issued by another state.
- (2) For purposes of division (c)(1) of this section, "resident" means any person to whom any of the following applies:
  - A. The person maintains their principal residence in this state and does not reside in this state as a result of the person's active service in the United States armed forces.
  - B. The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under R.C. § 4507.01. (R.C. § 4503.111(A), (C))

(d) Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner immediately shall remove the license plates from the motor vehicle, except as otherwise provided in R.C. § 4503.12.  
(R.C. § 4503.12(A))

(e) No person shall operate or drive upon the highways of this municipality a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration.  
(R.C. § 4549.11(A))

(f) No person who is the owner of a motor vehicle and a resident of this state shall operate or drive the motor vehicle upon the highways of this municipality while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of this state relating to the registration and identification of motor vehicles.  
(R.C. § 4549.12(A))

- (g) (1) A. Whoever violates division (a) of this section is guilty of a minor misdemeanor.
- B. The offenses established under division (A) of this section are strict liability offenses and R.C. § 2901.20 does not apply. The designation of these offenses as strict liability offenses 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. § 4503.21(B), (C))
- (2) Whoever violates division (b) of this section is guilty of a minor misdemeanor.  
(R.C. § 4503.11(D))
- (3) A. Whoever violates division (c) of this section is guilty of a minor misdemeanor.



(b) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.16)

**438.16 NUMBER OF LIGHTS; LIMITATIONS ON FLASHING, OSCILLATING OR ROTATING LIGHTS.**

(a) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candle power, shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

- (c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing.
- (2) The prohibition in division (c)(1) of this section does not apply to any of the following:
- A. Emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash, or recyclable materials on the roadside, rural mail delivery vehicles, vehicles as provided in R.C. § 4513.182, highway maintenance vehicles, and similar equipment operated by state or local authorities, provided such vehicles are equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber light;
  - B. Vehicles or machinery permitted by R.C. § 4513.111 to have a flashing red light;
  - C. Farm machinery and vehicles escorting farm machinery, provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating, or rotating amber light. Farm machinery also may display the lights described in R.C. § 4513.111.
  - D. A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating purple or amber light.
  - E. A vehicle being used for emergency preparedness, response, and recovery activities, as those terms are defined in R.C. § 5502.21, that is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber or red and white light, provided that the vehicle is being operated by a person from one of the following and the vehicle is clearly marked with the applicable agency's or authority's insignia:
    - 1. The Ohio Emergency Management Agency;
    - 2. A countywide emergency management agency established under R.C. § 5502.26;
    - 3. A regional authority for emergency management established under R.C. § 5502.27;

4. A program for emergency management established under R.C. § 5502.271.
- (3) Division (c)(1) of this section does not apply to animal-drawn vehicles subject to R.C. § 4513.114.
- (d) (1) Except a person operating a public safety vehicle, as defined in R.C. § 4511.01(E), an emergency management agency vehicle, as described in division (c)(2)E. of this section, or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light.
- (2) Except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, operating a public safety vehicle when on duty, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

(e) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.

(f) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.17)

#### 438.17 FOCUS AND AIM OF HEADLIGHTS.

(a) No person shall use any lights mentioned in Section 438.02 to 438.16, inclusive, upon any motor vehicle, trailer or semitrailer unless the lights are equipped, mounted and adjusted as to focus and aim in accordance with State regulations.

(b) The headlights on any motor vehicle shall comply with the headlamp color requirements contained in federal motor vehicle safety standard number 108, 49 C.F.R. 571.108. No person shall operate a motor vehicle in violation of this subsection.

(c) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.19)

#### 438.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.

(a) The following requirements govern as to brake equipment on vehicles:

- (1) Every motor vehicle, other than a motorcycle, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and hold such motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any

**438.25 AIR CLEANER REQUIRED.**

(a) No person shall operate a motor vehicle with an internal combustion engine unless the carburetion system of the vehicle is protected with an air filter, a flame arresting device, or any other accepted method of protection that is adequate for this purpose. If the original device or system is replaced, it shall be replaced with one that is equal to or better than the original equipment.

(b) This section does not apply to a person doing automotive repair work on a motor vehicle that necessitates this device being removed while the work is performed.

(c) 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.

**438.26 CHILD RESTRAINT SYSTEM USAGE.**

(a) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased or otherwise under the control of a nursery school or child care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsection (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01 or a vehicle that is regulated under Ohio R.C. 5104.011, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.

(d) When any child who is at least eight years of age but not older than fifteen years of age and who is not otherwise required by subsection (a), (b) or (c) hereof to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in Ohio R.C. 4513.263.

(e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsection (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsection (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed.

(f) The Ohio Director of Public Safety shall adopt such rules as are necessary to carry out this section.

## 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."
  - (1) A license issued in accordance with R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle. Except as otherwise specifically provided, "commercial driver's license" includes an "enhanced commercial driver's license."
  - (2) "Enhanced commercial driver's license" means a commercial driver's license issued in accordance with R.C. §§ 4507.021 and 4506.072 that denotes citizenship and identity and is approved by the United States Secretary of Homeland Security or other designated federal agency for purposes of entering the United States.
- (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.

- (9) A police SWAT team vehicle.
- (10) A police vehicle used to transport prisoners.

(c) Nothing contained in subsection (b)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this State concerning the safe operation of commercial motor vehicles.

(d) Whoever violates this section is guilty of a misdemeanor of the first degree.  
(ORC 4506.03)

#### 442.04 PROHIBITIONS.

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

- (1) Drive a commercial motor vehicle while having in the person's possession or otherwise under the person's control more than one valid driver's license issued by this state, any other state or by a foreign jurisdiction;
- (2) Drive a commercial motor vehicle on a highway in this municipality in violation of an out-of-service order while the person's driving privilege is suspended, revoked or cancelled, or while the person is subject to disqualification;
- (3) Drive a motor vehicle on a highway in the municipality under the authority of a commercial driver's license issued by another state or a foreign jurisdiction, after having been a resident of this state for 30 days or longer;
- (4) Knowingly give false information in any application or certification required by R.C. § 4506.07.
- (5) Knowingly provide false statements or engage in any fraudulent act related to testing for a commercial driver's license as required in R.C. § 4506.09.

(b) The municipality shall give every conviction occurring out of this state and notice of which was received by the State Department of Public Safety after December 31, 1989, full faith and credit and treat it for sanctioning purposes under this chapter as though the conviction had occurred in this state.

(R.C. § 4506.04(A), (B))

(c) No person shall drive any commercial motor vehicle for which an endorsement is required under R.C. § 4506.12 unless the proper endorsement appears on the person's commercial driver's license or commercial driver's license temporary instruction permit. No person shall drive a commercial motor vehicle in violation of a restriction established under R.C. § 4506.12 that appears on the person's commercial driver's license or commercial driver's license temporary instruction permit.

(R.C. § 4506.12(I))

- (d) (1) Whoever violates division (a)(1), (2) or (3) of this section is guilty of a misdemeanor of the first degree.
- (2) Whoever violates division (a)(4) of this section is guilty of falsification, a misdemeanor of the first degree. In addition, the provisions of R.C. § 4507.19 apply.  
(R.C. § 4506.04(C))
- (3) Whoever violates division (a)(5) of this section is guilty of falsification, a misdemeanor of the third degree. In addition, the provisions of R.C. § 4507.19 apply.
- (4) A. Whoever violates division (c) of this section is guilty of a misdemeanor of the first degree.

- B. The offenses established under division (c) of this section are strict liability offenses and R.C. § 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense for which there is no specified degree of culpability, whether in this section or another section of this code or the Ohio Revised Code, is not a strict liability offense.  
(R.C. § 4506.12(J))

#### 442.05 CRIMINAL OFFENSES.

(a) No person who holds a commercial driver's license, or commercial driver's license temporary instruction permit or who operates a motor vehicle for which a commercial driver's license or permit is required shall do any of the following:

- (1) Drive a commercial motor vehicle while having a measureable or detectable amount of alcohol or of a controlled substance in the person's blood, breath or urine;
- (2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more by whole blood or breath;



- (3) Drive a commercial motor vehicle while having an alcohol concentration of forty-eight-thousandths of one per cent or more by blood serum or blood plasma;
- (4) Drive a commercial motor vehicle while having an alcohol concentration of fifty-six-thousandths of one per cent or more by urine;
- (5) Drive a motor vehicle while under the influence of a controlled substance;
- (6) Drive a motor vehicle in violation of Ohio R.C. 4511.19 or a municipal OVI ordinance as defined in Ohio R.C. 4511.181;
- (7) Use a motor vehicle in the commission of a felony;
- (8) Refuse to submit to a test under Ohio R.C. 4506.17 or 4511.191;
- (9) Operate a commercial motor vehicle while the person's commercial driver's license or permit or other commercial driving privileges are revoked, suspended, canceled, or disqualified;
- (10) Cause a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter;
- (11) Fail to stop after an accident in violation of Sections 436.12 to 436.14;
- (12) Drive a commercial motor vehicle in violation of any provision of Ohio R.C. 4511.61 to 4511.63 or any federal or local law or ordinance pertaining to railroad-highway grade crossings;
- (13) Use a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in Ohio R.C. 3719.01 or the possession with intent to manufacture, distribute, or dispose a controlled substance;
- (14) Use a commercial motor vehicle in the commission of a violation of R.C. § 2905.32 or any other substantially equivalent offense established under federal law or the laws of another state.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.

(c) The offenses established under this section are strict liability offenses and R.C. § 2901.20 does not apply. The designation of these offenses as strict liability offenses 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. § 4506.15)

#### 442.06 EMPLOYMENT OF DRIVERS OF COMMERCIAL VEHICLES.

(a) Each employer shall require every applicant for employment as a driver of a commercial motor vehicle to provide the information specified in Ohio R.C. 4506.19.

(b) No employer shall knowingly permit or authorize any driver employed by the employer to drive a commercial motor vehicle during any period in which any of the following apply:

- (1) The driver's commercial driver's license is suspended, revoked or canceled by any state or a foreign jurisdiction;

- (2) The driver has lost the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;
- (3) The driver is subject to an out-of-service order in any state or a foreign jurisdiction;
- (4) The driver has more than one driver's license.

(c) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of Section 442.05.

(d) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle if the driver does not hold a valid, current commercial driver's license or commercial driver's license temporary instruction permit bearing the proper class or endorsements for the vehicle. No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of the restrictions on the driver's commercial driver's license or commercial driver's license temporary instruction permit.

- (e) (1) Whoever violates subsection (a), (b) or (d) of this section is guilty of a misdemeanor of the first degree.
- (2) Whoever violates subsection (c) of this section may be assessed a fine not to exceed ten thousand dollars. (ORC 4506.20)

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 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, standard removable windshield placard, permanent removable windshield placard, or temporary removable windshield placard issued under R.C. § 4503.41 or 4503.44, and also mean any substantially similar license plates or 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:

- (m) "Public official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision thereof, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges and law enforcement officers. "Public official" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.
- (n) "Public servant" means any of the following:
  - (1) Any public official;
  - (2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor or consultant;
  - (3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this subsection if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person's name placed on the ballot in a primary, general or special election, or if the person campaigns as a write-in candidate in any primary, general or special election. "Public servant" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.
- (o) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which the person directs, conducts or participates in directing or conducting party affairs at any level of responsibility.
- (p) "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary or other person taking testimony or a deposition in connection with an official proceeding.
- (q) "Detention" means arrest, confinement in any vehicle subsequent to an arrest, confinement in any public or private facility for custody of persons charged with or convicted of a crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States; hospitalization, institutionalization or confinement in any public or private facility that is ordered pursuant to or under the authority of Ohio R.C. 2945.37, 2945.371, 2945.38, 2945.39 or 2945.40, 2945.401 or 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation, except as provided in this subsection, supervision by any employee of any facility of any of those natures; that is incidental to hospitalization, institutionalization or confinement in the facility but that occurs outside the facility; supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a State correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this State into this State by a private person or entity pursuant to a contract entered into under Ohio R.C. 311.29(E) or Ohio R.C. 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to Ohio R.C. 5147.30, "detention" includes time spent at an assigned work site and going to and from the work site.
- (r) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this State or another state or under the

laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States.

- (s) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.
- (t) "Campaign committee," "contribution," "political action committee," "legislative campaign fund", "political party" and "political contributing entity" have the same meanings as in Ohio R.C. 3517.01.
- (u) "Provider agreement" has the same meaning as in Ohio R.C. 5164.01. (ORC 2921.01)
- (v) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:
  - (1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device, or paraphernalia;
  - (2) Any unlawful gambling device, or paraphernalia;
  - (3) Any dangerous ordnance or obscene material.
- (w) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.
- (x) "School", "school building" and "school premises" have the same meaning as in Ohio R.C. 2925.01.
- (y) "School activity." Any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational or cooperative education school district; a governing authority of a community school established under R.C. Chapter 3314; a governing board of an educational service center; or the governing body of a nonpublic school for which the Director of Education and Workforce prescribes minimum standards under R.C. § 3301.07.
- (z) "School bus" has the same meaning as in Ohio R.C. 4511.01. (ORC 2901.01)

#### 606.02 CULPABLE MENTAL STATES.

(a) A person acts purposely when it is the person's specific intention to cause a certain result, or when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is the offender's specific intention to engage in conduct of that nature.

(b) A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

(c) A person acts recklessly when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that such circumstances are likely to exist.



(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-2f, 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, F-8, or F-9 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.
- F. Beer or intoxicating liquor to be consumed in an outdoor area described in R.C. § 4303.188(B)(1).

(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 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.
- (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.	618.13	Animals prohibited; proximity to dwellings.
618.04	Poisoning animals.	618.14	Barking or howling dogs.
618.05	Cruelty to animals generally.	618.15	Hunting.
618.051	Cruelty to companion animals.	618.16	Dangerous wild animals and restricted snakes.
618.06	Coloring rabbits and baby poultry; sale or display of poultry.	618.17	Assaulting police dog or horse or an assistance dog.
618.07	Animal fights.	618.18	Dangerous dogs.
618.08	Registration of dogs required.	618.19	Control of dogs, or other household pets or animals in any Village park or Village property.
618.09	Hindering capture of unlicensed dog.	618.20	Waste removal required.
618.10	Unlawful tags.		
618.11	Rabies quarantine.		

### 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

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### 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 and on a leash not more than eight feet long. (Ord. 2023-39. Passed 8-14-23.)

(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

(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." A dog that has been trained by a nonprofit or for-profit special agency and that is one of the following:
  - A. A guide dog;
  - B. A hearing dog;
  - C. A service dog.
- (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.



**CHAPTER 620**  
**Drugs**

620.01	Definitions.	620.10	Hypodermic possession, display and dispensing.
620.02	Gift of marihuana.	620.11	Harmful intoxicants; possessing nitrous oxide in motor vehicle.
620.03	Drug abuse; controlled substance possession or use.	620.12	Drug paraphernalia.
620.04	Possessing drug abuse instruments.	620.121	Marihuana drug paraphernalia.
620.05	Permitting drug abuse.	620.13	Counterfeit controlled substances.
620.06	Illegal cultivation of marihuana.	620.14	Offender may be required to pay for controlled substance tests.
620.07	Possessing or using harmful intoxicants.	620.15	Sale of dextromethorphan.
620.08	Illegally dispensing drug samples.	620.16	Adult use cannabis control; limitations on conduct by individuals.
620.09	Controlled substance or prescription labels.	620.99	Penalty.

**CROSS REFERENCES**

See sectional histories for similar State law

Federal prosecution bar to local prosecution - see Ohio R.C. 2925.50, 3719.19

Analysis report and notarized statement as evidence - see Ohio R.C. 2925.51

Criteria for granting probation - see Ohio R.C. 3719.70(B)

Adulterating food with drug of abuse - see GEN. OFF. 636.13

Using weapons while under the influence - see GEN. OFF. 672.03.

**620.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words, terms and phrases and their derivatives used in this chapter which are not defined in this section shall have the meanings given to them in the Ohio Revised Code.

- (a) "Administer." Has the same meaning as in R.C. § 3719.01.
- (b) "Adulterate." To cause a drug to be adulterated as described in R.C. § 3715.63.
- (c) "Alcohol and drug addiction services." Has the same meaning as in R.C. § 5119.01.
- (d) "Bulk amount." Of a controlled substance, means any of the following:
  - (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in division (2), (5), or (6) of this definition, whichever of the following is applicable:
    - A. An amount equal to or exceeding ten grams or 25 unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;

- B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
  - C. An amount equal to or exceeding 30 grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;
  - D. An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;
  - E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;
  - F. An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. §§ 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
  - G. An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. §§ 301 et seq., as amended) and the federal drug abuse control laws;
- (2) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
  - (3) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III opiate or opium derivative;
  - (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance;
  - (5) An amount equal to or exceeding 200 solid dosage units, 16 grams, or 16 milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid;
  - (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, if the defendant is charged with a violation of R.C. § 2925.11 and the sentencing provisions set

- (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 3776;
- (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.

- (xx) "Sample drug." A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (yy) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" or "Schedule V." Have the same meaning as in R.C. § 3719.01.
- (zz) "School." Any school operated by a board of education, any community school established under R.C. Chapter 3314, or any nonpublic school for which the Director of Education and Workforce prescribes minimum standards under R.C. § 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (aaa) "School building." Any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (bbb) "School premises." Either of the following:
  - (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.
  - (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under R.C. Chapter 3314, or the governing body of a nonpublic school for which the Director of Education and Workforce prescribes minimum standards under R.C. § 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (ccc) "Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (ddd) "Substance addiction services provider." Means an agency, association, corporation or other legal entity, individual, or program that provides one or more of the following at a facility:
  - (1) Either alcohol addiction services, or drug addiction services, or both such services that are certified by the Ohio Director of Mental Health and Addiction Services under R.C. § 5119.36;
  - (2) Recovery supports that are related to either alcohol addiction services, or drug addiction services, or both such services and paid for with federal, state, or local funds administered by the Ohio Department of Mental Health and Addiction Services or a board of alcohol, drug addiction, and mental health services.
- (eee) "Unit dose." An amount or unit or a compound, mixture or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
- (fff) "Wholesaler." Has the same meaning as in R.C. § 3719.01.  
(R.C. § 2925.01)

**620.02 GIFT OF MARIHUANA.**

(a) No person shall knowingly give or offer to make a gift of twenty grams or less of marihuana.

(b) Whoever violates this section is guilty of trafficking in marihuana. Trafficking in marihuana is a minor misdemeanor for the first offense and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(c) The court may by order suspend for not more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section. 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 in accordance with Ohio R.C. 2925.03(G). If an offender's driver's or commercial driver's license or permit is suspended pursuant to this subsection, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension. (ORC 2925.03)

2. "Community control sanction" has the same meaning 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.



#### 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)

**620.16 ADULT USE CANNABIS CONTROL; LIMITATIONS ON CONDUCT BY INDIVIDUALS.**

(a) Except as otherwise provided in R.C. Chapter 3780 and notwithstanding any conflicting provision of this code or the Ohio Revised Code, an adult use consumer, may do the following:

- (1) Use adult use cannabis;
- (2) Possess, transfer without remuneration to another adult consumer, or transport adult use cannabis, subject to division (b) of this section; and
- (3) Purchase adult use cannabis from an adult use dispensary per day in amounts that do not exceed the possession limits set forth in division (b)(1) of this section.

(b) Except as otherwise provided in R.C. Chapter 3796:

- (1) The amount of cannabis that may be possessed by an adult use consumer shall not exceed:
  - A. Two and one-half ounces of adult use cannabis in any form except adult use extract; and
  - B. Fifteen grams of adult use cannabis in the form of adult use extract.
- (2) The amount of cannabis that may be transferred by an adult use consumer without remuneration and not advertised or promoted to the public shall not exceed:
  - A. Two and one-half ounces of adult use cannabis in any form except adult use extract; and
  - B. Fifteen grams of adult use cannabis in the form of adult use extract.
- (3) The amount of cannabis that may be transported by an adult use consumer shall not exceed:
  - A. Two and one-half ounces of adult use cannabis in any form except adult use extract; and
  - B. Fifteen grams of adult use cannabis in the form of adult use extract.

(c) Except as otherwise provided in R.C. Chapter 3780, an adult use consumer shall not be subject to arrest, criminal prosecution, or civil penalty for engaging in any of the activities authorized under R.C. Chapter 3780, including:

- (1) Obtaining, using, possessing, or transporting adult use cannabis;
- (2) Performing conduct authorized under R.C. § 3780.29;
- (3) Acquiring, possessing, using, purchasing, manufacturing, selling, or transporting paraphernalia; and
- (4) Assisting another adult use consumer, or allowing property to be used, in any of the acts authorized by R.C. Chapter 3780.

- (d)
  - (1) An individual is prohibited from operating a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft while using adult use cannabis or while under the influence of adult use cannabis and is subject to R.C. § 4511.19 or a substantially equivalent municipal ordinance for any violation of this division.
  - (2) An individual is prohibited from smoking, vaporizing, or using any other combustible adult use cannabis product while in a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft and is subject to R.C. § 4511.19 or a substantially equivalent municipal ordinance for any violation of this division.

(e) Except as otherwise provided in R.C. Chapter 3780, no individual under 21 years of age shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of purchasing adult use cannabis from an adult use dispensary licensed under R.C. Chapter 3780.

(f) Nothing in R.C. Chapter 3780 is intended to permit the transfer or sale of adult use cannabis, with or without remuneration, to an individual under 21 years of age, or to allow an

individual under 21 years of age to purchase, possess, use, process, transport, or cultivate cannabis except where authorized by R.C. Chapter 3796.

(g) It is unlawful for any parent or guardian to knowingly permit their residence, any other private property under their control, or any vehicle, conveyance, or watercraft under their control to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under 21 years of age, in a manner that constitutes a violation of R.C. Chapter 3780.

- (1) A parent or guardian is deemed to have knowingly permitted their residence, any other private property under their control, or any vehicle, conveyance, or watercraft under their control to be used in violation of R.C. Chapter 3780 if they knowingly authorize or permit consumption of cannabis by underage invitees.
- (2) Where the residence or other property has an owner and a tenant or lessee, the trier of fact may infer that the residence or other property is occupied only by the tenant or lessee.  
(R.C. § 3780.36)

(h) *Penalties.*

- (1) Except as otherwise provided in R.C. Chapter 3796, R.C. § 2925.11 or a substantially equivalent municipal ordinance shall apply when an adult use consumer possesses an amount of cannabis greater than the limits set forth in division (b)(1) of this section.
- (2) Except as otherwise provided in R.C. Chapter 3780, an adult use consumer who uses adult use cannabis in public areas, or who violates division (d)(2) of this section as a passenger, is guilty of a minor misdemeanor.
- (3) A. An individual under 21 years of age who knowingly shows or gives false information concerning the individual's name, age, or other identification for the purpose of purchasing or otherwise obtaining adult use cannabis from an adult use dispensary licensed under R.C. Chapter 3780 is guilty of a misdemeanor of the first degree. If, in committing a first violation, the offender presented to an adult use dispensary licensed under R.C. Chapter 3780 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 \$250 and not more than \$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 an adult use dispensary licensed under R.C. Chapter 3780 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 \$500 nor more than \$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 R.C. § 4510.02(A)(7). The court, in lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.  
C. On a third or subsequent violation in which, for the third or subsequent time, the offender presented to an adult use dispensary licensed under R.C. Chapter 3780 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 \$500 nor more than \$1,000, and may be sentenced to a term of imprisonment of not more than six months. Except as provided in this division, the court also may impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of 21 years. The court, in lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

- (4) An individual who is under 21 years of age and who solicits another individual to purchase adult use cannabis from an adult use dispensary licensed under R.C. Chapter 3780 is guilty of:
  - A. For a first violation, a misdemeanor of the fourth degree; and
  - B. For a second or subsequent violation, a misdemeanor of the second degree.
- (5) An employee or agent of an adult use dispensary licensed under R.C. Chapter 3780 who knowingly sells cannabis to an individual under 21 years of age is guilty of a misdemeanor of the first degree.
- (6) Any individual who violates R.C. § 3780.10(A), or R.C. § 3780.29(F), is guilty of the illegal trafficking in drugs under R.C. § 2925.03 and the illegal manufacture of drugs under R.C. § 2925.04.
- (7) Any individual who violates division (b)(2) or (b)(3) of this section guilty of the illegal trafficking in drugs under R.C. § 2925.03.
- (8) Any individual who violates R.C. § 3780.20(B) is guilty of illegal dispensing of drug samples under R.C. § 2925.36 or a substantially equivalent municipal ordinance.
- (9) A. An individual who violates division (g) of this section is guilty of:
  - 1. For a first violation, a misdemeanor of the third degree; and
  - 2. For a second or subsequent violation, a misdemeanor of the first degree.B. If a violation of division (g) of this section directly or indirectly results in great bodily harm or death to any individual, the individual violating division (g) is guilty of a felony to be prosecuted under appropriate state law.  
(R.C. § 3780.99)

620.99 PENALTY.

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

(f) Subsections (a)(5) to (11) and (b)(2) of this section do not apply to a person who, while employed or contracted by a newspaper, magazine, press association, news agency, news wire service, cable channel or cable operator, or radio or television station, is gathering, processing, transmitting, compiling, editing or disseminating information for the general public, within the scope of the person's employment in that capacity or the person's contractual authority in that capacity.

(g) As used in this section:

- (1) "Economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:
  - A. All wages, salaries, or other compensation lost as a result of the criminal conduct;
  - B. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
  - C. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
  - D. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
- (2) "Caller" means the person described in subsection (a) hereof who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.
- (3) "Telecommunication" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- (4) "Sexual activity" has the same meaning as in Ohio R.C. 2907.01.
- (5) "Family or household member" means any of the following:
  - A. Any of the following who is residing or has resided with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed:
    1. A spouse, a person living as a spouse, or a former spouse of the recipient;
    2. A parent, a foster parent, or a child of the recipient, or another person related by consanguinity or affinity to the recipient;
    3. A parent or a child of a spouse, person living as a spouse, or former spouse of the recipient, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the recipient.
  - B. The natural parent of any child of whom the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed is the other natural parent or is the putative other natural parent.
- (6) "Person living as a spouse" means a person who is living or has lived with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed in a common law marital relationship, who otherwise is cohabiting with the recipient, or who otherwise has cohabited with the recipient within five years prior to the date of the alleged commission of the act in question.
- (7) "Cable operator" has the same meaning as in Ohio R.C. 1332.21.

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

**636.11 THREATENING OR HARASSING TELEPHONE CALLS.**

(EDITOR'S NOTE: Former Ohio R.C. 4931.31 from which Section 636.11 was derived was repealed by Senate Bill 162, effective September 13, 2010. See now Section 636.10 "Telecommunication Harassment".)

**636.12 MISUSE OF 9-1-1 SYSTEM.**

(a) As used in this section, "9-1-1 system" means a system through which individuals can request emergency service using the access number 9-1-1.  
(R.C. § 128.01(A))

(b) No person shall knowingly use the telephone number of the 9-1-1 system established under Ohio R.C. Chapter 128 to report an emergency if he knows that no emergency exists.

(c) No person shall knowingly use a 9-1-1 system for a purpose other than obtaining emergency service.

(d) No person shall disclose or use any information concerning telephone numbers, addresses, or names obtained from the data base that serves the public safety answering point of a 9-1-1 system established under Ohio R.C. Chapter 128, except for any of the following purposes or under any of the following circumstances:

- (1) For the purpose of the 9-1-1 system;
- (2) For the purpose of responding to an emergency call to an emergency service provider;
- (3) In the circumstance of the inadvertent disclosure of such information due solely to technology of the wireline telephone network portion of the 9-1-1 system not allowing access to the data base to be restricted to 9-1-1 specific answering lines at a public safety answering point;
- (4) In the circumstance of access to a data base being given by a telephone company that is a wireline service provider to a public utility or municipal utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a data base shall be subject to the jurisdiction of the steering committee.
- (5) In the circumstance of access to a data base given by a telephone company that is a wireline service provider to a state and local government in warning of a public emergency, as determined by the steering committee. The charge, terms, and conditions for the disclosure or use of that information for the purpose of access to a data base is subject to the jurisdiction of the steering committee.  
(R.C. § 128.96(F) - (H))

- (e) (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree.
- (2) Whoever violates subsection (c) or (d) hereof is guilty of a misdemeanor of the fourth degree on a first offense. For each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.  
(R.C. § 128.99(A), (B))

The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. §§ 321 and 353(g).

- (6) "Proof of age." Means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under R.C. §§ 4507.50 to 4507.52 that shows that a person is 21 years of age or older.
- (7) "Tobacco product." Means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The phrase also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. §§ 321 and 353(g).
- (8) "Vapor product." Means a product, other than a cigarette or other tobacco product as defined in R.C. Chapter 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. The phrase includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. §§ 321 and 353(g). The phrase includes any product containing nicotine, regardless of concentration.
- (9) "Vending machine" has the same meaning as "coin machine" in Ohio R.C. 2913.01.

(b) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:

- (1) Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes:
  - A. To any person under 21 years of age; or
  - B. Without first verifying proof of age.
- (2) Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21 years of age is prohibited by law;

- (3) Knowingly furnish any false information regarding the name, age, or other identification of any person under 21 years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person;
  - (4) Manufacture, sell or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;
  - (5) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
  - (6) Give, sell or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification;
  - (7) Allow an employee under 18 years of age to sell any tobacco product;
  - (8) Give away or otherwise distribute free samples of cigarettes, other tobacco products, alternative nicotine products, or coupons redeemable for cigarettes, other tobacco products, or alternative tobacco products.
- (c) No person shall sell or offer to sell cigarettes, other tobacco products or alternative nicotine products by or from a vending machine, except in the following locations:
- (1) An area within a factory, business, office, or other place not open to the general public;
  - (2) An area to which persons under 21 years of age are not generally permitted access;
  - (3) Any other place not identified in subsection (c)(1) or (2) of this section, upon all of the following conditions:
    - A. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway or outer-waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
    - B. The vending machine is inaccessible to the public when the place is closed.
    - C. A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high: "It is illegal for any person under the age of 21 to purchase tobacco or alternative nicotine products."
- (d) The following are affirmative defenses to a charge under subsection (b)(1) of this section:
- (1) The person under 21 years of age was accompanied by a parent, spouse who is 21 years of age or older, or legal guardian of the person under 21 years of age.



- (2) The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21 years of age under division (b)(1) of this section is a parent, spouse who is 21 years of age or older, or legal guardian of the person under 21 years of age.
- (e) (1) It is not a violation of division (b)(1) or (b)(2) of this section for a person to give or otherwise distribute to a person under 21 years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the person under 21 years of age is participating in a research protocol if all of the following apply:
  - A. The parent, guardian, or legal custodian of the person under 21 years of age has consented in writing to the person under 21 years of age participating in the research protocol.
  - B. An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.
  - C. The person under 21 years of age is participating in the research protocol at the facility or location specified in the research protocol.
- (2) It is not a violation of division (b)(1) or (b)(2) of this section for an employer to permit an employee 18, 19, or 20 years of age to sell a tobacco product.
- (f) (1) No delivery service shall accept from, transport or deliver to, or allow pick-up by, a person under 21 years of age with respect to any of the following:
  - A. Alternative nicotine products;
  - B. Papers used to roll cigarettes;
  - C. Tobacco products other than cigarettes.
- (2) A delivery service shall require proof of age as a condition of accepting, transporting, delivering, or allowing pickup of the items described in divisions (e)(1)A. to B. of this section.

(g) Whoever violates division (b)(1), (b)(2), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), (c) or (f) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

(h) Whoever violates division (b)(3) of this section is guilty of permitting a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (b)(3) of this section or a substantially equivalent state law or municipal ordinance, permitting a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

(i) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a person under 21 years of age in violation of this section and that are used, possessed, purchased, or received by a person under 21 years of age in violation of R.C. § 2151.87 are subject to seizure and forfeiture as contraband under R.C. Chapter 2981.  
(R.C. § 2927.02)

636.17 RESERVED.

*Editor's note: This section was formerly based on R.C. § 2905.05, Criminal Child Enticement. The Ohio Supreme Court held that R.C. § 2905.05(A) was unconstitutionally overbroad in violation of the First Amendment. See State v. Romage, 138 Ohio St. 3d. 390 (2014).*

636.99 PENALTY.

(EDITOR'S NOTE: See Section 698.02 for penalties applicable to any misdemeanor classification.)

- (f) A blank form for any license listed in Ohio R.C. 4507.01(A).  
(ORC 2913.71)

**642.04 UNAUTHORIZED USE OF A VEHICLE.**

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

(b) This section does not apply to property removed from the State or if possession is kept for more than forty-eight hours.

- (c) The following are affirmative defenses to a charge under this section:

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

(d) No person shall knowingly enter into or upon a motor vehicle, motorcycle or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(e) Whoever violates subsection (a) hereof is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of subsection (a) hereof is a felony and shall be prosecuted under appropriate State law.  
(ORC 2913.03)

(f) Whoever violates subsection (d) hereof is guilty of vehicle trespass, a misdemeanor of the fourth degree.

**642.05 UNAUTHORIZED USE OF PROPERTY.**

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

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

(c) Whoever violates this section is guilty of unauthorized use of property. Except as provided in division (d) of this section, unauthorized use of property is a misdemeanor of the fourth degree.

(d) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is a misdemeanor of the first degree. If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, and if the value of the property is one thousand dollars (\$1,000) or more, unauthorized use of property is a felony and shall be prosecuted under appropriate state law.  
(Ord. 2023-53. Passed 9-11-23.)

**642.06 INJURING VINES, BUSHES, TREES OR CROPS.**

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

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

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.  
(ORC 901.99(A))

**642.07 VEHICULAR VANDALISM.**

(a) As used in this section:

- (1) "Highway" means any highway as defined in Section 401.42 of the Traffic Code or any lane, road, street, alley, bridge, or overpass.
- (2) "Alley", "street", and "vehicle" have the same meanings as in Chapter 401 of the Traffic Code.
- (3) "Vessel" and "waters in this State" have the same meanings as in Ohio R.C. 1546.01.

(b) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of any of the following:

- (1) Any vehicle on a highway;
- (2) Any boat or vessel on any of the waters in this State that are located in the Municipality.

(c) Whoever violates this section is guilty of vehicular vandalism. Except as otherwise provided in this subsection, vehicular vandalism is a misdemeanor of the first degree. If the violation of this section creates a substantial risk of physical harm to any person, serious physical harm to property, physical harm to any person or serious physical harm to any person, vehicular vandalism is a felony and shall be prosecuted under appropriate State law.  
(ORC 2909.09)

**642.08 RESERVED**

EDITOR'S NOTE: This section is reserved for future legislation.

**642.09 ARSON.**

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

- (b) (1) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any structure of another that is not an occupied structure;
- (2) It is an affirmative defense to a charge under subsection (b)(1) of this section that the defendant acted with the consent of the other person.

(c) Whoever violates this section is guilty of arson, a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is one thousand dollars (\$1,000) or more, arson is a felony and shall be prosecuted under appropriate State law.  
(ORC 2909.03)

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

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

(c) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this subsection, misconduct at an emergency is a misdemeanor of the fourth degree. If a violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.

(d) As used in this section:

- (1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
- (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
- (3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.

#### 648.08 INDUCING PANIC.

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

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

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

(c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. If inducing panic results in physical harm to any person, economic harm of one thousand dollars (\$1,000) or more, if the public place involved in a violation of this section is a school or an institution of higher education, or if the violation pertains to a purported, threatened or actual use of a weapon of mass destruction, inducing panic 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) "Economic harm" means any of the following:
  - A. All direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" as described in this division includes, but is not limited to, all of the following:
    1. All wages, salaries, or other compensation lost as a result of the criminal conduct;

2. The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
    3. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
    4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
  - B. All costs incurred by the Municipality as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or Section 648.07, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.
- (2) "School." Any school operated by a board of education or any school for which the Director of Education and Workforce prescribes minimum standards under R.C. § 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a violation of this section is committed.
- (3) "Weapon of mass destruction" means any of the following:
- A. Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;
  - B. Any weapon involving a disease organism or biological agent;
  - C. Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;
  - D. Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section:
    1. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;
    2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (e)(3)D.1. of this section and from which an item or device described in that division may be readily assembled.
- (4) "Biological agent" has the same meaning as in Ohio R.C. 2917.33.
- (5) "Emergency medical services personnel" has the same meaning as in Ohio R.C. 2133.21.
- (6) "Institution of higher education" means any of the following:
- A. A state university or college as defined in Ohio R.C. 3345.12(A)(1), community college, state community college, university branch, or technical college;
  - B. A private, nonprofit college, university or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Chancellor of Higher Education pursuant to R.C. Chapter 1713;
  - C. A post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools under Ohio R.C. Chapter 3332. (ORC 2917.31)

**648.09 MAKING FALSE ALARMS.**

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

- (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
- (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
- (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur;
- (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. § 2903.13.  
(R.C. § 2917.14)



**CHAPTER 660**  
**Safety, Sanitation and Health**

660.01	Venting of heaters and burners.	660.11	Possession, sale and disposal of hypodermics. (Repealed)
660.02	Spreading contagion.	660.12	Administering general anesthetic.
660.03	Permits for boxing or wrestling matches; safety rules.	660.13	Open burning.
660.04	Noxious odors; filthy accumulations; polluting and diverting watercourses	660.135	Littering and deposit of garbage, rubbish, junk, etc.
660.05	Duty to keep streets and sidewalks in repair and clean.	660.14	Mud, debris and litter upon streets.
660.06	Abandoned refrigerators and airtight containers.	660.15	Dumping of refuse.
660.07	Illegal use and distribution of drug samples; exceptions. (Repealed)	660.16	Unclean premises.
660.08	Purchase, use or possession of harmful intoxicants. (Repealed)	660.17	Junk and junk vehicles.
660.09	Possession of barbiturates or amphetamines. (Repealed)	660.18	Electric fences.
660.10	Purchase, use or possession of hallucinogen or marijuana. (Repealed)	660.19	Water pollution; remedies.
		660.20	Sprinkling ban.
		660.21	Smoking prohibited in or on any property, building and/or vehicle owned, leased, or operated by South Russell Village.
		660.22	Camping prohibited.

**CROSS REFERENCES**

See section histories for similar State law

Excavation liability - see Ohio R.C. 723.49 et seq.

Nuisances - see Ohio R.C. Ch. 3767

Placing injurious material or obstruction in street - see TRAF. 412.01

Safety and equipment for motor vehicles - see TRAF. Ch. 438

Loads dropping or leaking; removal required - see TRAF. 440.06

Willfully leaving vehicles on private or public property - see TRAF. 452.05

Rabies quarantine - see GEN. OFF. 618.11

Placing harmful substance or objects in food or confection - see GEN. OFF. 636.15

Weeds - see GEN. OFF. Ch. 678

Unsafe building - see B. & H. Ch. 1462

Excavations; barricades and warning lights - see S.U. & P.S. Ch. 1014

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**660.01 VENTING OF HEATERS AND BURNERS**

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

- (1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed and maintained as to vent the products of combustion outdoors; except in storage, factory or industrial buildings which are provided with sufficient ventilation to avoid the danger of carbon monoxide poisoning;
- (2) When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed or structure in which persons are temporarily present, shall be vented as provided in subsection (a) hereof, or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

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

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

(d) Subsection (a) hereof does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shutoff system, and that has its fuel piped from a source outside of the building in which it is located, that are approved by an authoritative source recognized by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82.

(e) The State Fire Marshal may make rules to ensure the safe use of unvented kerosene, natural gas or liquid petroleum gas heaters exempted from subsection (a) hereof when used in assembly buildings, business buildings, high hazard buildings, institutional buildings, mercantile buildings and type R-1 and R-2 residential buildings, as these groups of buildings are defined in rules adopted by the Board of Building Standards under Ohio R.C. 3781.10. No person shall negligently use, or, being the owner, person in charge or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this subsection.

(f) The State Fire Marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas or liquid petroleum gas heater. No person shall sell or offer for sale any kerosene, natural gas or liquid petroleum gas heater unless the manufacturer provides with the heater written instructions that comply with any rules adopted under this subsection.

(g) No product labeled as a fuel additive for kerosene heaters and having a flash point below 100 degrees fahrenheit or thirty-seven and eight-tenths degrees centigrade shall be sold, offered for sale or used in any kerosene space heater.

(d) The Mayor is hereby authorized to determine when the ban on automatic sprinkling devices as set forth in subsection (a) to (c) shall be imposed and/or terminated. The Mayor shall evidence any action imposing or terminating such restrictions by written notice posted in the same manner as ordinances and resolutions of Council.

(e) An initial violation of this section shall result in a fine imposed of not more than fifty dollars (\$50.00); and for any subsequent offense there shall be a fine imposed of not more than one hundred dollars (\$100.00). (Ord.1989-25. Passed 5-22-89.)

**660.21 SMOKING PROHIBITED IN OR ON ANY PROPERTY, BUILDING AND/OR VEHICLE OWNED, LEASED, OR OPERATED BY SOUTH RUSSELL VILLAGE.**

(a) Smoking, e-cigarette or other device used to simulate smoking, and/or the use of any tobacco, including chewing tobacco, snuff, smokeless and/or "spit" tobacco shall be prohibited in and/or on any property, building, and/or vehicle owned, leased, and/or operated by South Russell Village. No person shall smoke any tobacco material, have in a person's possession lighted smoking material, or use any e-cigarette, other device used to simulate smoking, or tobacco, including chewing tobacco, snuff, smokeless and/or "spit" tobacco in and/or on any property, building, and/or vehicle owned, leased, and/or operated by South Russell Village. For the purposes of this section, "person" shall mean an individual, including but not limited to a Village official, employee, agent and/or contractor, corporation, company, partnership, association, or organization of any kind.

(b) Signs that are clearly visible and state "NO SMOKING" shall be placed in and/or on any property, building, and/or vehicle owned, leased, and/or operated by South Russell Village.

(c) Whoever violates this section may be fined up to \$100 and the costs for the prosecution herein. A violation of this section shall be classified as a minor misdemeanor. (Ord. 1993-1. Passed 1-11-93; Ord. 2021-61. Passed 9-13-21.)

**660.22 CAMPING PROHIBITED.**

(a) "Camping" shall mean the erection of temporary living accommodations or preparations to sleep, sleeping, erecting a tent, storing belongings, or other activities commonly associated with the aforementioned conduct, when such conduct takes place outside of a permanent physical structure or residence.

(b) No person shall engage in camping on or in any property owned by the Village of South Russell.

(c) Any person who violates this section shall be guilty of a fourth degree misdemeanor. After a person's first criminal conviction, all subsequent violations shall be penalized as a first degree misdemeanor. (Ord. 2023-54. Passed 9-11-23.)



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 an offender under this division for a violation of division (b)(2) of this section, 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. Notwithstanding the fine specified in R.C. § 2929.28(A)(2)(a) for a misdemeanor of the first degree, in sentencing an offender under this division for a violation of division (b)(2) of this section, the court may impose upon the offender a fine of not more than \$1,500.  
(R.C. § 2907.231)



- (d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section, and subject to division (d)(2) of this section, if the offender has not attained 19 years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the Director of Education and Workforce prescribes minimum standards under R.C. § 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit or probationary commercial driver's license that then is in effect from the range specified in R.C. § 4510.02(A)(4) and shall deny the offender the issuance of any permit or license of that type during the period of the suspension. If the offender is not a resident of this state, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in R.C. § 4510.02(A)(4).
  - (2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits or privileges specified in division (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in division (d)(1) of this section, the court in its discretion may choose not to impose the suspension, revocation or denial required in division (d)(1) of this section, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.
- (e) As used in this section, "object that is indistinguishable from a firearm" means an object made, constructed or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.  
(R.C. § 2923.122(C) - (G))

**672.18 DEFACING IDENTIFICATION MARKS OF A FIREARM; POSSESSING A DEFACED FIREARM.**

- (a) No person shall do either of the following:
  - (1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark or identification on a firearm.
  - (2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this subsection, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(1) of this section, defacing identification marks of a firearm is a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this subsection, possessing a defaced

firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, possessing a defaced firearm is a felony and shall be prosecuted under appropriate State law.

(ORC 2923.201)

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.

- (1) 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:

A. *Restitution.*

1. 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.
2. 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.
3. 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.
4. 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.
  5. 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).
- B. *Fines.* A fine of the type described in divisions (a)(1)B.1. and (a)(1)B.2. of this section payable to the appropriate entity as required by law:
1. A fine in the following amount:
    - a. For a misdemeanor of the first degree, not more than \$1,000;
    - b. For a misdemeanor of the second degree, not more than \$750;
    - c. For a misdemeanor of the third degree, not more than \$500;
    - d. For a misdemeanor of the fourth degree, not more than \$250;
    - e. For a minor misdemeanor, not more than \$150.
  2. A state fine or cost as defined in R.C. § 2949.111.
- C. *Reimbursement.*
1. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including but not limited to the following:
    - a. 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;
    - b. 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;
    - c. All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under R.C. § 4510.13.
  2. The amount of reimbursement under division (a)(1)C.1. 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 division. If the court does not order reimbursement under that division, confinement costs may be assessed pursuant to a repayment policy adopted under R.C. § 2929.37. In addition, the offender may be required to pay the fees specified in R.C. § 2929.38 in accordance with that section.
- (2) A. If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this division (a) or court costs or is likely in the future to be able to pay the sanction or costs.
- B. If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may

impose a term of community service under R.C. § 2929.27 in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under R.C. § 2929.27 in lieu of or in addition to imposing a financial sanction under this division (a) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to R.C. § 2929.27 in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. If a person fails to pay a financial sanction or court costs, the court may order community service in lieu of the financial sanction or court costs.

- (3) A. The offender shall pay reimbursements imposed upon the offender pursuant to division (a)(1)C. of this section to pay the costs incurred by a county pursuant to any sanction imposed under R.C. §§ 2929.26 and 2929.27 or division (a) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under R.C. § 2929.26 to the County Treasurer. The County Treasurer shall deposit the reimbursements in the county's General Fund. The county shall use the amounts deposited in the Fund to pay the costs incurred by the county pursuant to any sanction imposed under R.C. §§ 2929.26 and 2929.27 or division (a) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed R.C. § 2929.26.
- B. The offender shall pay reimbursements imposed upon the offender pursuant to division (a)(1)C. of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under R.C. §§ 2929.26 and 2929.27 or division (a) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under R.C. § 2929.26 to the Treasurer of the municipal corporation. The Treasurer shall deposit the reimbursements in the municipal corporation's General Fund. The municipal corporation shall use the amounts deposited in the Fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under R.C. §§ 2929.26 and 2929.27 or division (a) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under R.C. § 2929.26.
- C. The offender shall pay reimbursements imposed pursuant to division (a)(1)C. of this section for the costs incurred by a private provider pursuant to a sanction imposed under R.C. §§ 2929.26 and 2929.27 or division (a) of this section to the provider.
- (4) A. In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for misdemeanor domestic violence or menacing by stalking may impose a fine of not less than \$70 nor more than \$500, which shall, except as provided in divisions (a)(4)B. and (a)(4)C. of this section, be transmitted to the Treasurer of Ohio to be credited to the address confidentiality program fund created by R.C. § 111.48.
- B. A court that imposes a fine under division (a)(4)A. of this section may retain up to 25% of amounts collected in satisfaction of the fine to cover administrative costs.
- C. A court that imposes a fine under division (a)(4)A. of this section may assign up to 25% of amounts collected in satisfaction of the fine to reimburse the prosecuting attorney for costs associated with prosecution of the offense.

- (5) A. Except as otherwise provided in this division (a)(5), a financial sanction imposed under division (a)(1) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (a)(1)C.1.a. of this section upon an offender is a judgment in favor of the entity administering the community control sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (a)(1)C.1.b. of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail or other residential facility, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (a)(1)A. of this section is an order in favor of the victim of the offender's criminal act that can be collected through a certificate of judgment as described in division (a)(5)B.1. of this section, through execution as described in division (a)(5)B.2. of this section or through an order as described in division (a)(5)B.3. of this section and the offender shall be considered for purposes of the collection as a judgment debtor.
- B. Once a financial sanction is imposed as a judgment or order under this division, the victim, private provider, state or political subdivision may do any of the following:
  - 1. Obtain from the clerk of the court in which the judgment was entered, at no charge, a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;
  - 2. Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in R.C. § 2929.18(D)(1) and (D)(2) or a substantially equivalent municipal ordinance.
  - 3. Obtain an order for the assignment of wages of the judgment debtor under R.C. § 1321.33 or a substantially equivalent municipal ordinance.
- (6) The civil remedies authorized under division (a)(5) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.
- (7) Each court imposing a financial sanction upon an offender under this division (a) may designate the Clerk of the Court or another person to collect the financial sanction. The Clerk, or another person authorized by law or the court to collect the financial sanction may do the following:
  - A. Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this division (a), a court shall comply with R.C. §§ 307.86 to 307.92.
  - B. Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, or by any other reasonable method, in any time, and on any terms that the court considers just. If the court is a county court or a municipal court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the Board of County Commissioners of the county pursuant to R.C. § 301.28.

If the court is a municipal court not operated by a county, the Clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.

- C. To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.
  - (8) No financial sanction imposed under this division (a) shall preclude a victim from bringing a civil action against the offender.
  - (9) If the court imposes restitution, fines, fees, or incarceration costs on a business or corporation, it is the duty of the person authorized to make disbursements from assets of the business or corporation to pay the restitution, fines, fees, or incarceration costs from those assets.
- (R.C. § 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



- (1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;
- (2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of Section 881.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section. (Ord. 2015-35. Passed 11-9-15.)

#### 881.06 INCOME SUBJECT TO NET PROFIT TAX.

##### 881.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS.

"Municipal Taxable Income" for a taxpayer who is not an individual for the Municipality is calculated as follows:

- (A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
    - (1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.
      - (i) "Net Profit" for a person other than an individual is defined in Section 881.03(23).
      - (ii) "Adjusted Federal Taxable Income" is defined in Section 881.03(1) of this Chapter.
    - (2) "Exempt Income" is defined in Section 881.03(11) of this Chapter.
    - (3) "Apportionment" means the apportionment as determined by Section 881.062 of this Chapter.
    - (4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 881.03(32) of this Chapter.
- (Ord. 2015-35. Passed 11-9-15.)

##### 881.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT.

This section applies to any taxpayer engaged in a business or profession in the Municipality unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

- (A) Except as otherwise provided in divisions (F)(2) and (G) of this section, net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- (1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.  
As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
  - (2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 881.052 of this Chapter;
  - (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (B)
  - (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
    - (a) Separate accounting;
    - (b) The exclusion of one or more of the factors;
    - (c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;
    - (d) A modification of one or more of the factors.
  - (2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of Section 881.19 of this Chapter.
  - (3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 881.19 of this Chapter.
  - (4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

- (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
  - (a) The employer;
  - (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
  - (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.
- (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
- (3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(D) For the purposes of division (A)(3) of this section, and except as provided in division (I) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

- (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:
  - (a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
  - (b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
  - (c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.

- (3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.
- (4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.
- (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

- (F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 881.081 of this Chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 881.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

(I) (1) As used in this division:

- (a) "Qualifying remote employee or owner" means an individual who is an employee of a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria:
  - (i) The taxpayer has assigned the individual to a qualifying reporting location.
  - (ii) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.
- (b) "Qualifying remote work location" means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. "Qualifying remote work location" may include the residence of an employee or owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year.
- (c) "Reporting location" means either of the following:
  - (i) A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer;
  - (ii) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under this chapter, on qualifying wages paid to an employee for the performance of personal services at that location.
- (d) "Qualifying reporting location" means one of the following:
  - (i) The reporting location in this state at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year;
  - (ii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;
  - (iii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) or (ii) of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location

designated for an employee or owner under this division at any time.

- (2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of division (B) of this section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election.

The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation.

Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

- (3) For the purpose of calculating the ratios described in division (D)(1) of this section, all of the following apply to a tax payer that has made the election described in division (I)(2) of this section:
- (a) For the purpose of division (A)(1) of this section, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.
  - (b) For the purpose of division (A)(2) of this section, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's location.
  - (c) For the purpose of division (A)(3) of this section, and notwithstanding division (F) of this section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.
- (4) Nothing in this division prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or



a portion of the income of the taxpayer, an alternative apportionment method as described in division (B) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.

- (5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to this chapter.  
(Ord. 2015-35. Passed 11-9-15; Ord. 2023-76. Passed 11-27-23.)

**881.063 CONSOLIDATED FEDERAL INCOME TAX RETURN.**

(A) As used in this section:

- (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
- (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
- (5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

(B) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.

- (a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.
- (b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section;  
or

- (c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
- (2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
- (3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(C) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(D) A taxpayer shall prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

- (E)
  - (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 881.03(1) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
  - (2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 881.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.
  - (3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
    - (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 881.062

of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.



- (C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.
- (2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.
- (b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year. (Ord. 2015-35. Passed 11-9-15.)

#### 881.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED.

(A) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return or, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(B) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. (Ord. 2015-35. Passed 11-9-15.)

#### 881.094 EXTENSION OF TIME TO FILE.

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates. For tax years ending on or after January 1, 2023, the extended due date of the municipality's income tax return for a taxpayer that is not an individual shall be the fifteenth day of the eleventh month after the last day of the taxable year to which the return relates.

(B) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.

(D) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(E) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

(F) If a taxpayer receives an extension for the filing of a municipal income tax return under division (A), (B), or (C) of this section, the tax administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.

If a tax administrator violates division (F) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to one hundred fifty dollars (\$150.00).

This division (F) does not apply to an extension received under division (B) of this section if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under division (B) of this section or failed to file for an extension under division (C) of this section.

(Ord. 2015-35. Passed 11-9-15; Ord. 2023-76. Passed 11-27-23.)

## 881.095 AMENDED RETURNS.

- (A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.
- (2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.
- (3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.
- (B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under Section 881.19 of this Chapter has not expired for a previously filed return.
- (2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.
- (C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (E) of section 881.19 of this Chapter for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in Section 881.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

- (2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. (Ord. 2015-35. Passed 11-9-15.)

#### 881.096 REFUNDS.

(A) Upon receipt of a request for a refund, the Tax Administrator of the Municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

- (1) Overpayments of more than ten dollars;
- (2) Amounts paid erroneously if the refund requested exceeds ten dollars.

- (B)
  - (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.
  - (2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
  - (3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 881.18 of this Chapter.

(C) A request for a refund that is received after the last day for filing specified in division (B) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

- (1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.
- (2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.
- (3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of



the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of Section 881.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in Section 881.10 of this Chapter. (Ord. 2015-35. Passed 11-9-15.)

#### 881.10 PENALTY, INTEREST, FEES, AND CHARGES.

(A) As used in this section:

- (1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.
- (2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.
- (3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.
- (4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.
- (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
- (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
- (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
- (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
- (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B) (1) This section shall apply to the following:

- (a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

- (b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016
- (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this Municipality.

(C) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.

- (1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.
- (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.
- (3) With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.
- (4)
  - (a) For tax years ending on or before December 31, 2022, with respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.
  - (b) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, the municipality shall impose a penalty not exceeding twenty-five dollars (\$25.00) for each failure to timely file each return, regardless of the liability shown thereon, except that the municipality shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems

such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(G) The Municipality may impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees.

(Ord. 2015-35. Passed 11-9-15; Ord. 2023-76. Passed 11-27-23.)

#### 881.11 AUDIT.

(A) At or before the commencement of an audit, as defined in Section 881.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.



## CHAPTER 1058 Cemeteries

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| <p>1058.01 Interments in Bell Road Cemetery.<br/>Rules and Regulations</p> <p>1058.02 Purpose.</p> <p>1058.03 Definitions.</p> <p>1058.04 Hours of the cemeteries.</p> <p>1058.05 Ownership.</p> <p>1058.06 Supervision of the cemeteries.</p> <p>1058.07 Sale and purchase of interment/<br/>inurnment rights at the South<br/>Russell Village Cemetery.</p> | <p>1058.08 No further internments or<br/>inurnments permitted in the Rarick<br/>Cemetery.</p> <p>1058.09 Maintenance of the cemeteries.</p> <p>1058.10 Burial regulations for South<br/>Russell Village Cemetery.</p> <p>1058.11 Indigent burials.</p> <p>1058.12 Scattering/memorial garden.</p> <p>1058.13 Memorialization regulations.</p> <p>1058.14 General regulations.</p> <p>1058.15 Modifications and amendments.</p> |
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### CROSS REFERENCES

Village cemeteries - see Ohio R.C. 759.19 et seq.  
Abuse of a corpse - see GEN. OFF. 636.12

#### 1058.01 INTERMENTS IN BELL ROAD CEMETERY.

- (a) Further use of the cemetery on Bell Road within the Village will be detrimental to the public health and welfare.
- (b) Burial of the dead in the cemetery located on Bell Road in the Village is hereby discontinued.
- (c) The aforementioned cemetery property shall not be used for any purpose other than a cemetery, but it is expressly ordained that no further interments in the cemetery shall be permitted. (Ord. 1975-22. Passed 7-14-75.)

### RULES AND REGULATIONS

#### 1058.02 PURPOSE.

These Rules and Regulations are designed for the protection of owners of interment and/or inurnment rights as a group. They are intended, not as restraining, but rather as preventing the inconsiderate from taking unfair advantage of others. Their enforcement will help protect the cemeteries of the Village of South Russell and create and preserve their beauty. These Rules and Regulations are hereby adopted as the Rules and Regulations of the cemeteries of the Village of South Russell, and all owners of interment or inurnment rights, visitors and contractors

performing work within the cemeteries, shall be subject to said Rules and Regulations, amendments or alterations as shall be adopted by Council of the Village of South Russell from time to time, hereby superseding any and all previous Rules and Regulations.  
(Ord. 2023-51. Passed 9-11-23.)

#### 1058.03 DEFINITIONS.

For the purpose of these Rules and Regulations, and the interpretation and enforcement hereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

- (a) "Burial vault" shall mean an outside burial container as specified by the Village to encase human or cremated remains.
- (b) "Cemeteries" shall mean, collectively, Rarick Cemetery and South Russell Village Cemetery.
- (c) "Contractor" shall mean any person, firm or corporation or anyone other than an employee of the Village engaged in placing, erecting, or repairing any memorial or monument and performing any work on the grounds of the cemeteries.
- (d) "Disinterment" shall mean the removal of the remains of a deceased human being from a grave.
- (e) "Disinurnment" shall mean the removal of cremated remains from a grave.
- (f) "Grave" means a space of ground in the cemeteries used, or intended to be used, for burial.
- (g) "Interment" shall mean burial of the remains of a deceased human being.
- (h) "Inurnment" shall mean the burial or placement of cremated human remains in a grave.
- (i) "Memorial" or "monument" shall mean any marker placed upon any grave for the purpose of identification or in memory of the interred.
- (j) "Owner" shall mean the owner of rights of interment or inurnment.
- (k) "Rarick Cemetery" shall mean the cemetery, land, and improvements thereon and thereunder constituting Rarick Cemetery, located at 1070 Bell Road, in the Village of South Russell, Geauga County, Ohio, bearing permanent parcel numbers 29-064431 and 29-706403 and owned by the Village of South Russell.
- (l) "Rules and Regulations" shall mean the Rules and Regulations of the Cemeteries of the Village of South Russell, as may be amended from time to time.
- (m) "South Russell Village Cemetery" shall mean the cemetery, land, and improvements thereon and thereunder constituting South Russell Cemetery, located at 5230 Chillicothe Road, in the Village of South Russell, Geauga County, Ohio, bearing permanent parcel number 29-706407 and owned by the Village of South Russell.
- (n) "Village" shall mean the Village of South Russell, its employees and duly authorized representatives, and Council.

(Ord. 2023-51. Passed 9-11-23.)

#### 1058.04 HOURS OF THE CEMETERIES.

The cemeteries are open from 8:00 a.m. until dusk daily.  
(Ord. 2023-51. Passed 9-11-23.)

#### 1058.05 OWNERSHIP.

(a) Interment or inurnment rights shall be used for no other purpose than the disposition of human remains.

(b) The deed to a grave conveys only the right of burial, not land ownership.

(c) Upon refusal of the Village to permit interment or inurnment because of its requirements, the Village may, at its discretion, refuse to allow anything to be done in violation of its said requirements and Rules and Regulations.

(Ord. 2023-51. Passed 9-11-23.)

#### 1058.06 SUPERVISION OF THE CEMETERIES.

(a) The Village reserves the right to compel all persons coming into the cemeteries to obey all Rules and Regulations adopted by the Village.

(b) These Rules and Regulations may be changed by the Village at any time.

(c) The Village shall take reasonable responsible precaution to protect owners and the property rights of owners within the cemeteries from loss or damage but the Village expressly disclaims all responsibility for loss or damage from causes beyond its reasonable control. The Village is not and shall not be liable for damage caused by elements, acts of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasion, insurrections, riots, or orders of any military or civil authority, whether the damage be direct or collateral.

(d) The Village reserves the right to correct any errors that may be made by it either in making interments, disinterments, inurnments, disinurnments or removals, or in the inscriptions, transfer, or conveyance and substituting and conveying in lieu thereof other interment or inurnment rights of equal value and similar location as far as possible, or as may be selected by the Village or, at the sole discretion of the Village, by refunding the amount of money paid on account of any purchase of a grave or burial vault. In the event such error shall involve the interment or inurnment of the remains of any person in such property, the Village reserves and shall have the right to remove and transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof. The Village shall also have the right to correct any errors made by allowing the placement of an improper inscription, including an incorrect name or date, on the memorial or monument. Upon correction, no further liability shall exist against the Village.

(e) The right to enlarge, reduce, replant, or change the boundaries or grading of the cemeteries or of a grave, from time to time, including the right to modify or change the locations of or any part thereof or remove or re-grade walks or paths, is hereby expressly reserved by the Village. The Village reserves to itself and to those acting on behalf or permitted by the Village the

right to lay, maintain and operate, or alter or change pipe lines or gutters for sprinkling systems, drainage, lakes etc., not sold to individual owners, for the Village and/or purposes of the cemeteries, including the interring and preparing for interment of human remains, or for anything necessary, incidental or convenient thereto. The Village reserves to itself, and to those lawfully entitled thereto and those permitted by the Village to do so, a perpetual right of ingress and egress over graves for the purpose of passage to and from other graves.  
(Ord. 2023-51. Passed 9-11-23.)

**1058.07 SALE AND PURCHASE OF INTERMENT/INURNMENT RIGHTS AT THE SOUTH RUSSELL VILLAGE CEMETERY.**

(a) The sale of graves at the South Russell Village Cemetery is exclusive to current and former Village residents. All sales or transfers are final and non-exchangeable. Proof of residency shall include any of the following:

- (1) Ownership of real property within the Village;
- (2) Being a registered voter and/or voting in a precinct within the Village;
- (3) Address appearing on driver's license or State ID;
- (4) Address appearing on federal, state and local income tax returns;
- (5) Address appearing on motor vehicle titles; and/or
- (6) Receipt of mail within the Village.

(b) A maximum of six graves may be purchased by one family. The sale or transfer of any interment or inurnment right by any owner shall not be binding upon the Village unless such sale or transfer is first approved in writing by the Village. The Village shall issue a "Warranty Deed" or "Certificate of Ownership" to the new owner subject to the provisions of said deed or certificate. The same rule shall apply in all cases of assignment for interment or inurnment rights.

(c) Any and all transfers of any interment or inurnment right, whether same be by conveyance or assignment are subject to the Rules and Regulations, which are now in full force and effect or which may be hereafter adopted.

(d) The subdivision of interment or inurnment right is not allowed without the consent of the Village and no one shall be buried in any grave who does not have an interest therein, except by written consent of the Village.

(e) No interment or inurnment right can be sold, assigned, transferred, pledged, or hypothecated without the written approval of the Village.

(f) The Village may exchange interment or inurnment rights, when desired by owners. When such an exchange is made, the original conveyance must be surrendered by proper assignment, or by re-conveyance, if considered necessary by the Village before any change is affected. The right to purchase unused graves is limited to the Village at seventy-five percent of the original purchase price.



(g) Each Ois vested with the ownership of his or her interment or inurnment right for the sole purpose of interment or inurnment of human remains. Under these Rules and Regulations, the interment and inurnment rights cannot be conveyed without the consent of the Village, nor may any use, division, or improvements of them be made when prohibited by the Village. The owner of interment or inurnment rights may dispose of same by will, subject to the foregoing conditions; if the owner dies intestate, the interment or inurnment rights will descend to his or her heirs according to law.

(h) The Village cannot and will not be responsible for the carrying out of the intent of the owner.

(i) The sale and placement of benches in the South Russell Village Cemetery is at the discretion of the Village and may require the purchase of additional interment or inurnment rights for the placement of such.

(Ord. 2023-51. Passed 9-11-23.)

#### 1058.08 NO FURTHER INTERMENTS OR INURNMENTS PERMITTED IN THE RARICK CEMETERY.

Pursuant to Section 1058.01, no further interments or inurnments shall be permitted in Rarick Cemetery.

(Ord. 2023-51. Passed 9-11-23.)

#### 1058.09 MAINTENANCE OF THE CEMETERIES.

(a) All grading, landscaping work, and improvements of any kind, and care of all plantings, trimmings, removals of trees, shrubs, and herbage of any kind and all interments, inurnments, disinterments, disinurnments, and removals at the cemeteries shall be made under the direction of the Village.

(b) No enclosure of any kind, such as a fence, coping, hedge, shrub, bush, or ditch, shall be permitted around any grave. Grave mounds shall not be allowed and no grave shall be raised above the established grade.

(c) The general care of the entire grounds and graves of the cemeteries is assumed by the Village. The Village may assign the oversight and management of the general care of its cemeteries to any of its employees and/or agents ("designee").

(d) The Village or its designee shall direct all improvements within the grounds and upon all graves before, as well as after, interments have been made therein. The Village or its designee shall direct all planting, sodding, surveying, and general improvements.

(e) No person other than the designee or the authorized personnel of the Village shall be allowed to perform any work within the cemeteries without a written permit from the Village.

(f) If any inscription or object is placed on any memorial, monument, or other structure, and it is determined by the Village to be offensive, the Village shall have the right to enter upon such grave to remove, change or correct the offensive inscription or object at the expense of the owner.

(g) No glass objects are permitted on the grounds of the cemeteries.

(h) If any tree, shrub or plant standing upon any grave, by means of its roots, branches, or otherwise, becomes detrimental to adjacent graves or avenues, or if for any other reason its removal is deemed necessary, the Village shall have the right to remove such tree, shrub or plant, or any part thereof, or otherwise correct the condition existing in its sole and absolute discretion.

(i) No person shall pluck or remove any plant or flower, either wild or cultivated from any part of the cemeteries.

(Ord. 2023-51. Passed 9-11-23.)

#### 1058.10 BURIAL REGULATIONS FOR SOUTH RUSSELL VILLAGE CEMETERY.

(a) No interment or inurnment shall be made at the South Russell Village Cemetery unless the interment or inurnment right and the opening and closing fees for such grave have been paid in full to the Village by 4:00 p.m. the prior business day of a burial.

(b) All interments, inurnments, disinterments, and disinurnments shall be done only by authorized Village personnel.

(c) The Village reserves the right to compel all persons authorized to order the opening and closing of a grave to appear at the South Russell Village Cemetery more than two business days in advance of such interment, entombment, or inurnment to select the desired grave to be opened. In addition, the completion and execution of the Village's interment, inurnment authorization form may be required. All burial related and disinterment fees must be paid in full to the Village by 4:00 p.m. the prior business day of a burial.

(d) Funeral processions, upon entering the grounds of the South Russell Village Cemetery, shall be subject to the direction of the Village or its authorized personnel.

(e) The Village must be notified of an impending interment, inurnment, or scattering service no later than two business days prior to the service.

(f) The Village reserves the right to schedule interment or inurnment services according to the Village's availability of service times and needs.

(g) The Village shall have the right to have the interment or inurnment service at the grave according to the Village's schedule and current weather conditions.

(h) The hours for funerals at the South Russell Village Cemetery are 9:00 a.m. to 4:00 p.m. Monday through Friday and 9:00 a.m. to 12:00 noon on Saturdays. Funerals entering the South Russell Village Cemetery between 3:00 p.m. and 4:00 p.m. Monday through Friday and between 11:00 a.m. and 12:00 p.m. on Saturdays will be charged additional late arrival fees. Funerals will not be conducted in the South Russell Village Cemetery on New Year's Day, Easter Sunday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, or any other Village designated holidays.

(i) When a removal is to be made from a single grave to another grave, the formerly occupied single grave space and all rights therein revert to the owner thereof.

(j) Application for disinterment or disinurnment must comply with the provisions of R.C. § 517.23.

(k) Any person desiring to remove a body from the grave space of another must present a written permit signed by the owner, the next of kin and also himself or herself to have such removal made. These shall remain on file in the office of the Village Fiscal Officer. No such removal shall be made without the written consent of the Village.

(l) No cremation grave space may contain more than two cremated remains.

(m) No full grave space may contain more than two cremated remains or one cremated remains and one vault. A full grave space may contain one infant casket not to exceed twenty-four inches in length and one concrete or steel burial vault.

(n) All human remains not cremated must be contained in a concrete or steel burial vault prior to burial.

(o) All cremated remains must be contained in a burial vault prior to inurnment.

(p) The remains of any person who died of a contagious disease will not be permitted in or on the South Russell Village Cemetery grounds, except when placed in a hermetically sealed casket. In case of doubt on the part of the Village as to the nature of the disease, satisfactory evidence from the attending physician or otherwise will be required.  
(Ord. 2023-51. Passed 9-11-23.)

#### 1058.11 INDIGENT BURIALS.

In the case of an indigent burial, the Village requires proof that the indigent does not have the funding available for burial. The Village requires all indigents to be cremated and will cover the open/close cost of such cremation burial. The burial will be in the lot in the South Russell Village Cemetery, chosen by the Village, and a plaque will be placed at this lot including the name of deceased, date of birth and date of death.  
(Ord. 2023-51. Passed 9-11-23.)

#### 1058.12 SCATTERING/MEMORIAL GARDEN.

(a) The scattering/memorial garden at the South Russell Village Cemetery is a place where loved ones can scatter cremated remains amongst a collection of trees, plants, and flowers. The Village personnel shall maintain the garden for the benefit of all families and visitors of the South Russell Village Cemetery. During the scattering ceremony, the cremation ashes are poured evenly on loose soil and raked into the ground from the cremation urn. At the conclusion of the ceremony, Village personnel will make sure that adequate soil is placed over the area.

(b) The pavers in the middle of the garden act as a memorialization and are made available whether or not the individual is scattered in the garden. Each paver will only list one name, date of birth and date of death. Once the stone is placed in the scattering garden, it will not be removed for further engraving.

(c) The scattering garden fees include scattering of the cremated human remains and engraving a name on a paver in the memorial garden. No decorations, artificial flowers, glass, metal containers, metal stands, or plantings will be permitted in the scattering garden at any time. Any items left in this area will be discarded.  
(Ord. 2023-51. Passed 9-11-23.)

#### 1058.13 MEMORIALIZATION REGULATIONS.

(a) All markers or monuments shall be placed on a concrete foundation installed by the Village at a cost determined by the Village. Foundations will be poured/prepared by Village personnel twice per year; early spring and early fall.

(b) All markers and monuments shall be placed as designated on the Village's layout plan for the South Russell Village Cemetery, or in the case of Rarick Cemetery, in the layout plan approved by Council. All headstones will be placed at the head of the body with the writing on the east side of the stone for graves going east/west and on the south side of the stone for graves going north/south.

(c) No natural boulders, sandstone, limestone, or marble headstones will be permitted. All headstone design and material make up must be approved by the Village prior to installation. Exceptions, due to individual circumstances, will be determined by the Village. All monuments in the cremation lot section will be level with the ground.

(d) No glass objects are permitted on the grounds of the cemeteries.

(e) No interment or inurnment right owner shall erect or place, or cause to be erected or placed, on any grave in the cemeteries any markers or monuments until it is first approved by the Village.

(f) The Village is not responsible for damage to any markers, monuments or vase or the future restoration of such that may occur to other than an approved marker or monument; provided however, that the Village may repair or replace broken headstones or falling down headstones at Rarick Cemetery at the Village's expense if, after reasonable efforts to locate the owner, no owner is found.

(g) One marker or monument up to a maximum of thirty inches wide for a single grave and sixty inches wide for two side by side adjoining graves is permitted. A second flush marker not exceeding 24" x 12" in size, may be set in front of the grave marker or monument on a single grave.

(h) Markers or monuments shall not exceed thirty-six inches in height without prior approval of the Village.

(i) While the Village will exercise all possible care to protect raised lettering, carving or ornaments on any marker, monument, or other structure, on any grave, it disclaims responsibility for any damage or injury thereto.

(j) No coping, curbing, fencing, ground cover or other plantings, grave blankets, hedging, shrubs, bushes, grave mounds, borders, walks, field stones, rocks, or enclosures of any kind, shall be allowed around any grave. The Village reserves the right to remove the same if so erected, planted or placed. The following decorations are not permitted in the cemeteries: (a) hanging baskets; (b) wind chimes; (c) breakable pottery; (d) bird houses and items hanging from trees; (e) statues; (f) plastic or wood signs; (g) stuffed animals; (h) glass; or (i) vases or any kind and like objects. Any planting, decoration or other item listed herein and not permitted shall be removed and discarded by the Village.

(k) Temporary grave markers will be removed by the Village and discarded after six months.

(l) Graves designated for cremated remains are only permitted to have one marker that is flush to the ground.

(Ord. 2023-51. Passed 9-11-23.)

#### 1058.14 GENERAL REGULATIONS.

(a) No children under the age of sixteen are permitted within the cemeteries without adult supervision. All children must display appropriate behavior while on the grounds of the cemeteries.

(b) No pets shall be permitted in the cemeteries.

(c) Bringing lunches, food, beverages, or illegal substances for consumption within the cemeteries is strictly forbidden.

(d) No article of any kind will be permitted on any grave, or tree, except decorations, in compliance with these Rules and Regulations.

(e) Sitting or leaning on monuments or walls is not permitted.

(f) The Village is not responsible for theft or damage to anything placed on graves or grounds of the cemeteries.

(g) No unauthorized bench, chair, or trellis shall be permitted upon the grounds of the cemeteries.

(h) The Village shall have the right to remove any dead or damaged tree, shrub, or other plantings.

(i) No touching, scraping, rubbing, or spraying of liquids on memorials or monuments is not permitted for any purpose.

(j) No artificial flowers, plants, greens, etc. are allowed. Natural flowers will be removed as soon as the natural flowers fade and wither, and the right is reserved by the Village to make such removal. Also, natural wreaths placed on graves or on a metal stand will be removed at such time as is specified by the Village and the owner forfeits all rights, title, and interest to the same. The Village may dispose of them in any way deemed best.

(k) No person shall use profane or boisterous language or in any way disturb the quiet and good order of the cemeteries.

(l) All persons are forbidden to hunt fowls or other animals in or around the cemeteries.

(m) All persons are strictly forbidden to break or injure any tree or shrub, or mar any landmark, memorial, or monument, or in any manner deface the grounds of the cemeteries.

(n) All orders, inquiries and complaints must be directed to the Village Fiscal Office.

(o) No person or persons other than an employee of the Village so authorized shall be permitted to bring or carry firearms within the cemeteries, except a Military Guard of Honor, and then only when in the charge of an officer and during a military service.

(p) All work and planting of any kind on all graves is strictly prohibited.

(q) Placing American flags, natural potted flowers, plants, wreaths, or baskets on graves is not permitted except on Easter, Mother's Day, Father's Day, Memorial Day, Independence Day, Armistice Day, Thanksgiving Day, and Christmas Day. They shall be removed by the owners within five days from placing on graves on the special days herein set forth. The digging of holes for any purpose whatsoever is strictly prohibited.

(r) All persons are reminded that the grounds are sacredly devoted to the burial of the dead and that the provisions and penalties of the law, as provided by statute and the Village's Codified Ordinances, will be strictly enforced in all cases of wanton injury, disturbance and disregard of the rules and the laws of the State of Ohio and/or the Village.

(Ord. 2023-51. Passed 9-11-23.)

#### 1058.15 MODIFICATIONS AND AMENDMENTS.

(a) The Village may, and it hereby expressly reserves the right to at any and all times, adopt new Rules and Regulations or amend, alter and/or repeal any rule, regulation and/or article, section, paragraph and/or sentence in the Rules and Regulations.

(b) Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship.

(c) The Village, therefore, reserves the right to make exceptions, suspensions, or modifications of any of the Rules and Regulations, at its sole and absolute discretion; and such temporary exceptions, suspensions or modifications shall in no way be construed as affecting the general application of these Rules and Regulations, or as creating any enforceable precedence.

(Ord. 2023-51. Passed 9-11-23.)





- (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.

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|---|---------|
| (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 | \$75.00 |
| (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; Ord. 2023-48. Passed 9-11-23.)

#### 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.